



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
August 6, 2020
6:00 PM

Council Meeting Presentations

1. FY2021 Community Development Block Grant (CDBG) Annual Action Plan - First Public Hearing

The first FY2021 Community Development Block Grant (CDBG) Annual Action Plan Public Hearing will be held on Monday, August 10, 2020.

La primera Audiencia Pública sobre el Plan de Acción Anual de la Subvención para el Desarrollo de los Bloques Comunitarios AF2021 se llevara a cabo el lunes, 10 de agosto de 2020.

Work Session Presentations

2. Update from the Mayor's Strategic Economic Advisory Committee
Actualización por parte del Consejo Consultivo de Estrategia Económica del Alcalde.
3. Purchasing Property from the City of Newburgh - Policy and Procedure
Compra de Propiedad de la Ciudad de Newburgh – Política y Procedimiento

Engineering/Ingeniería

4. SEQRA Strooks Felt Dam Removal Declaration of Lead Agency and Negative Declaration
Resolution of the City Council of the City of Newburgh declaring Lead Agency under State Environmental Quality Review Act (SEQRA) for the Restoring Herring and Eel Passage: Removing the Strooks Felt Dam on Quassaick Creek Project, accepting as complete an Environmental Assessment Form (EAF) and issuing a Negative Declaration.

Una resolución del Concejo Municipal de la Ciudad de Newburgh declarando Agencia Principal bajo la Ley Estatal de Revisión de Calidad Ambiental (SEQRA) para la restauración del pasaje Herring y Eel: Remover la represa de Strooks Felt del Proyecto del Arroyo de Quassaick, aceptando como completo un Formulario de Evaluación Ambiental (EAF) y emitiendo una Declaración Negativa.
5. PIN#8758.75 Traffic Signal Signal Improvements Proposal with WSP
Resolution authorizing the City Manager to execute an agreement with WSP USA, Inc. for professional engineering services for the Broadway intersections with Grand and Liberty Streets in the Broadway Pedestrian and

Traffic Signal Improvements Project (PIN# 8758.75) in the amount of \$131,900.00.

Una resolución autorizando al Gerente de la Ciudad a ejecutar un acuerdo con WSP USA, Inc. Para servicios de ingeniería profesional para las intersecciones de Broadway con las Calles Grand y Liberty en el Proyecto de Mejoras de Señales Peatonales y Trafico en Broadway (PIN#8758.75) por el monto de \$131,900.00.

6. Transfer from General Fund to DPW Streets and Bridges Emergency Repair at First Street & Chambers Street

Resolution amending Resolution No: 288-2019, the 2020 Budget for the City of Newburgh, New York to transfer \$62,037.90 from General Fund Balance to General Fund – DPW Streets and Bridges to fund an emergency repair First Street and Chambers Street.

Una resolución enmendando Resolución No. 288-2019, el Presupuesto de 2020 para la Ciudad de Newburgh, Nueva York para transferir \$62,037.90 del Balance del Fondo General al Fondo General – DPW Calles y Puentes para financiar una reparación de emergencia en la Calle First y la Calle Chambers.

7. Transfer from Sewer Contingency for Emergency Related Expenses Resulting from the July 8, 2020 Storm Event

Resolution amending Resolution No: 288-2019, the 2020 Budget for the City of Newburgh, New York to transfer \$81,099.11 from Sewer Contingency to Sewer-Other Services-Emergency Work, Sewer-Repairs/Other Equipment, Sewer-Equipment/Infrastructure, and Sewer North Interceptor/Infrastructure to fund sewer services and repairs related to a July 8, 2020 storm event.

Una resolución enmendando Resolución No .288-2019, el Presupuesto para la Ciudad de Newburgh, Nueva York para transferir \$81,099.11 de los Fondos para Imprevistos del Alcantarillado al Alcantarillado-Otro Trabajo de Servicio de Emergencia, Reparación-Alcantarillado/ Otro Equipo, Equipo-Alcantarillado/Infraestructura, y Alcantarillado Interceptor Norte/Infraestructura para financiar servicios de alcantarillado y reparaciones relacionadas con una tormenta el 8 de julio de 2020.

Finance/Finanza

8. Cyclical Reassessment Plan & Aid

Resolution supporting a four year Cyclical Reassessment Plan and authorizing the City Manager and City Assessor to apply for and accept if awarded aid for cyclical assessments from the New York State Department of Taxation and Finance Office of Real Property Tax Services.

Una resolución apoyando un Plan de Revaloración Cíclico y autorizando al Gerente de la Ciudad y Asesor de la Ciudad a solicitar y aceptar si es

otorgada ayuda para valoraciones cíclicas del Departamento de Impuestos y la Oficina de Finanzas de Servicios Tributarios de Bienes Raíces del Estado de Nueva York.

9. Amend 2020 Budget - CHIPS adjustment

Resolution amending Resolution No: 288-2019, the 2020 Budget for the City of Newburgh, New York to adjust for CHIPS funding revenue and expense.

Resolución enmendando Resolución No. 288-2019, el Presupuesto del 2020 para la Ciudad de Newburgh, Nueva York para ajustar para ingresos y gastos de financiación CHIPS.

10. PKFOD 2020 Engagement Letter

Resolution authorizing the City Manager to execute a letter agreement between the City of Newburgh and the firm of PKF O'Connor Davies, LLP for auditing services for fiscal year ending December 31, 2020 for the price of \$86,000.00.

Una resolución autorizando al Gerente de la Ciudad a ejecutar una carta de acuerdo entre la Ciudad de Newburgh y la firma de PKF O'Connor Davies, LLP para servicios de auditoría para el año fiscal terminando el 31 de diciembre de 2020 por el precio de \$86,000.00.

11. 2020 Amendment to Personnel Book

Resolution amending the 2020 Personnel Analysis Book to change the grade of the Desktop Technician and Senior Payroll Clerk, to delete one Cashier, one Account Clerk, and one Junior Accountant, and to add one Senior Cashier, one Senior Account Clerk, one Accountant, and one part-time Account Clerk in the Finance Department.

Una resolución enmendando el Libro de Análisis del Personal de 2020 para cambiar el grado de Técnico de Escritorio y Secretario de Nomina, para eliminar un Cajero, un Secretario de Cuentas y un Contador Junior, y para agregar un Cajero Senior, un Secretario de Cuentas Senior, un Contador y Secretario de Cuenta a tiempo parcial en el Departamento de Finanzas.

12. 2020 Amendment to Non-Bargaining Resolution

Resolution amending Resolution No. 60-2019, the Salary and Benefit Plan for non-bargaining unit employees, and the 2020 Personnel Analysis Book moving the Collector position from Grade 4 to Grade 5.

Una resolución enmendando Resolución No. 60-2019, el Salario y Plan de Beneficios para empleados de la unidad no-negociable, y el Libro de Análisis del Personal 2020 moviendo el puesto de Colector de Grado 4 a Grado 5.

13. Contract update for Passport Operating System

Resolution authorizing the City Manager to sign Amendment No. 2 with Passport Labs, Inc. for municipal parking services and related equipment.

Una resolución autorizando al Gerente de la Ciudad a firmar la Enmienda No. 2 con Passport Labs, Inc. Para servicios de estacionamiento municipal y equipos relacionados.

14. Budget Transfer from Fund Balance to Consultant Services

Resolution amending Resolution No: 288-2019, the 2020 Budget for the City of Newburgh, New York to transfer \$13,750.00 from Fund Balance to City Manager – Consultant Services for the cost of professional consulting services to the Police Department.

Una resolución enmendando Resolución No. 288-2019, el presupuesto para la Ciudad de Newburgh, Nueva York para transferir \$13,750.00 del Balance de Fondos al Gerente de la Ciudad – Servicios Consultivos para el costo de servicios consultivos profesionales al Departamento de Policía.

Water Department/ Departamento de Aqueductos

15. Water Department Budget Transfer

Resolution amending Resolution No: 288-2019, the 2020 Budget for the City of Newburgh, New York to transfer \$18,279.75 from Water Contingency to Water Distribution – Other Services to fund a water main repair at Lake Drive.

Una resolución enmendando Resolución No .288-2019, el presupuesto de 2020 de la Ciudad de Newburgh, Nueva York para transferir \$18,279.75 de los fondos para imprevistos del Agua a Distribución del Agua – Otros Servicios para financiar una reparación en la cañería principal en Lake Drive.

16. Amendment of the 2020 Personnel Book

Resolution amending the 2020 Personnel Analysis Book to add one temporary part-time Senior Typist position (Secretary to the Water Superintendent) in the Water Department

Planning and Economic Development/Planificación y Desarrollo Económico

17. 48 City Terrace - Release of Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Joseph W. Ariano to the premises known as 48 City Terrace (Section 29, Block 5, Lot 38)

Una resolución autorizando la ejecución de la liberación de cláusulas restrictivas y derecho de reingreso por medio de una escritura emitida a Joseph W. Ariano a las instalaciones conocidas como la 48 de City Terrace

(Sección 29, Bloque 5, Lote 38).

18. 245 Broadway - Satisfaction of Mortgage

Resolution authorizing the City Manager to execute a Satisfaction of Mortgage in connection with a mortgage issued to Orange County Mental Retardation Properties, Inc. for the premises located at 245 Broadway (f/k/a 245-249 Broadway) (Section 35, Block 2, Lot 8.1)

Una resolución autorizando al Gerente de la Ciudad a ejecutar una Satisfacción Hipotecaria en conexión con una hipoteca emitida a Orange County Mental Retardation Properties, Inc. Para las instalaciones ubicadas en la 245 Broadway (f/k/a 245-249 Broadway) (Sección 35, Bloque 2, Lote 8.1)

19. 10 Farrington Street & 16 Farrington Street - Release of Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Rocco A. Simon to the premises known as 10 Farrington Street (Section 18, Block 5, Lot 19), a deed issued to John Haber to the premises known as 16 Farrington Street (Section 18, Block 5, Lot 22), and a deed issued to John Frontera & Robert A. Titanic, Jr. to the premises known as 16 Farrington Street (Section 18, Block 5, Lot 22).

Una resolución autorizando al ejecución de la liberación de cláusulas restrictivas y derecho de reingreso por medio de una escritura emitida a Rocco A. Sion para las instalaciones conocidas como la 10 de la Calle Farrington (sección 18, Bloque 5, Lote 19), y una escritura emitida a John Haber para las instalaciones conocidas como la 16 de la Calle Farrington (Sección 18, Bloque 5, Lote 22), y una escritura emitida a John Frontera y Robert A. Titanic, Jr. Para las instalaciones conocidas como la 16 de la Calle Farrington (Sección 18, Bloque 5, Lote 22).

20. RUPCO - License Agreement for construction staging in Audrey Carey Park

Resolution authorizing the City Manager to execute a license agreement with RUPCO, INC. to allow access to a portion of City-owned property known as Audrey Carey Park, 251 Liberty Street (Section 18, Block 8, Lot 1.2) for access and equipment staging related to the rehabilitation of properties located at Liberty Street (Section 18, Block 8, Lot 2) and 257 Liberty Street (Section 18, Block 8, Lot 1.1).

Una resolución autorizando al gerente de la Ciudad a ejecutar un acuerdo de licenciatura con RUPCO, INC. Para permitir acceso a una porción de una propiedad de la Ciudad conocida como Audrey Carey Park, 251 de la Calle Liberty (Sección 18, Bloque 8, Lote 1.2) para acceso y estatificación de equipo relacionado con la rehabilitación de propiedades ubicadas en la Calle Liberty (Sección 18, Bloque 8, Lote 2) y 257 Calle Liberty (Sección 18, Bloque 8, Lote 1.1)

21. Purchase of 24 Farrington Street

Resolution to authorize the conveyance of vacant real property known as 24 Farrington Street (Section 18, Block 4, Lot 28) at private sale to Charles A. Jackson and Shantia M. Jackson for the amount of \$1,200.00.

Una resolución para autorizar el traspaso de bienes raíces vacantes conocidas como la 24 de la Calle Farrington (Sección 18, Bloque 4, Lote 28) en una venta privada a Charles A. Jackson y Shantia M. Jackson por el monto de \$1,200.00

Grants/Contracts/Agreements / Becas /Contratos/Convenios

22. Hudson Vista Medical - contract renewal

Resolution authorizing the City Manager to enter into an agreement with Hudson Vista Medical P.C. to provide occupational health services to the City of Newburgh.

Una resolución autorizando al Gerente de la Ciudad a entrar en un acuerdo con Hudson Vista Medical P.C. para proporcionar servicios de salud ocupacional a la Ciudad de Newburgh.

23. Newburgh Urban Farm & Food, Inc. - new license agreement

Resolution authorizing the City Manager to enter into a new license agreement with the Newburgh Urban Farm and Food, Inc. for the management of the Downing Park Urban Farm and storage space in the DPW garages.

Una resolución autorizando al Gerente de la Ciudad a entrar en un acuerdo de licenciatura con el Newburgh Urban Farm and Food, Inc. Para la administración del Downing Park Urban Farm y espacio de almacén en el taller de DPW.

24. Genesis Ramos - professional services consulting agreement

Resolution authorizing an agreement between the City of Newburgh and Genesis Ramos for professional equity, diversity, inclusion and justice consulting services to the City of Newburgh.

Una resolución autorizando un acuerdo entre la Ciudad de Newburgh y Genesis Ramos para servicios consultivos de equidad, diversidad, inclusión y justicia para la Ciudad de Newburgh.

25. RFP Award to RECAP for pre-development costs under Cities RISE

Resolution authorizing the City Manager to execute a sub-recipient grant agreement with the Regional Economic Community Action Program for pre-development cost reimbursement in an amount not to exceed \$16,500.00 under the Cities RISE Phase III grant.

Una resolución autorizando al Gerente de la Ciudad a ejecutar un acuerdo de subvención de sub-recipiente con el Regional Economic Community Action Program para reembolso de costos de pre-desarrollo por un monto que no exceda \$16,500.00 bajo la subvención de Cities RISE Phase III

26. RFP Award to Newburgh Ministry for pre-development costs under Cities RISE

Resolution authorizing the City Manager to execute a sub-recipient grant agreement with the Newburgh Ministry for pre-development cost reimbursement in an amount not to exceed \$45,000.00 under the Cities RISE Phase III grant.

Una resolución autorizando al Gerente de la Ciudad a ejecutar un acuerdo de subvención de sub-recipiente con el Newburgh Ministry para reembolso de costos de pre-desarrollo por un monto que no exceda \$45,000.00 bajo la subvención de Cities RISE Phase III.

27. Subrecipient Agreement - Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (CDBG-CV) Project, Food Security in the City of Newburgh In Response to the Coronavirus - RECAP

Resolution authorizing the City Manager to enter into a Community Development Block Grant (CDBG-CV) sub-recipient grant agreement in the amount of \$25,000.00 with the Regional Economic Community Action Program, Inc. for the allocation of Coronavirus Aid, Relief, and Economic Security Act funding to support food distribution programs and services.

Una resolución autorizando al Gerente de la Ciudad a entrar en un acuerdo de subvención de sub-receptor de la Subvención para Desarrollo de Bloques Comunitarios (CDBG-CV) por el monto de \$25,000.00 con el Regional Economic Community Action Program, Inc. Para la asignación de fondos de la Ley de Ayuda, Alivio y Seguridad Económica de Coronavirus para apoyar programas y servicios de distribución de alimentos.

28. Subrecipient Agreement - Community Development Block Grant (CDBG) Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (CDBG-CV) Project, Food Security in the City of Newburgh In Response to the Coronavirus - Newburgh Urban Farm and Food

Resolution authorizing the City Manager to enter into a Community Development Block Grant (CDBG-CV) sub-recipient grant agreement in the amount of \$25,000.00 with Newburgh Urban Farm and Food, Inc. for the allocation of Coronavirus Aid, Relief, and Economic Security Act funding to support food distribution programs and services.

Una resolución autorizando al Gerente de la Ciudad a entrar en un acuerdo de subvención de sub-receptor de la Subvención para Desarrollo de Bloques Comunitarios (CDBG-CV) por el monto de \$25,000.00 con el

Newburgh Urban Farm and Food, Inc. Para la asignación de fondos de la Ley de Ayuda, Alivio y Seguridad Económica de Coronavirus para apoyar programas y servicios de distribución de alimentos.

Recreation/Recreacion

29. Group Fitness Instruction, Downing Park

Resolution authorizing the City Manager to enter into agreements with various parties to provide group fitness instruction classes in Downing Park through November 27, 2020.

Una resolución autorizando al Gerente de la Ciudad a entrar en acuerdos con varias entidades para proporcionar clases de instrucción de entrenamiento físico en grupo en Downing Park hasta el 27 de Noviembre de 2020.

Discussion Items/Temas de Discusión

30. Public Comments & Responses

Comentarios Públicos y Respuestas

31. PCRRB - Appointments

Nombramientos - PCRRB

32. Arts & Cultural Commission - appointments

Resolution re-appointing Garin Baker and Stuart Sachs and appointing Erica Forneret and Manda Martin to the City of Newburgh Arts and Cultural Commission for three year terms and appointing Robert Pagliaro to fill the remainder of an unexpired term.

Resolución nombrando nuevamente a Garin Baker y Stuart Sachs y nombrando a Erica Fornert y Manda Martin al Comité de Artes y Cultura de la Ciudad de Newburgh para un término de 3 años y nombrando a Robert Pagliaro para completar un término que no caduca.

Executive Session/ Sesión Ejecutiva

33. Proposed, pending or current litigation

Litigación propuesta, pendiente o actual

RESOLUTION NO.: 156 - 2020

OF

JULY 13, 2020

A RESOLUTION OPENING A 30-DAY PUBLIC COMMENT PERIOD AND
SCHEDULING A PUBLIC HEARING FOR AUGUST 10, 2020
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
PROPOSED ACTIONS WITH RESPECT TO
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE
ANNUAL ACTION PLAN FOR FISCAL YEAR 2021

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

WHEREAS, the City is now preparing a one-year Annual Action Plan for FY 2021 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 beginning on August 11, 2020 and closing on September 10, 2020 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the FY 2021 Annual Action Plan; and

BE IT FURTHER RESOLVED, that due to public health and safety concerns related to COVID-19, the City Council will not meet in-person and in accordance with the Governor's Executive Order 202.1, as amended, the August 10, 2020 City Council meeting will be held via videoconferencing, and a transcript will be provided at a later date. The public will have an opportunity to see and hear the meeting live and provide comments on the proposed CDBG FY2021 Annual Action Plan as follows:

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

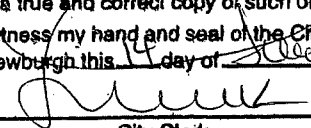
To access the City Council Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:
https://zoom.us/webinar/register/WN_qpVoIJXOQl6E-tK0yEYtbA. Please note that there is an underscore between the "N" and "q").

In order to provide comments during the hearing you must register in advance for this webinar no later than 4:00 p.m. on Friday, August 7, 2020 through the Zoom App: https://zoom.us/webinar/register/WN_qpVoIIXOQl6EtK0yEYtbA. Please note that there is an underscore between the "N" and "q". Please fill out the required information (First Name, Last Name, E-mail Address). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC HEARING ITEM" by 4:00 p.m. on Friday, August 7, 2020. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

I, Lorens Vittek, City Clerk of the City of Newburgh,
hereby certify that I have compared the foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held July 15, 2020
and that it is a true and correct copy of such original.

Witness my hand and seal on the City of
Newburgh this 14 day of July, 2020

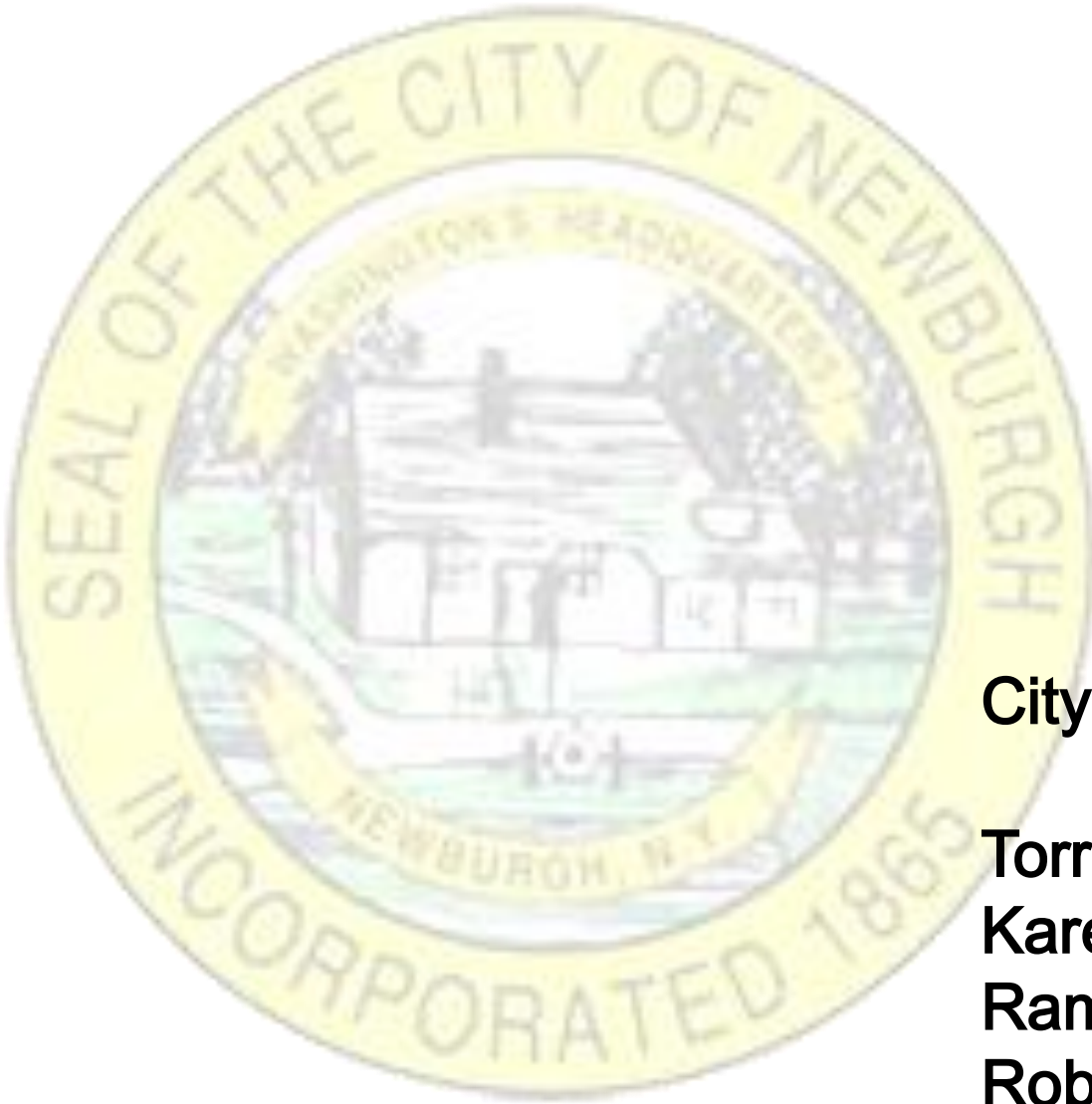

City Clerk



Community Development Block Grant (“CDBG”) FY2021 Annual Action Plan

**Department of Planning &
Development
July, 2020**





City of Newburgh City Council:

Torrance Harvey, Mayor

Karen Mejia, Ward 1

Ramona Monteverde, Ward 2

Robert Sklarz, Ward 3

Patty Sofokles, Ward 4

Anthony Grice, At-Large

Omari Shakur, At-Large

City of Newburgh Community Development Goals - Refresher

- Economic Development without Displacement.
- Enhance outreach and communications with the community.
- Support a climate that values diversity, rewards independence, nourishes creativity, and brings all of us together.

Successful community building requires reestablishing trust, which takes time, patience, outreach and communication.



“CDBG” - Brief Primer



- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is under the Orange County Consortium (Orange County, City of Newburgh, City of Middletown).
- The City of Newburgh is required to prepare and submit a **Consolidated Plan** that establishes goals for the use of CDBG funds. The new City of Newburgh Consolidated Plan: **FY2020-FY2024**
- Projects **MUST** be consistent with national priorities for CDBG:
 - Activities that benefit low- and moderate-income people;
 - The prevention or elimination of slums or blight; or
 - Community development activities to address an urgent threat to health or safety.



Proposed FY2021 CDBG Projects/Funding

Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding
Projects Funded through Entitlement Grant			
Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$245,000.00
	Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to cover Closing Costs for first-time homebuyers through HUD approved Housing Counseling Program. Also includes program delivery cost.	\$30,000.00
	Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.	\$80,000.00
Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00
Economic Development	Economic Development	Funding for business assistance such as Business Façade and Signage grants, Microenterprise Business Assistance, Workforce Training.	\$75,000.00
Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Summer Film Festival, National Night Out	\$10,000.00
Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$130,000.00
Proposed Total FY2021 Allocation			\$845,000.00

Contingency Funding

If the actual annual allocation amount exceeds the proposed estimate, the project budgets will increase by:

	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project increase, if HUD allocation greater than proposed (approx.)
Projects Funded through Entitlement Grant	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	No Increase
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to cover Closing Costs for first-time homebuyers through HUD approved Housing Counseling Program. Also includes program delivery cost.	10%
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.	30%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	10%
	Economic Development	Economic Development	Funding for business assistance such as Business Façade and Signage grants, Microenterprise Business Assistance, Workforce Training.	No Increase
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Summer Film Festival, National Night Out	No Increase
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	No Increase
Proposed Total FY2021 Allocation				

Contingency Funding

If the actual annual allocation amount is less than the proposed estimate, the project budgets will decrease by:

	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$245,000.00	No Decrease
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to cover Closing Costs for first-time homebuyers through HUD approved Housing Counseling Program. Also includes program delivery cost.	\$30,000.00	10%
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.	\$80,000.00	No Decrease
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	No Decrease
	Economic Development	Economic Development	Funding for business assistance such as Business Façade and Signage grants, Mircoenterprise Business Assistance, Workforce Training.	\$75,000.00	No Decrease
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Summer Film Festival, National Night Out	\$10,000.00	10%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$130,000.00	No Decrease
Proposed Total FY2021 Allocation				\$845,000.00	

Project: Housing

Proposed Activities:

- In Rem Property Program
- First Time Home Buyers Closing Cost Assistance
- Anti-Displacement/Housing Stability Initiative Assistance



Proposed Housing Activity: In Rem Property Program

Budget: \$245,000.00

Description:

- Activity staffed by 2 full-time Department of Public Works employees and 1 employee of the Planning & Development Department dedicated to the in rem program.
- Provides maintenance and security of vacant properties. Keeps properties habitable, neighborhoods looking good, maintains/increases property values.

Proposed Housing Activity: First Time Home Buyers Closing Cost Assistance

Budget: \$30,000.00

Description:

- Funding to cover Closing Costs for first-time homebuyers who have completed a HUD approved Housing Counseling Program in the City of Newburgh. Also includes program administration cost.

**Important: Public Service Activity subject to 15%
Annual Allocation Cap.**



Proposed Housing Activity: Anti-Displacement/ Housing Stability Initiative

Budget: \$80,000.00

Description:

- Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.

**Important: Public Service Activity subject to 15% of
Annual Allocation Cap.**



Proposed Infrastructure Improvements

Activity: Curb Ramp and Sidewalk

Upgrades

Budget: \$275,000.00

Description:

- Funding to continue funding Curb Ramp & Sidewalk Improvements project.

Proposed Economic Development Activity:

Business Assistance

Budget: \$75,000.00

Description:

- Funding for business assistance such as Business Façade and Signage grants, Microenterprise Business Assistance, Workforce Training.

Proposed Quality of Life Activity: (Need proposed activity information)

Budget: \$10,000.00

Description:

- 2021 Summer Film Festival
- National Night Out

Important: If Public Service Activity, subject to 15% Annual Allocation Cap.



Proposed Activity: Administration

Budget: \$130,000.00

Description:

- Funding for program administration, staff salary and benefits, language translation services, program operating costs (including mailings), program trainings/conference.

FY2021 CDBG AAP Timeline



**FY 2021 COMMUNITY DEVELOPMENT BLOCK GRANT
(CDBG) PROJECTS TIMELINE**



**FY2021 Annual Action Plan
Community Development Block Grant (CDBG)**

					% Project increase, if HUD allocation greater than proposed (approx.)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding		
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$245,000.00	No Increase	No Decrease
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to cover Closing Costs for first-time homebuyers through HUD approved Housing Counseling Program. Also includes program delivery cost	\$30,000.00	10%	10%
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.	\$80,000.00	30%	No Decrease
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	10%	No Decrease
	Economic Development	Economic Development	Funding for business assistance such as Business Façade and Signage grants, Microenterprise Business Assistance, Workforce Training.	\$75,000.00	No Increase	No Decrease
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Summer Film Festival, National Night Out	\$10,000.00	No Increase	10%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$130,000.00	No Increase	No Decrease
			Proposed Total FY2021 Allocation	\$845,000.00		

**FY2021 Annual Action Plan
Community Development Block Grant (CDBG)**

					% Project increase, if HUD allocation greater than proposed (approx.)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding		
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$245,000.00	No Increase	No Decrease
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to cover Closing Costs for first-time homebuyers through HUD approved Housing Counseling Program. Also includes program delivery cost	\$30,000.00	10%	10%
		Housing	Public Service Activity Subject to 15% Annual Allocation Cap, Funding to support an "Anti-Displacement Housing Stability Initiative" through City of Newburgh Housing Partner.	\$80,000.00	30%	No Decrease
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$275,000.00	10%	No Decrease
	Economic Development	Economic Development	Funding for business assistance such as Business Façade and Signage grants, Microenterprise Business Assistance, Workforce Training.	\$75,000.00	No Increase	No Decrease
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Summer Film Festival, National Night Out	\$10,000.00	No Increase	10%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$130,000.00	No Increase	No Decrease
			Proposed Total FY2021 Allocation	\$845,000.00		

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
DECLARING LEAD AGENCY UNDER STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA) FOR THE RESTORING HERRING AND EEL
PASSAGE: REMOVING THE STROOKS FELT DAM ON QUASSAICK CREEK PROJECT,
ACCEPTING AS COMPLETE AN ENVIRONMENTAL ASSESSMENT FORM (EAF) AND
ISSUING A NEGATIVE DECLARATION**

WHEREAS, by Resolution Nos. 85-2019 and 86-2019 of April 9, 2019, the City Council of the City of Newburgh declared its support for removing the Strooks Felt Dam partially located within the municipal boundary of the City of Newburgh and authorized and endorsed the Riverkeeper's grant application under the Round 23 Hudson River Estuary Program Tributary Restoration and Resiliency program for a project known as "Restoring Herring and Eel Passage: Removing the Strooks Felt Dam on Quassaick Creek" (the "Project"); and

WHEREAS, Riverkeeper was awarded the grant and intends to proceed with the Project in cooperation with the City of Newburgh and other interested and involved agencies; and

WHEREAS, in compliance with the State Environmental Quality Review Act (SEQRA), by Resolution No. 2-2020 of January 13, 2020, the City Council declared its intent to assume Lead Agency status for the Project, classified the Project as an Unlisted Action, proposed a coordinated review and to accept an Environmental Assessment Form ("EAF"), and referred the EAF to the involved and interested agencies; and

WHEREAS, more than 30 days have elapsed since the EAF was circulated to the involved and interested Agencies without opposition to the City's declaration of its intent to be lead agency for the Project and this Council finds it necessary, appropriate and in the best interests of the City of Newburgh to advance the Project by assuming Lead Agency status for the environmental review of the Project pursuant to SEQRA; and

WHEREAS, the City of Newburgh has taken a hard look at the environmental impacts of the Project and has determined that there will be no negative environmental impacts that cannot be mitigated regarding same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. That the City Council of the City of Newburgh hereby assumes Lead Agency status for the environmental review of the Project pursuant to 6 NYCRR 617.6; and
2. That this Council duly accepts as complete the EAF; and
3. Issues a Negative Declaration pursuant to the SEQRA.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AGREEMENT WITH WSP USA, INC.
FOR PROFESSIONAL ENGINEERING SERVICES
FOR THE BROADWAY INTERSECTIONS WITH GRAND AND LIBERTY STREETS IN
THE BROADWAY PEDESTRIAN AND TRAFFIC SIGNAL IMPROVEMENTS PROJECT
(PIN# 8758.75) IN THE AMOUNT OF \$131,900.00**

WHEREAS, by Resolution No. 105-2019 of May 13, 2019, the City Council of the City of Newburgh authorized the City Manager to execute a Master Federal-aid Local Project Agreement with the New York State Department of Transportation to fund the preliminary engineering, final design and right-of-way incidentals phases for the Broadway Intersections with Grand Street and Liberty Streets in the Broadway Pedestrian and Traffic Signal Improvements Project (PIN# 8758.75) (the "Project"); and

WHEREAS, the City of Newburgh has proceeded with the RFQ process for selecting a design consultant in accordance with the Federal Aid process and wishes to accept a proposal and execute an agreement with WSP USA, Inc. for engineering services related to the Project; and

WHEREAS, the proposal includes preliminary design, right-of-way incidentals, final design and construction inspection and support consistent with the requirements of the New York State Department of Transportation and federal regulatory agencies for federal-aid local projects; and

WHEREAS, the cost of the services in the amount of \$131,900.00 shall be derived from NYSDOT/Federal Aid Reimbursement of up to 80% with 20% matching funds derived from the City's OCTC TIP Reserve Fund as per Resolution No. 136-2018 of May 29, 2018; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute an agreement with WSP USA, Inc. for professional engineering services related to the Broadway intersections with Grand Street and Liberty Street in the Broadway Pedestrian and Traffic Signal Improvements Project (PIN# 8758.75) in the amount of \$131,900.00.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AMENDING RESOLUTION NO: 288-2019, THE 2020 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$62,037.90 FROM
GENERAL FUND BALANCE TO GENERAL FUND – DPW STREETS AND BRIDGES
TO FUND AN EMERGENCY REPAIR AT FIRST STREET AND CHAMBERS STREET**

WHEREAS, an amendment to the 2020 Budget is necessary to fund expenses related to an emergency repair of a collapsed 48 inch storm sewer pipe at the intersection of First Street and Chambers Street.; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 288-2019, the 2020 Budget of the City of Newburgh, is hereby amended as follows:

		<u>Decrease</u>	<u>Increase</u>
A.0000.0911.0000.0000	General Fund Balance	<u>\$62,037.90</u>	
A.5110.0415.0001.0000	General Fund DPW Streets & Bridges Storm sewer & Catch Basin Maintenance		<u>\$62,037.90</u>
	TOTAL:	\$62,037.90	\$62,037.90

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AMENDING RESOLUTION NO: 288-2019, THE 2020 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$81,099.11 FROM
SEWER CONTINGENCY TO SEWER-OTHER SERVICES-EMERGENCY WORK,
SEWER-REPAIRS/OTHER EQUIPMENT, SEWER- EQUIPMENT/INFRASTRUCTURE,
AND SEWER NORTH INTERCEPTOR/INFRASTRUCTURE TO FUND
SEWER SERVICES AND REPAIRS RELATED TO A JULY 8, 2020 STORM EVENT**

WHEREAS, an amendment to the 2020 Budget is necessary to fund expenses related to the expenses from services and repairs to the sewer system following a July 8, 2020 storm event; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 288-2019, the 2020 Budget of the City of Newburgh, is hereby amended as follows:

		<u>Decrease</u>	<u>Increase</u>
G.1900.1990.0000.0000	Sewer Contingency	<u>\$81,099.11</u>	
G.8120.0448.0002	Other Services Emergency Work		\$53,045.83
G.8130.0443	Repairs/Other Equipment		\$ 8,480.00
G.8130.0200	Equipment/Infrastructure		\$12,732.00
G.8120.0200.0002	North Interceptor/Infrastructure		<u>\$ 6,841.28</u>
	TOTAL:	\$81,099.11	\$81,099.11



CITY OF NEWBURGH

Office of the City Manager

83 Broadway, Newburgh, New York 12550

(845) 569-7301/Fax (845) 569-7370

www.cityofnewburgh-ny.gov

Joseph P. Donat, City Manager

DECLARATION OF DISASTER EMERGENCY

Pursuant to Section 24 of the New York Executive Law and in accordance with the Code and Charter of the City of Newburgh, New York, I, Joseph P. Donat, City Manager of the City of Newburgh, New York, do hereby declare a city-wide disaster emergency as a result of severe flooding that began on Wednesday, July 8, 2020 in the City of Newburgh.

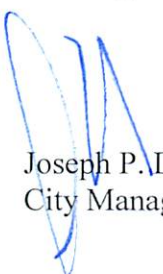
WHEREAS, this action is being taken in order to reduce the severity of the disaster and to protect the health, safety and welfare of affected residents in the City of Newburgh; and

WHEREAS, all necessary emergency management measures are being implemented to safeguard the health, safety and welfare of every citizen in the City of Newburgh; and

WHEREAS, I hereby direct all departments and agencies of the City of Newburgh to take whatever steps necessary to alleviate the effects of the disaster, protect life and property, public infrastructure, and provide such emergency assistance as deemed necessary to this disaster; and

NOW, THEREFORE, pursuant to the applicable local and State law, I, Joseph P. Donat, City Manager of the City of Newburgh, New York, do hereby declare the existence of a disaster emergency in the City of Newburgh, to take effect immediately.

Promulgated this 9th day of July, 2020, at Newburgh, New York.


Joseph P. Donat
City Manager, City of Newburgh, N.Y.

Cc: Mayor Torrance R. Harvey
Councilman Anthony Grice
Councilwoman Karen Mejia
Councilwoman Ramona Monteverde
Councilman Omari Shakur
Councilman Robert Sklarz
Councilwoman Patricia Sofokles

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION SUPPORTING A FOUR YEAR CYCLICAL REASSESSMENT PLAN
AND AUTHORIZING THE CITY MANAGER AND CITY ASSESSOR TO APPLY FOR
AND ACCEPT IF AWARDED AID FOR CYCLICAL ASSESSMENTS
FROM THE NEW YORK STATE DEPARTMENT OF TAXATION AND FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES**

WHEREAS, in 2008, the City of Newburgh implemented a cyclical plan to reassess real property at 100% of market value in a 6 year interval; and

WHEREAS, New York State provides financial aid to municipalities that reassess at 100% of market value on a cyclical basis in an amount of up to \$5.00 per parcel in reappraisal years and up to \$2.00 per parcel in non-reappraisal years to the extent such funding is available; and

WHEREAS, to be eligible for the State Aid for Cyclical Reassessments, the City of Newburgh is required to submit a plan for future reassessments that includes reassessments at 100% of market value and implemented pursuant to an approved plan with a minimum 4 year interval; revaluations or reappraisals at least once every 4 years; reassessments conducted in the first and last years of the plan; inventory collection at least once every 6 years; and provision of a set of supporting valuation documents and files; and

WHEREAS, following the 2008 cyclical reassessment plan, a reappraisals were required in 2014 and 2017 including the submission of a cyclical assessment plan for future reassessments was required to receive future funding under the Aid for Cyclical Reassessments program; and

WHEREAS, by Resolution No. 229-2014 of September 8, 2014 and by Resolution No. 264-2017 of September 25, 2017, the City Council authorized the City Assessor to implement a 4 year cyclical assessment plans with 2014 and 2017, respectively, being the first year of the plan further authorizing the City Assessor to apply for and accept if awarded State Aid for Cyclical Assessments from the New York State Department of Taxation Office of Real Property Tax Services; and

WHEREAS, the City Assessor proposes to apply for State Aid for Cyclical Reassessments and submit a 4-year cyclical reassessment plan with 2020 being the first year of the plan; and

WHEREAS, the City Council has determined that continuing with cyclical reassessment at 100% of market value and implementing a 4-year cyclical reassessment plan with 2020 as the first year of the plan is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Assessor of the City of Newburgh is hereby authorized to implement a 4-year cyclical assessment plan with 2020 being the first year; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newburgh that the City Manager and the City Assessor are hereby authorized to apply for and accept if awarded State Aid for Cyclical Assessments from the New York State Department of Taxation Office of Real Property Tax Services.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AMENDING RESOLUTION NO: 288-2019,
THE 2020 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO ADJUST FOR CHIPS FUNDING REVENUE AND EXPENSE**

WHEREAS, it is necessary to adjust the 2020 Budget to reflect the revenue and expense for Consolidated Highway Aid (CHIPS) funding; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 288-2019, the 2020 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Increase</u>
Revenue	
A.0000.3501 Consolidated Highway Aid (CHIPS)	\$318,471.16
Expense	
A.5112.0206 Consolidated Highway Aid (CHIPS)	\$318,471.16

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LETTER AGREEMENT BETWEEN THE CITY OF NEWBURGH
AND THE FIRM OF PKF O'CONNOR DAVIES, LLP FOR AUDITING SERVICES FOR
FISCAL YEAR ENDING DECEMBER 31, 2020 FOR THE PRICE OF \$86,000.00**

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

WHEREAS, based on experience and work history the Comptroller has recommended that the firm of PKF O'Connor Davies, LLP be retained for fiscal year ending December 31, 2020; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a letter agreement with the firm of PKF O'Connor Davies, LLP for auditing services for the fiscal year ending December 31, 2020 for the price of \$86,000.00.

RESOLUTION NO.: _____-2020

OF

AUGUST 10, 2020

A RESOLUTION AMENDING THE 2020 PERSONNEL ANALYSIS BOOK TO CHANGE THE GRADE OF THE DESKTOP TECHNICIAN AND SENIOR PAYROLL CLERK, TO DELETE ONE CASHIER, ONE ACCOUNT CLERK, AND JUNIOR ACCOUNTANT, AND TO ADD ONE SENIOR CASHIER, ONE SENIOR ACCOUNT CLERK, AND ONE ACCOUNTANT IN THE FINANCE DEPARTMENT

WHEREAS, the Director of Finance proposes to reorganize the Finance Department, which requires an amendment to the 2020 Personnel Analysis Book; and

WHEREAS, the Finance Department reorganization proposes to change the Grade of the Desktop Technician and Senior Payroll Clerk; delete one Cashier, one Account Clerk and one Junior Accountant; and add one Senior Cashier, one Senior Account Clerk, one Accountant, and one part-time Account Clerk to improve the efficiency of the Finance Department; and

WHEREAS, the proposed grade changes for the Desktop Technician and Senior Payroll Clerk are subject to approval by the Civil Service Employees Association and new or revised job titles are subject to approval by the Civil Service Commission; and

WHEREAS, the proposed reorganization is subject to City Council approval by an amendment of the City of Newburgh Adopted Personnel Analysis Book for 2020;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the Personnel Analysis Book for 2020 be and is hereby amended as follows:

IT	Desktop Technician	Grade change from 14-6 to 21-1
Comptroller	Senior Payroll Clerk	Grade change from 15-6 to 20-4
Collector	Delete Cashier 4-5	Add Senior Cashier 14-1
Comptroller	Delete Account Clerk 3-5	Add Senior Account Clerk 15-1
Comptroller	Delete Junior Account 3-4	Add Accountant 4-1

RESOLUTION NO.: _____-2020

OF

AUGUST 10, 2020

**A RESOLUTION AMENDING RESOLUTION NO. 60-2019,
THE SALARY AND BENEFIT PLAN FOR NON-BARGAINING UNIT EMPLOYEES,
AND THE 2020 PERSONNEL ANALYSIS BOOK
MOVING THE COLLECTOR POSITION FROM GRADE 4 TO GRADE 5**

WHEREAS, this Council, by Resolution No. 60-2019 of March 11, 2019, adopted a salary and benefit plan for non-bargaining unit employees; and

WHEREAS, the City Comptroller proposes to reorganize the Finance Department, which plan includes moving the Collector position from Grade 4 to Grade 5, and requires an amendment to Resolution No. 60-2019 and the 2020 Personnel Analysis Book;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh that Schedule A of Resolution No. 60-2019, the salary and benefit plan for non-bargaining unit employees, is amended as follows, effective immediately:

Grade 4
~~Collector~~

Grade 5
Collector; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh that the 2020 Personnel Analysis Book, is amended to reflect the adjustment of the salary of the Collector from Grade 4, Step 5 to Grade 5, Step 2.

~~Strikethrough~~ denotes deletion
Underlining denotes addition

SCHEDULE A

<p><u>Grade 1</u></p> <p>Secretary to the Police Chief Secretary to the Superintendent of Public Works Secretary to the Director of Business and Industrial Development Secretary to the Corporation Counsel (I) Deputy City Clerk</p> <p><u>Grade 2</u></p> <p>Secretary to the Engineer Secretary to the Fire Chief Secretary to the Corporation Counsel (II) Secretary to the Water Superintendent Administrative Assistant to City Manager Deputy City Clerk/Registrar</p> <p><u>Grade 3</u></p> <p>City Clerk/Registrar Executive Assistant to City Manager Business Services Coordinator Grants Coordinator</p> <p><u>Grade 4</u></p> <p>Accountant Collector Civil Service Administrator Code Compliance Supervisor Recreation Director</p>	<p><u>Grade 5</u></p> <p>Deputy Superintendent of Public Works Deputy Superintendent of Water Assessor Crime Analyst <u>Collector</u></p> <p><u>Grade 6</u></p> <p>Assistant Corporation Counsel</p> <p><u>Grade 7</u></p> <p>Superintendent of Water Superintendent of Public Works Director of Business and Industrial Development Deputy Fire Chief City Engineer</p> <p><u>Grade 7B</u></p> <p>Deputy Police Chief</p> <p><u>Grade 8</u></p> <p>Corporation Counsel Comptroller Fire Chief Police Chief</p> <p><u>Grade 9</u></p> <p>City Manager** **The salary for the City Manager position is further subject to terms provided in an employment agreement between the City and the City Manager.</p>
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RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AMENDMENT NO. 2
WITH PASSPORT LABS, INC. FOR MUNICIPAL PARKING SERVICES
AND RELATED EQUIPMENT**

WHEREAS, by Resolution No. 195-2019 of August 12, 2019, the City Council of the City of Newburgh authorized the City Manager to enter into an agreement to upgrade its technology related to municipal parking services and enforcement with Passport Labs, Inc.; and

WHEREAS, by Resolution No. 289-2019 of November 19, 2019, the City Council authorized the City Manager to enter into Amendment No. 1 with Passport Labs, Inc. which addressed the fee structure for collecting fines from non-New York State residents; and

WHEREAS, additional services are required to address parking violations and Passport Labs, Inc. has submitted Amendment No. 2 to expand payment options for users of the municipal parking services to include the future addition of third party payment options, which in collaboration with third party mapping app providers, will enable residents and visitors to use the mapping app to seamlessly pay for parking through either the Passport app or the mapping app; and

WHEREAS, this Council finds that signing Amendment No. 2 is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into Amendment No. 2 with Passport Labs, Inc. for municipal parking services and enforcement, said amendment expanding payment options for users of the municipal parking services.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AMENDING RESOLUTION NO: 288-2019, THE 2020 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$13,750.00 FROM
FUND BALANCE TO CITY MANAGER – CONSULTANT SERVICES
FOR THE COST OF PROFESSIONAL CONSULTING SERVICES
TO THE POLICE DEPARTMENT**

WHEREAS, an amendment to the 2020 Budget is necessary to fund expenses related to an agreement with Robert McLymore for consulting services in the area of Police Department review reform and community relations as authorized by Resolution No. 163-2020 of June 22, 2020; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 288-2019, the 2020 Budget of the City of Newburgh, is hereby amended as follows:

		<u>Decrease</u>	<u>Increase</u>
A.0000.0911.0000.0000	General Fund Balance	<u>\$13,750.00</u>	
A.1230.0455.0000.0000	City Manager Consultant Services		<u>\$13,750.00</u>
	TOTAL:	\$13,750.00	\$13,750.00

RESOLUTION NO.: 163 - 2020

OF

JULY 13, 2020

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND ROBERT MCLYMORE FOR
PROFESSIONAL CONSULTING SERVICES TO THE POLICE DEPARTMENT IN THE
AREA OF POLICE DEPARTMENT REVIEW, REFORM AND COMMUNITY RELATIONS

WHEREAS, by Executive Order No. 203, Governor Andrew M. Cuomo has ordered local governments with police agencies to perform a comprehensive review of current deployments, strategies, policies, procedures and practices and develop a plan for improvement which addresses the particular needs of the community served to promote community engagement and to address any racial bias and disproportional policing of communities of color; and

WHEREAS, the City of Newburgh wishes to enter into the attached agreement with Robert McLymore to provide assistance to the City of Newburgh Police Department to address the requirements of Executive Order No. 203 in the areas of review, reform and community relations in the form of consulting services; and

WHEREAS, the cost of these services will not exceed \$45,000.00 for a term of one-year; and

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

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Robert McLymore, in substantially the same form as annexed hereto with any other provision that Counsel may require, for a one-year term at cost not to exceed \$45,000.00 for consulting services in the area of Police Department review, reform and community relations.

I, ~~Lorane Vitek~~, City Clerk of the City of Newburgh,
hereby certify that I have compared this foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held July 13, 2020
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 13 day of July, 20 20

City Clerk

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AMENDING RESOLUTION NO: 288-2019, THE 2020 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$18,279.75 FROM
WATER CONTINGENCY TO WATER DISTRIBUTION - OTHER SERVICES TO FUND
A WATER MAIN REPAIR AT LAKE DRIVE**

WHEREAS, an amendment to the 2020 Budget is necessary to fund expenses related to the repair of a water main at Lake Drive; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 288-2019, the 2020 Budget of the City of Newburgh, is hereby amended as follows:

		<u>Decrease</u>	<u>Increase</u>
F.0000.1990.0000.000	Water Contingency	<u>\$18,279.75</u>	
F.8340.0448	Water Distribution Other Services		<u>\$18,279.75</u>
	TOTAL:	\$18,279.75	\$18,279.75

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AMENDING THE 2020 PERSONNEL ANALYSIS BOOK
TO ADD ONE TEMPORARY PART-TIME
SENIOR TYPIST POSITION (SECRETARY TO THE WATER SUPERINTENDENT)
IN THE WATER DEPARTMENT**

WHEREAS, due to a retirement it has become necessary to create one temporary part-time Senior Typist (Secretary to the Water Superintendent) in the Water Department to provide continuity, training and assistance until a new permanent full-time Senior Typist (Secretary to the Water Superintendent) can be hired and trained; and

WHEREAS, the former Senior Typist (Secretary to the Water Superintendent) in the Water Department has agreed to provide training, assistance and continuity until a new Senior Typist (Secretary to the Water Superintendent) is hired and trained; and

WHEREAS, it is necessary to create one temporary part-time Senior Typist (Secretary to the Water Superintendent) position for the transition and training period; and

WHEREAS, this Council has determined that the creation of such position is in the best interests of the operations of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the 2020 Personnel Analysis Book be and hereby is amended to create one temporary part-time (Secretary to the Water Superintendent) position in the Water Department.

RESOLUTION NO.: _____-2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO JOSEPH W. ARIANO TO THE PREMISES KNOWN AS
48 CITY TERRACE (SECTION 29, BLOCK 5, LOT 38)**

WHEREAS, on August 20, 2018, the City of Newburgh conveyed property located at 48 City Terrace, being more accurately described on the official Tax Map of the City of Newburgh as Section 29, Block 5, Lot 38, to Joseph W. Ariano; and

WHEREAS, Mr. Ariano has requested a release of the restrictive covenants contained in said deed; and

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

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

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

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 48 City Terrace, Section 29, Block 5, Lot 38 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated August 20, 2018, from THE CITY OF NEWBURGH to JOSEPH W. ARIANO, recorded in the Orange County Clerk's Office on August 22, 2018, in Liber 14449 of Deeds at Page 1623 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2020

THE CITY OF NEWBURGH

By: _____
Joseph P. Donat, City Manager
Pursuant to Res. No.: ____-2020

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

On the ____ day of _____ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH P. DONAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
SATISFACTION OF MORTGAGE IN CONNECTION WITH A MORTGAGE
ISSUED TO ORANGE COUNTY MENTAL RETARDATION PROPERTIES, INC.
FOR THE PREMISES LOCATED AT 245 BROADWAY (F/K/A 245-249 BROADWAY)
(SECTION 35, BLOCK 2, LOT 8.1)**

WHEREAS, the Newburgh Community Development Agency (“NCDA”) issued a mortgage to Orange County Mental Retardation Properties, Inc. in the principal sum of \$52,000.00 for premises located at 245 Broadway (f/k/a 245-249 Broadway) (Section 35, Block 2, Lot 8.1), dated April 22, 1991, and recorded in the Orange County Clerk’s Office on May 29, 1991, in Liber 3996 of Deeds at Page 69; and

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute the attached Satisfaction in connection with a mortgage issued to Orange County Mental Retardation Properties, Inc. for premises located at 245 Broadway (f/k/a 245-249 Broadway) (Section 35, Block 2, Lot 8.1).

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

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

MORTGAGE bearing the date of April 22, 1991, made by Orange County Mental Retardation Properties, Inc. to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$52,000.00, and duly recorded in the office of the Orange County Clerk's Office on May 29, 1991, in Liber 3996 of Deeds at Page 69; and

which mortgage has not been further assigned of record.

Dated: August ____, 2020

CITY OF NEWBURGH

By: _____
Joseph P. Donat, City Manager
Pursuant to Resolution No.: ____-2020

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

On the _____ day of August, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH P. DONAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD & RETURN TO:

RESOLUTION NO.: _____-2020

OF

AUGUST 10, 2020

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO ROCCO A. SIMON TO THE PREMISES KNOWN AS 10 FARRINGTON STREET (SECTION 18, BLOCK 5, LOT 19), A DEED ISSUED TO JOHN HABER TO THE PREMISES KNOWN AS 16 FARRINGTON STREET (SECTION 18, BLOCK 5, LOT 22), AND A DEED ISSUED TO JOHN FRONTERA & ROBERT A. TITANIC, JR. TO THE PREMISES KNOWN AS 16 FARRINGTON STREET (SECTION 18, BLOCK 5, LOT 22)

WHEREAS, on September 18, 2003, the City of Newburgh conveyed property located at 10 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 19 to Rocco A. Simon; and

WHEREAS, on September 16, 1981, the City of Newburgh conveyed property located at 16 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 22 to John Haber; and

WHEREAS, on November 21, 1989, the City of Newburgh conveyed property located at 16 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 22 to John Frontera and John A. Titanic, Jr.; and

WHEREAS, the attorney for the prospective purchaser of these properties has requested a release of the restrictive covenants contained in the deeds from the City of Newburgh; and

WHEREAS, this Council has determined that issuing Releases of Restrictive Covenants by the City of Newburgh for the aforementioned deeds is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the releases, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the deed to Rocco A. Simon; restrictive covenants numbered 1, 2, 3, 4, and 5 of the deed to John Haber; and restrictive covenants numbered 1, 2, and 3 of the deed to John Frontera and Robert A. Titanic, Jr.

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

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 10 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 19 from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated September 18, 2003, from THE CITY OF NEWBURGH to ROCCO A. SIMON, recorded in the Orange County Clerk's Office on December 3, 2003, in Liber 11298 of Deeds at Page 825 and does further release said premises from the right of re-entry reserved in favor of The City of Newburgh as set forth in said deed.

Dated: _____, 2020

THE CITY OF NEWBURGH

By: _____
Joseph P. Donat, City Manager
Pursuant to Res. No.: ____-2020

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

On the ____ day of _____ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH P. DONAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

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

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 16 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 22 from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated September 16, 1981, from THE CITY OF NEWBURGH to JOHN HABER, recorded in the Orange County Clerk's Office on October 23, 1981, in Liber 2207 of Deeds at Page 1092 and does further release said premises from the right of re-entry reserved in favor of The City of Newburgh as set forth in said deed.

Dated: _____, 2020

THE CITY OF NEWBURGH

By: _____
Joseph P. Donat, City Manager
Pursuant to Res. No.: ____-2020

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

On the ____ day of _____ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH P. DONAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

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

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 16 Farrington Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 5, Lot 22 from those restrictive covenants numbered 1, 2, and 3 in a deed dated November 21, 1989, from THE CITY OF NEWBURGH to JOHN FRONTERA and ROBERT A. TITANIC, JR., recorded in the Orange County Clerk's Office on November 27, 1989, in Liber 3219 of Deeds at Page 78 and does further release said premises from the right of re-entry reserved in favor of The City of Newburgh as set forth in said deed.

Dated: _____, 2020

THE CITY OF NEWBURGH

By: _____
Joseph P. Donat, City Manager
Pursuant to Res. No.: ____-2020

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

On the ____ day of _____ in the year 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH P. DONAT, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A LICENSE AGREEMENT WITH RUPCO, INC. TO ALLOW ACCESS
TO A PORTION OF CITY-OWNED PROPERTY KNOWN AS AUDREY CAREY PARK,
251 LIBERTY STREET (SECTION 18, BLOCK 8, LOT 1.2) FOR ACCESS AND
EQUIPMENT STAGING RELATED TO THE REHABILITATION OF PROPERTIES
LOCATED AT 245 LIBERTY STREET (SECTION 18, BLOCK 8, LOT 2) AND
257 LIBERTY STREET (SECTION 18, BLOCK 8, LOT 1.1)**

WHEREAS, RUPCO, Inc. has requested access to a portion of City-owned property known as Audrey Carey Park, located at 251 Liberty Street, being more accurately described as Section 18, Block 8, Lot 1.2 on the official tax map of the City of Newburgh, for the purpose of staging equipment, tools, machinery and other materials, and for the use of said property for the storage, operation, and management of said equipment and materials for the rehabilitation of properties known as 245 Liberty Street (Section 18, Block 8, Lot 2) and 257 Liberty Street (Section 18, Block 8, Lot 1.1); and

WHEREAS, such access to the subject property requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of hereof; and

WHEREAS, this Council has reviewed such license agreement 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 enter into the attached license agreement with RUPCO, Inc. to allow access to a portion of City-owned property located at 251 Liberty Street for the purpose of staging equipment, tools, machinery and other materials, and for the use of said property for the storage, operation, and management of said equipment and materials for the rehabilitation of properties known as 245 Liberty Street and 257 Liberty Street.

LICENSE AGREEMENT

This license agreement ("Agreement"), made this _____ day of _____, 2020 by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("LICENSOR") and RURAL ULSTER PRESERVATION COMPANY, INC. ("RUPCO"), a private business organization having an address at 289 Fair Street, Kingston, New York 12401 ("LICENSEE");

WITNESSETH:

WHEREAS, Licensee desires the license or privilege of gaining access to a portion of Licensor's property known as Audrey Carey Park, 251 Liberty Street, being more accurately described as Section 18, Block 8, Lot 1.2 on the official tax map of the City of Newburgh ("Premises"), on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof, as follows:

From a general point at the southwest corner of the Premises, then running east along the fence line approximately 150 feet to a pole marked along the fence line, then running north approximately 10 feet to a general point, then running west approximately 150 feet to a general point on the boundary line of the Premises, then south approximately 10 feet back to the general point of beginning. In no instance shall the 10-foot width of access be allowed to encroach on any part of the asphalt walk in the southwesterly portion of the Premises; and

All of the area abutting the south and west property line of 257 Liberty Street, as measured from a general point on at the northwest corner of 257 Liberty Street, then running west approximately 10 feet along the property line of the Premises, then running south approximately 45 feet, then running east approximately 72 feet, then running north approximately 10 feet. In no instance shall the 10-foot width of access be allowed to encroach on any part of the asphalt walk located along the south side of 257 Liberty Street.

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

Section 1: Grant of License: Licensor hereby gives to Licensee and Licensee's employees, agents and subcontractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Premises, and taking thereupon such equipment, tools, machinery and other materials as may be necessary and for the use of said property for the storage, operation, and management of

said equipment and materials as a staging area for the rehabilitation of the property known as 257 Liberty Street.

Section 2: Access: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby. Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

Section 3: License Fee: Licensee shall not be required to pay any fees pursuant to this Agreement.

Section 4: Insurance: Licensee shall neither commence work nor perform work nor operate machinery under this Agreement until it has obtained all insurances required under this Section 4 and such insurance has been approved by the City.

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

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

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

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this Agreement.

C. Licensee may retain certain employees, agents, subcontractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 4 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 5. Damages: The relation of the Licensee to the City as to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. Licensee shall make good any damages that may occur in consequence of the performances or any part of it. Licensee shall assume all blame, loss and responsibility of any nature by reason of Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity: Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Premises under this Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License: The License hereby given shall expire and terminate upon the earlier of: (1) the completion of the project; or (2) January 31, 2022. In either event, Licensee and its agents, employees and contractors, shall restore the Premises to a clean and orderly state and in the same condition as existed prior to the granting of this License, normal wear and tear excepted. Licensee shall post a restoration bond in the amount of \$50,000.00 prior to the commencement or performance of work under this Agreement and the form and amount of the bond has been approved by the City.

Section 8. Assignment of License; No Sub-Licensing: This Agreement may not be assigned or sub-let to any other party.

Section 9. Termination of License: The City, at its sole discretion and, with or without cause, may, without prejudice to any other rights or remedy it may have, by five (5) days' notice to the Licensee, terminate this Agreement.

Section 10. New York Law: This Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

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

Section 12. No Vested Rights: It is understood and agreed that no vested right in said Premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

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[Signature Page to Follow]

Signature Page

License Agreement, Portion of Audrey Carey Park, 251 Liberty Street (SBL 18-8-1.2)

City of Newburgh / RUPCO

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement the day and year herein mentioned.

CITY OF NEWBURGH
LICENSOR

By: _____
Joseph P. Donat, City Manager
Per Resolution No.

RUPCO, Inc.
LICENSEE

By: _____
Name:
Title:

Approved as to form:

MICHELLE KELSON
Corporation Counsel

TODD VENNING
City Comptroller

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF VACANT REAL PROPERTY
KNOWN AS 24 FARRINGTON STREET (SECTION 18, BLOCK 4, LOT 28)
AT PRIVATE SALE TO CHARLES A. JACKSON AND SHANTIA M. JACKSON
FOR THE AMOUNT OF \$1,200.00**

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 a vacant parcel of real property identified as 24 Farrington Street, being more accurately described as Section 18, Block 4, Lot 28 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have 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 buyers for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before November 13, 2020, 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>
24 Farrington Street	18 - 4 - 28	Charles A. Jackson Shantia M. Jackson	\$1,200.00

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

24 Farrington Street, City of Newburgh (SBL: 18-4-28)

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 2020-2021, 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 2020-2021, 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. The City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
6. 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.
7. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
8. 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 receipt 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.
9. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a*

purchaser. 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. If purchaser takes title as an entity, purchaser must provide an affidavit listing all of the members or shareholders of said entity, their addresses, their phone numbers, and their percentage ownership stake in the entity. Purchaser must have at least a fifty-one (51%) ownership stake in said entity in order for said entity to take title.

10. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
11. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
12. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
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, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
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. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
16. Notice is given that the property lies within either the East End Historic District or the Colonial Terraces Architectural Design District as designated in the City of Newburgh's current zoning map. This parcel is sold subject to all provision of law applicable thereto. It is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance any additional laws, rules or regulations applicable to those districts.
17. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.

ACKNOWLEDGED AND AGREED

Date: _____

Date: _____

Charles A. Jackson

Shantia M. Jackson

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH HUDSON VISTA MEDICAL P.C.
TO PROVIDE OCCUPATIONAL HEALTH SERVICES TO THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh is required by federal and state law, as well as City policy and procedure, to provide occupational health services to its employees; and

WHEREAS, by Resolution No. 195-2015 of August 10, 2015, the City Council authorized the City Manager to enter into an agreement on behalf of the City of Newburgh with Hudson Vista Medical P.C. to provide occupational health services; and

WHEREAS, the term of the agreement with Hudson Vista Medical P.C. has expired and the parties intend to renew the agreement for a 3 year term; and

WHEREAS, the City Council finds that engaging Hudson Vista Medical P.C. to provide occupational health services to City employees at its office located at 407 Gidney Avenue, Newburgh, NY is in the best interests of the City of Newburgh and its employees;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh that the City Manager be and hereby is authorized to enter into a renewal agreement on behalf of the City of Newburgh with Hudson Vista Medical P.C. to provide occupational health services.

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT (the "Agreement"), dated as of _____, 2020, is made by and between Hudson Vista Medical, P.C. ("HVM"), having an office at 21 Laurel Avenue, Cornwall, New York, 12518, and the City of Newburgh ("City"), having an office at City Hall, 83 Broadway, Newburgh, NY 12550.

WHEREAS, City desires to furnish its employees with certain occupational health services; and

WHEREAS, HVM is capable and willing to provide these services.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. Term. Except in the case of earlier termination as provided herein, the initial term of this Agreement will commence on _____, 2020 and terminate on _____, 20 . This Agreement will be renewed for one or more renewal terms of one year from the expiration of the initial term or the last renewal term, as the case may be, unless either party gives the other party at least thirty (30) days' written notice prior to the expiration of the initial term or the last renewal term that that party will not renew the Agreement for the additional term.

2. Retention. City hereby retains HVM and HVM agrees to provide the City with the following professional medical services for City employees upon City's request: physical examinations, drug screening services, DOT physical examinations and DOT physical examinations with EKG.

a. If during a City employee's physical exam or other professional medical service, a medical abnormality is discovered, HVM will refer the employee to the employee's primary care physician for follow-up and treatment.

b. If during a City employee's physical exam or other professional medical service, HVM determines that the employee requires an immediate service (*e.g.*, a radiology exam or other diagnostic test), HVM will only perform this service if it obtains: (1) the employee's prior written consent for the immediate service; and (2) the employee's prior written consent that HVM will bill 100% of the cost for the immediate service to the employee or, with the employee's prior written consent, to the employee's own health insurance program.

c. HVM will provide the physical exams and other professional medical services at its 400 Gidney Avenue, Newburgh, NY 12550 location during its regular business hours.

d. HVM agrees to send the results of each professional medical service to a designated employee of City, provided that City has supplied HVM with a signed authorization from the respective employee for each disclosure.

e. City will provide signed authorization forms from City employees authorizing HVM to provide protected health information, as that term is defined by the Health Insurance Portability and Accountability Act ("HIPAA"), to a designated employee of City.

3. Compensation. City will compensate HVM at the following rates: two hundred forty dollars (\$240.00) for each physical examination; forty dollars (\$40.00) for each urine or other drug screening; one hundred five dollars (\$105.00) for each DOT physical examination; and one hundred fifty dollars (\$150.00) for each DOT physical examination with an EKG. If City requests that HVM perform any other service, the compensation to be paid to HVM will be determined by a prior written agreement signed by both parties.

HVM will submit monthly invoices for services to City in a form and substance that is satisfactory to City naming, at a minimum, the date and description of all services provided and the name of the City employee(s) for whom the services were provided. City will pay HVM within thirty (30) days from its receipt and approval of the invoice. The parties hereby expressly represent that the compensation of HVM for the services provided pursuant to this Agreement will reflect the fair market value for these services and is not in any way contingent upon the referral of patients to or from the HVM and is not calculated on the basis of existing, projected or anticipated referrals of patients to or from the HVM.

4. Medical Records and Confidentiality. City acknowledges that medical records generated as part of the provision of services pursuant to this Agreement will be the property of HVM. During the term of this Agreement and at all times following termination of the Agreement, HVM will maintain the confidentiality of all employee medical records in accordance with all applicable federal and state laws and regulations.

5. Notices. All notices required or permitted pursuant to this Agreement will be in writing and either hand-delivered or sent by facsimile or certified mail, return receipt requested, to the following addresses, or to such other addresses as a party may designate by like notice:

If to City, to:
Office of the City Manager
City of Newburgh
City Hall
83 Broadway
Newburgh, NY 12550

If to HVM, to:
Hudson Vista Medical, P.C.
70 Dubois St
Newburgh, NY 12550

With a copy to:
Office of Corporation Counsel
City of Newburgh
City Hall
83 Broadway
Newburgh, NY 12550

A notice required or permitted pursuant to this Agreement will be deemed delivered immediately if hand-delivered or sent by facsimile transmission and if sent by certified mail, return receipt requested, it will be deemed delivered three (3) days after so mailing.

6. Professional Liability Insurance. HVM agrees to obtain and keep in full force and effect during the term of this Agreement, at its sole cost and expense, professional liability insurance in the minimum amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) in the aggregate. HVM will provide City with a certificate of insurance attesting to the purchase of professional liability insurance in the amounts required by this Section 6. HVM will notify City in writing ten (10) days prior to any lapse in its professional liability coverage. The absence of professional liability coverage during the term of this Agreement may result in immediate termination of this Agreement.

7. Indemnification. To the fullest extent permitted by law, HVM will indemnify, defend (with counsel selected by City and reasonably approved by HVM) and hold harmless City, its employees, agents, representatives, mayor and City council members, from any and all liability, losses, costs, damages, and expenses (including, but not limited to, reasonable attorneys' fees and disbursements) from any claims, disputes, or causes of action of whatever nature arising, in whole or in part, from the performance of HVM's duties hereunder or the action of or the failure to act by HVM, its representatives, employees, or anyone for whose acts HVM may be liable.

In the event that any legal proceeding is instituted or that any claim or demand with respect to the foregoing is asserted by any person in respect of which indemnification may be sought from HVM pursuant to this Section 7, City will promptly notify HVM of the suit, claim or demand and give HVM an opportunity to defend and settle same without any cost to City, and will extend reasonable cooperation to HVM in connection with the defense, which will be at the expense of HVM. In the event that HVM fails to defend the same within thirty (30) days of receipt of notice, City will be entitled to assume the defense thereof, and HVM will be liable to repay City for all its expenses reasonably incurred in connection with said defense (including reasonable attorneys' fees, disbursements, expert witness fees and settlement payments).

All of the preceding paragraphs in this Section 7 will survive the expiration or sooner termination of this Agreement.

8. Termination. This Agreement may be terminated "for cause" by City upon the occurrence of any of the following events:

a. Automatically upon the filing of a voluntary petition in bankruptcy or an assignment for the benefit of creditors, or upon other action taken or suffered, voluntarily or involuntarily, under any federal or state law for the benefit of insolvents by HVM, and upon the filing of an involuntary petition in bankruptcy against HVM which is not dismissed within sixty (60) days of filing;

b. Immediately upon HVM's breach of its obligations to provide the insurance coverage as set forth in this Agreement;

c. Immediately upon HVM's breach of any of its obligations under, or violation of, any applicable state or federal law or regulation;

d. Fifteen (15) days after HVM has written notice from City that it has breached any of its other obligations hereunder, unless within such fifteen (15) day period HVM cures such breach to City's satisfaction.

Upon termination of this Agreement "for cause," HVM will not be entitled to any further payments hereunder.

Either party may terminate this Agreement for convenience upon thirty (30) days' prior written notice to the other party. Upon termination of this Agreement for convenience, HVM will be entitled to receive all sums due and unpaid as of the date of termination.

In the event of termination of this Agreement for any reason, all reports and services due to City must be completed by HVM and delivered to HVM within thirty (30) days of the termination date.

9. Assignment. This Agreement will not be assigned by either party without the prior written consent of the other party.

10. Whole Agreement; Modification. This Agreement contains the entire agreement of the parties with respect to the subject matter thereof and supersedes any and all other agreements, understandings and representations, written or oral, by and between the parties. This Agreement will not be modified or amended except by a written document executed by both parties and attached hereto.

11. Governing Law. The validity, interpretation and performance of this Agreement will be governed by and construed in accordance with the laws of the State of New York. Any dispute arising under this Agreement will be litigated in the Supreme Court, Orange County, New York. The parties each waive trial by jury in any action or proceeding concerning this Agreement.

12. Negotiated Agreement. This is a negotiated agreement and this Agreement will not be construed against any party by reason of this Agreement being prepared by the party's attorney(s). Each party warrants that it has full authority to execute, deliver and perform this Agreement and has taken all actions required by law, its organizational documents or otherwise to authorize the execution and delivery of this Agreement.

13. Iran Divestment Act of 2012. By signing this Agreement, each person and each person signing on behalf of any party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its/his/her own organization, under penalty of perjury, that to the best of its/his/her knowledge and belief that each person is not on the list created pursuant New York State Finance Law § 165-a(3)(b).

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

City of Newburgh

By: _____

Title: _____

Hudson Vista Medical, PC

By: _____

Title: Corporate Secretary

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A NEW LICENSE AGREEMENT WITH
THE NEWBURGH URBAN FARM AND FOOD, INC.
FOR THE MANAGEMENT OF THE DOWNING PARK URBAN FARM AND
STORAGE SPACE IN THE DPW GARAGES**

WHEREAS, as part of its Community Development Block Grant (“CDBG”) programming, the City of Newburgh undertook the Downing Park Greenhouse Improvements Project and the creation of the Downing Park Urban Farm; and

WHEREAS, the Newburgh Urban Farm and Food, Inc. (“NUFFI”) is an active organization and network of local residents and community organizations which fosters community and residential gardens, the production of food for the City of Newburgh and educates Newburgh residents about the connections of food and community; and

WHEREAS, in 2018, NUFFI assumed oversight of the Downing Park Urban Farm, and by Resolution No. 126-2018 of May 18, 2018 and Resolution No. 306-2018 of October 22, 2018, the City Council the City of Newburgh approved a CDBG sub-recipient agreement and a license agreement with NUFFI for the oversight and management of the Downing Park Urban Farm for the purpose of accepting the donation of a Seasonal High Tunnel from the U.S. Department of Agriculture; and

WHEREAS, in order to engage in long-term planning and to successfully access sufficient grant funding, NUFFI is requesting an extension to the term of the license agreement and to expand the scope of the license to include access to a portion of the DPW garages located within Downing Park for storing equipment and materials for the farming operation; and

WHEREAS, this Council has determined that entering into a new license agreement to extend the term of the agreement and to expand the scope of the license to include a portion of the DPW garages is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the license agreement, in substantially the same form as attached hereto with other provisions as may be required by the Corporation Counsel, with the Newburgh Urban Farm and Food, Inc. and for the oversight and management of the Downing Park Urban Farm and for storage space in the DPW garages.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2020, by and between:

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

NEWBURGH URBAN FARM AND FOOD, INC., a domestic non-profit corporation with an address of P.O. Box 541, Newburgh, New York 12551 (“Licensee”).

WHEREAS, the City is the owner of a park known as Downing Park (hereinafter referred to as “the Property”); and

WHEREAS, the Licensee is an active network of local residents and community organizations which fosters community and residential gardens, the production of food for the City of Newburgh and educates Newburgh residents about the connections of food and community and has assumed oversight of the Downing Park Urban Farm (hereinafter referred to as “the Farm”); and

WHEREAS, the City and Licensee are parties to a License Agreement providing access to the Property for the purpose of undertaking management of the Farm by improving the infrastructure and developing a comprehensive plan for its operation; and

WHEREAS, the Licensee has requested an extension to the term of the license agreement and access to the DPW garages located within the Property;

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

Section 1. Grant of License. The City hereby represents that it owns the Property and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee’s employees, volunteers, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Farm, and taking thereupon such equipment, tools, machinery and other materials as may be necessary, for the purposes of undertaking the management of the Farm by improving the infrastructure and developing a comprehensive plan for its operation as described in Schedule “A” and referred to herein as the “Work”. The City hereby grants Licensee a revocable license to one bay of the DPW garages located within the Property for the purpose of storing equipment, tools, machinery and other materials necessary to the operation and management of the Farm.

Section 2. Use of and Access to the Farm and DPW Garages. Use of the Property is limited to the operation and management of the Farm and storage for Farm purposes in the DPW garages. Licensee agrees to do the Work and use the storage space in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby. Licensee shall cooperate with the Department of Public Works and the Conservation Advisory Council during the term of this License. Licensee shall have duly authorized representatives on-site during all events which are open and available to the public.

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

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees to be assigned to the work hereunder as may be required by New York State Law. All 'volunteer' members will sign a waiver holding the City harmless, attached as Schedule "B".

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

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

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences.

The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement.

C. Licensee may retain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 3 and name Licensors as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 4. Costs and expenses. It is expressly understood that Licensee will be responsible for all costs and expenses related to the Work.

Section 5. Damages. The relation of the Licensee to the City as to the Work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Property under this License Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License. The license or privilege hereby given shall commence upon full execution and shall expire on December 31, 2033. This License supersedes any and all prior agreements between the parties. This License may be renewed for additional terms upon mutual written agreement of the parties.

Section 8. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 9. Termination of License. Either party may terminate this license prior to the expiration of the term specified in paragraph 6, with or without cause, on at least sixty (60) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. The City may terminate this license agreement by thirty (30) days written notice when and if in its sole judgment it deems such termination is necessary in the City's sole reasonable discretion.

Section 10. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Notices. Notices shall be in writing and shall be deemed properly served when deposited with the United States Postal Service, as certified mail, return receipt requested, bearing adequate postage or being deposited with a reputable overnight courier service for guaranteed next business day delivery and addressed as follows:

- a. If to Licensor:
City of Newburgh
Attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to
Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

b. If to Licensee:
Newburgh Urban Farm and Food, Inc.
P.O. Box 541
Newburgh, NY 12551

With a copy to
Community Foundation of Orange and Sullivan
Attn: Elizabeth Rowley, President and CEO
30 Scotts Corners Drive, Suite 203
Montgomery, NY 12549

Section 12. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 13. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

Section 14. Lessor acknowledges that the enhancements, improvements and repairs to the subject property shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the License granted hereunder.

Section 15. This License Agreement may be executed in any number of counter-parts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Joseph Donat, City Manager
Per Resolution No.:

NEWBURGH URBAN FARM AND FOOD, INC.
LICENSEE

By: _____

Approved as to form:

MICHELLE KELSON
Corporation Counsel

TODD VENNING
Comptroller

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND GENESIS RAMOS FOR
PROFESSIONAL EQUITY, DIVERSITY, INCLUSION AND JUSTICE
CONSULTING SERVICES TO THE CITY OF NEWBURGH**

WHEREAS, the City of Newburgh proposes to identify and define equity, diversity, inclusion, and justice priority areas for City administration and City government for 2021 and to develop the foundation and scope for a Chief Equity Officer position for the City of Newburgh; and

WHEREAS, the City of Newburgh wishes to enter into the attached agreement with Genesis Ramos to provide assistance to the City to develop these critical priority areas and create a Chief Equity Officer position in the form of consulting services; and

WHEREAS, the cost of these services will not exceed \$6,250.00 for a term of 5 months; and

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

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the agreement with Genesis Ramos, in substantially the same form as annexed hereto with any other provision that Counsel may require, for a five-month term at cost not to exceed \$6,250.00 for consulting services in the areas of equity, diversity, inclusion, and justice in City administration and City government.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2020, 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 **GENESIS RAMOS**, an individual with principal offices at 108 Dupont Avenue, Newburgh, New York 12550 hereinafter referred to as “**VENDOR**.”

ARTICLE 1. SCOPE OF WORK

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

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

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning August 11, 2020, and ending December 31, 2020.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR shall submit to the CITY an itemized invoice for SERVICES rendered every four weeks, as set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR on or about the 1st day of each month following the commencement of this Agreement, provided the CITY receives Claimant’s Certification form. If the Claimant’s Certification form is objectionable, the CITY will notify VENDOR, in writing, of the CITY’S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$6,250.00 has been established for the scope of SERVICES rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization

of the City Manager of the CITY, evidenced only by an Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

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

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This remedy, if effected, shall not constitute the

sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

ARTICLE 6. CONFLICT OF INTEREST

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

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

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

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

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

ARTICLE 13. INSURANCE

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

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

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

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

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

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

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

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

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

ARTICLE 14. INDEMNIFICATION

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

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

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

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

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

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

ARTICLE 16. CONFIDENTIAL INFORMATION

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

ARTICLE 17. TERMINATION

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

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

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

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

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

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

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

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

ARTICLE 18. GENERAL RELEASE

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

ARTICLE 19. SET-OFF RIGHTS

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

ARTICLE 20. DISPUTE RESOLUTION

The parties may mutually agree to address any and all disputes involving this Agreement, including the breach or alleged breach thereof, through to mediation and/or arbitration. If the parties are unable to agree to mediation and/or arbitration, all disputes shall be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

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

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may

have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

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

ARTICLE 23. ENTIRE AGREEMENT

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

ARTICLE 24. MODIFICATION

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

provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum.

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
JOSEPH DONAT
CITY MANAGER

BY: _____
GENESIS RAMOS
TITLE:

Per Resolution No.:

DATE: _____

DATE: _____

APPROVED AS TO FORM:

Michelle Kelson
Corporation Counsel

Todd Venning
City Comptroller

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A SUB-RECIPIENT GRANT AGREEMENT WITH
THE REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM
FOR PRE-DEVELOPMENT COST REIMBURSEMENT IN AN AMOUNT
NOT TO EXCEED \$16,500.00 UNDER THE CITIES RISE PHASE III GRANT**

WHEREAS, by Resolution No. 223-2019 of September 9, 2019, the City Council authorized the City Manager to apply for and accept if awarded a Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase III grant through the Office of the New York State Attorney General; and

WHEREAS, the City was awarded funds from the New York State Cities RISE Phase III grant; and

WHEREAS, the mandate of the grant is for cities to launch innovative programs related to housing and strategic code enforcement in an effort to address and transform blighted, vacant, or poorly maintained properties through the use of housing and community data; and

WHEREAS, the City issued Request for Proposals (“RFP”) No. 5-20 from qualified non-profit organizations seeking reimbursement for pre-development expenses for emergency, transitional, and/or supportive housing, and received two (2) responses from non-profit entities interested in using a portion of the grant award for said expenses; and

WHEREAS, the Department of Planning and Development recommends to the City Council that the Regional Economic Community Action Program (“RECAP”) be selected to receive reimbursement of said pre-development expenses from the grant in an amount not to exceed \$16,500.00; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a sub-recipient grant agreement with RECAP for said reimbursement of pre-development expenses with funding to be derived from CG.3620.0468.3621.2021;

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 sub-recipient grant agreement with RECAP for reimbursement of pre-development expenses for emergency, transitional, and/or supportive housing in an amount not to exceed \$16,500.00 under the Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase III grant.

SUBGRANTEE AGREEMENT, CITIES RISE

This subgrantee agreement ("Agreement"), by and among the **CITY OF NEWBURGH, NEW YORK**, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and **REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM**, a not-for-profit corporation, having its principal place of business at _____ ("Sub-grantee"), is made this dated as of _____, 2020, as follows:

RECITALS

- A. The City was awarded funds under the Cities Responsible Investment and Strategic Enforcement ("Cities RISE") program from the New York State Attorney General's Office ("AG").
- B. The City has been duly designated to carry out activities authorized by the terms of the Cities RISE program, specifically to launch innovative programs related to housing and strategic code enforcement
- C. One such program was designed to reimburse qualified non-profit organizations for reimbursement of pre-development expenses directly related to the creation of emergency, transitional, and/or supportive housing.
- D. The City solicited proposals for this program in Request for Proposals #5.20, dated June 1, 2020 ("RFP").
- E. The Sub-grantee submitted a proposal for funding which states the purpose, specific goals and objectives of its program, which is attached hereto and made a part of this Agreement as **Exhibit A**.
- F. The City has identified Sub-grantee as competent, willing, and able to perform the services contained in its proposal, and now wishes to engage the Sub-grantee to carry out the objectives of the program as stated in the RFP.

NOW, THEREFORE, the City, and the Sub-grantee, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE I AWARD

- 1. The City hereby awards a cost reimbursable subaward, as described above, to Sub-grantee. The statement of work and budget for this subaward are as shown in **Exhibit A**. In its performance of subaward work, Sub-grantee shall be an independent entity and not an employee or agent of the City.

ARTICLE II PAYMENT

1. Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this Agreement that the Agreement of the City to fund the subaward, shall be deemed executory to the extent that grant monies are available to it for the purpose of carrying out the terms of this subaward and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this Agreement.
2. Total payment under this Contract shall not exceed Sixteen Thousand Five Hundred Dollars (\$16,500.00) as payment for all eligible services incurred by Sub-grantee.
3. The City may withhold any payment whenever the Sub-grantee fails to achieve its program goals for the vouchered expenditure period.

ARTICLE III METHOD OF PAYMENT

1. Within thirty (30) days of the execution of this Agreement, and on a monthly basis thereafter for the term of this Agreement, the City shall pay Sub-grantee eligible reimbursable costs.
2. Payment for services shall cease upon termination of the Agreement or upon the payment of the amount stated in Article II(2), whichever occurs first. All payments for services are to be made from grant funds.
3. The City shall reimburse Sub-grantee not more often than monthly for allowable costs. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4th Floor, Newburgh, New York 12550.
4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of **December 31, 2020**. The final statement of costs shall constitute Sub-grantee's final financial report.
5. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of error, an audit finding, or other matter against the Sub-grantee.

ARTICLE IV TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Sub-grantee agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

RECAP
[ADDRESS]
[ADDRESS]

2. In the event of termination as herein provided, any completed reports prepared by Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City, and such records shall be submitted to it.
3. In the event of termination, Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-grantee, the City may withhold from any payments due the Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by Sub-grantee.

ARTICLE V NO ASSIGNMENT

1. Sub-grantee represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the City.

ARTICLE VI BOOKS AND RECORDS; REPORTS

1. Sub-grantee shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The Institution, the NYS Comptroller, and the NYS Attorney General, and the City, shall have access to the Records during normal business hours at an office of the Collaborator within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.
2. Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement at the termination of this Agreement. Sub-grantee shall also submit reports identifying prescribed activities funded under this Agreement upon request by the City while this Agreement is in effect.

ARTICLE VII CONFIDENTIAL INFORMATION

1. In the event that Sub-grantee, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Sub-grantee shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City's written permission. Sub-grantee agrees for a period of six (6) years to hold in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:
 - a. was known to Sub-grantee prior to receipt from the City, as evidenced through written documentation;
 - b. was or becomes a matter of public information or publicly available through no fault on the part of Sub-grantee;
 - c. is acquired from a third party entitled to disclose the information to Sub-grantee;
 - d. is developed independently by Sub-grantee;
 - e. is required to be disclosed pursuant to law, regulation or court order. However, in the event of a demand for disclosure under law or court order, Sub-grantee shall not make such disclosure without prior written notice to the City and an adequate opportunity for the City to oppose such disclosure.

ARTICLE VIII INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

1. Sub-grantee agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.
2. Sub-grantee further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.
3. The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

ARTICLE IX INTEREST OF MEMBERS, OFFICERS OR EMPLOYEE THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

1. No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Cities RISE gran program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

2. Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

1. No member of the New York State Assembly or Senate, or any other member of New York State government, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

1. Sub-grantee represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE X REPRESENTATIONS OF SUBGRANTEE

1. Sub-grantee acknowledges and agrees that services performed pursuant to this Agreement are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
2. Sub-grantee will not use funds under this Agreement to: 1) engage in activities that are other than for the purposes stated in the RFP; 2) attempt to influence legislation, by propaganda or otherwise; or 3) directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.
3. Sub-grantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, or any state department or agency. Sub-grantee agrees to comply with all applicable State and Federal regulations including, but not limited to, non-discrimination, rights of the handicapped and equal opportunity, during the performance of activities within this Agreement, including Title VI of the Civil Rights Act of 1964, and with Executive Order 11246, as amended by E.O. 11375 and 41 CFR, Part 60.

ARTICLE XI EQUAL EMPLOYMENT OPPORTUNITY

1. In carrying out the obligation of this Agreement, Sub-grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. Sub-grantee shall take affirmative action to ensure that applicants for employment and employees of Sub-grantee are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment

advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

2. Sub-grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Sub-grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.
3. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE XII FACILITIES AND PERSONNEL

1. Sub-grantee represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder.
2. Sub-grantee further represents that it will terminate and dismiss from further performance of work and services under this Agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to Sub-grantee by the City that such officer, employee, agent sub-contractor or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for Sub-grantee to replace to meet its obligations under this Agreement. It is expressly understood that nothing in the Article shall relieve Sub-grantee from meeting its obligations under the terms and conditions of this Agreement.

ARTICLE XIII INDEMNIFICATION

1. Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of Sub-grantee or its agents, sub-contractors, servants or employees.
2. If any person shall make a claim for any damage or injury (including death resulting therefrom) as described above, Sub-grantee hereby agrees to hold harmless the City from and against any and all loss, expense, damage or injury whatsoever and indemnify the City from the same.
3. Sub-grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

- a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.
 - b. Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:
 - i. Property Damage Liability \$1,000,000 for each occurrence
 - ii. Personal Injury Liability \$1,000,000 for each person
\$2,000,000 for each occurrence
4. The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

SECTION XIV NOTICES

1. Notices of any nature referred to in this agreement shall be in writing by certified mail, hand delivery, or sent by facsimile. Notices shall be effective on the date of receipt.

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

RECAP
[ADDRESS]
[ADDRESS]

SECTION XV MISCELLANEOUS

1. No changes may be made to this Agreement without written consent/amendment by the City.
2. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, directors or agents, to the extent allowed by law.
3. This Subaward shall be governed by the laws of the State of New York without regard to its choice of law provisions.

Signature Page
Subgrantee Agreement, Cities RISE Grant
City of Newburgh / Regional Economic Community Action Program ("RECAP")

IN WITNESS WHEREOF, Sub-grantee and the City have executed this Agreement the day and year herein mentioned.

DATED: _____, 2020

CITY OF NEWBURGH

By: _____
Name: Joseph P. Donat
Title: City Manager

DATED: _____, 2020

RECAP

By: _____
Name: _____
Title: _____

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

On this ____ day of _____, in the year 2020, before me personally appeared Joseph P. Donat, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

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

On this ____ day of _____, in the year 2020, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

EXHIBIT A – SCOPE OF SERVICES

Reimbursement of pre-development costs of \$1,500.00 per unit for 11 units of supportive housing located at 116 Carson Avenue, Newburgh, New York 12550.

All work performed under this award must be completed by December 31, 2020.

Approved uses for funding are related to the premises located at 116 Carson Avenue, Newburgh, New York and include:

- Land survey
- Property Appraisal
- Feasibility Study
- Architectural Fees
- Phase I and Phase II Environmental Work

Terms of grant are to reimburse for actual costs. In order to receive payment reimbursement for the services above, Sub-grantee must provide the following information with each invoice, plus any information required in this Agreement:

- Copy of contractor or sub-contractor invoices
- Proof of payment of said invoices
- Report on status of project / milestones



NOTICE

RFP # 5.20

Date Issued: June 1, 2020

Request for Proposal (RFP) for Reimbursement of Pre-Development Expenses for Emergency, Transitional, and/or Supportive Housing

Purpose of the Proposal

The City of Newburgh, New York, requests the submission of proposals from qualified non-profit organizations seeking reimbursement of pre-development expenses directly related to the creation of emergency, transitional and/or supportive housing. Proposals will be received by Todd Venning, City Comptroller located at City Hall, 83 Broadway, fourth floor, Newburgh, New York 12550 by no later than 4 p.m. on June 30, 2020.

Background:

With funding from The New York State Attorney General's Office, through the Cities RISE grant program, the City of Newburgh seeks to reimburse qualified non-profit organizations for pre-development expenses to organizations that provide emergency (a/k/a rapid re-housing), transitional, and/or supportive housing options for members of the City of Newburgh community. The City prioritizes reimbursing organizations that service the poorest and most vulnerable residents who are disproportionately impacted by a lack of affordable, quality housing. A qualified organization must have access to various support services, including but not limited to trauma therapy, employment and training opportunities, parenting education, independent living skills training, substance use disorder treatment, mental health care, and child care. These are all critical components of any project related to this plan.

While providing a comprehensive set of support services is not required, applicants will be required to list the services that it currently provides. Services should be appropriate to either an emergency, transitional, or supportive housing model, or some combination thereof. A policy of harm-reduction is expected. Services should be voluntary. Drug/alcohol testing is not acceptable. Priority will be given to organizations with a record of assisting people who have experienced homelessness, finding housing for them as quickly as possible, and providing services as needed. Additional priority will be given to providers with a plan that accommodates persons or families displaced due to sub-standard housing conditions.

The City will reimburse applicants for certain pre-development costs – including, but not limited to site acquisition, design, permitting or municipal approvals - associated with the new construction of a building or the adaptive reuse of an existing property to create housing or related services.

Funds may not be used for administrative costs in connection with providing housing or support services.

Project Timeline:

Funds must be committed by August 31, 2020. Any funds not committed by August 31, 2020 will be withdrawn. Applicants shall submit supportive or emergency housing project plan and timeline with any proposal.

Project Budget:

\$1,500 of pre-development costs per unit of emergency, transitional, or supportive housing planned. Each applicant may apply for funding for up to 30 units of housing throughout the City of Newburgh.

Cost Reimbursement:

All grants are awarded on a cost reimbursement basis; grant disbursements occur after expenses have been incurred. All Grantees are required to submit an activity report documenting their work to date with the disbursement request. Additionally, Grantees will be required to submit documentation supporting the expenses being invoiced.

Selection Criteria:

All proposals will be evaluated and funded based on the following:

- The quality of the proposal and the applicant's readiness to proceed with development plan.
- Proposals must include any other approved funding sources necessary to complete the project.
- Priority will be given to applicants with a history of successfully completing similar projects.
- Applications will be reviewed for how effectively they meet the needs of the target population.
- Selection preference will be given to applicants that demonstrate a proven ability to leverage its existing resources in ways to deliver housing services at a reasonable cost.

Minimum Qualifications:

This funding opportunity is only open to non-profit organizations that provide housing services to individuals and/or families that have experienced and are at risk of homelessness. Eligible applicants must have a contract with Orange County Continuum of Care to operate supportive and/or emergency housing in the City of Newburgh.

Proposal Requirements:

Qualified and interested non-profit housing providers and housing developers shall submit their proposals by mail or in person to the City of Newburgh no later than June 30, 2020. Responses which do not meet this deadline will not be considered.

Proposals should be sent to Todd Venning, City Comptroller, City Hall, 83 Broadway, Newburgh, New York 12550 on Tuesday June 30, 2020 with "Subject Line" filled as "RFP: Pre-development for Emergency and Supportive Housing – [Your/Organization Name]".

- Cover letter Please provide details about how the grant funds will help further overall project, and describe to what extent the project fills gaps in the Continuum of Care. Explain how the proposed program funded under this RFP will be coordinated with the existing programs in the CoC or local planning process, and how duplication of effort will be avoided with this project. Demonstrate that the applicant has the support of the local CoC.
- Resume/CV or Organizational Qualifications, including but not limited to: experience in administering rental assistance and/or supportive services, and identifying the populations they are able to serve.
- Project plan, pre-development funding budget and timetable for completion.

Award of the contract may be subject to approval by Newburgh City Council. The City of Newburgh may terminate the RFP process at any time for any reason. The City of Newburgh also reserves the right to reject any and/or all proposals.

The issuance of the RFP does not obligate the City of Newburgh to select a proposal and/or enter into any agreement. Any submission does not constitute business terms under any eventual agreement.

This RFP does not in any way commit the City of Newburgh to reimburse respondents for any costs associated with the preparation and submission of this proposal.

For any questions about the RFP, contact Erin Cousins at Ecousins@cityofnewburgh-ny.gov

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A SUB-RECIPIENT GRANT AGREEMENT WITH
THE NEWBURGH MINISTRY FOR PRE-DEVELOPMENT COST
REIMBURSEMENT IN AN AMOUNT NOT TO EXCEED \$45,000.00
UNDER THE CITIES RISE PHASE III GRANT**

WHEREAS, by Resolution No. 223-2019 of September 9, 2019, the City Council authorized the City Manager to apply for and accept if awarded a Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase III grant through the Office of the New York State Attorney General; and

WHEREAS, the City was awarded funds from the New York State Cities RISE Phase III grant; and

WHEREAS, the mandate of the grant was for cities to launch innovative programs related to housing and strategic code enforcement in an effort to address and transform blighted, vacant, or poorly maintained properties through the use of housing and community data; and

WHEREAS, the City issued Request for Proposals (“RFP”) No. 5-20 from qualified non-profit organizations seeking reimbursement for pre-development expenses for emergency, transitional, and/or supportive housing, and received two (2) responses from non-profit entities interested in using a portion of the grant award for said expenses; and

WHEREAS, the Department of Planning and Development recommends to the City Council that the Newburgh Ministry be selected to receive reimbursement of said pre-development expenses from the grant in an amount not to exceed \$45,000.00; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into an agreement with the Newburgh Ministry for said reimbursement of pre-development expenses with funding to be derived from CG.3620.0468.3621.2021;

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 sub-recipient grant agreement with the Newburgh Ministry for reimbursement of pre-development expenses for emergency, transitional, and/or supportive housing in an amount not to exceed \$45,000.00 under the Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase III grant.

SUBGRANTEE AGREEMENT, CITIES RISE

This subgrantee agreement ("Agreement"), by and among the **CITY OF NEWBURGH, NEW YORK**, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and **NEWBURGH MINISTRY**, a not-for-profit corporation, having its principal place of business at _____ ("Sub-grantee"), is made this dated as of _____, 2020, as follows:

RECITALS

- A. The City was awarded funds under the Cities Responsible Investment and Strategic Enforcement ("Cities RISE") program from the New York State Attorney General's Office ("AG").
- B. The City has been duly designated to carry out activities authorized by the terms of the Cities RISE program, specifically to launch innovative programs related to housing and strategic code enforcement
- C. One such program was designed to reimburse qualified non-profit organizations for reimbursement of pre-development expenses directly related to the creation of emergency, transitional, and/or supportive housing.
- D. The City solicited proposals for this program in Request for Proposals #5.20, dated June 1, 2020 ("RFP").
- E. The Sub-grantee submitted a proposal for funding which states the purpose, specific goals and objectives of its program, which is attached hereto and made a part of this Agreement as **Exhibit A**.
- F. The City has identified Sub-grantee as competent, willing, and able to perform the services contained in its proposal, and now wishes to engage the Sub-grantee to carry out the objectives of the program as stated in the RFP.

NOW, THEREFORE, the City, and the Sub-grantee, for the consideration and under the conditions hereinafter set forth, do agree as follows:

ARTICLE I AWARD

- 1. The City hereby awards a cost reimbursable subaward, as described above, to Sub-grantee. The statement of work and budget for this subaward are as shown in **Exhibit A**. In its performance of subaward work, Sub-grantee shall be an independent entity and not an employee or agent of the City.

ARTICLE II PAYMENT

1. Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this Agreement that the Agreement of the City to fund the subaward, shall be deemed executory to the extent that grant monies are available to it for the purpose of carrying out the terms of this subaward and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this Agreement.
2. Total payment under this Contract shall not exceed Forty-Five Thousand Dollars (\$45,000.00) as payment for all eligible services incurred by Sub-grantee.
3. The City may withhold any payment whenever the Sub-grantee fails to achieve its program goals for the vouchered expenditure period.

ARTICLE III METHOD OF PAYMENT

1. Within thirty (30) days of the execution of this Agreement, and on a monthly basis thereafter for the term of this Agreement, the City shall pay Sub-grantee eligible reimbursable costs.
2. Payment for services shall cease upon termination of the Agreement or upon the payment of the amount stated in Article II(2), whichever occurs first. All payments for services are to be made from grant funds.
3. The City shall reimburse Sub-grantee not more often than monthly for allowable costs. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4th Floor, Newburgh, New York 12550.
4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of **December 31, 2020**. The final statement of costs shall constitute Sub-grantee's final financial report.
5. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of error, an audit finding, or other matter against the Sub-grantee.

ARTICLE IV TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Sub-grantee agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

Newburgh Ministry

[ADDRESS]

[ADDRESS]

2. In the event of termination as herein provided, any completed reports prepared by Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City, and such records shall be submitted to it.
3. In the event of termination, Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-grantee, the City may withhold from any payments due the Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by Sub-grantee.

ARTICLE V NO ASSIGNMENT

1. Sub-grantee represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the City.

ARTICLE VI BOOKS AND RECORDS; REPORTS

1. Sub-grantee shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The Institution, the NYS Comptroller, and the NYS Attorney General, and the City, shall have access to the Records during normal business hours at an office of the Collaborator within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.
2. Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement at the termination of this Agreement. Sub-grantee shall also submit reports identifying prescribed activities funded under this Agreement upon request by the City while this Agreement is in effect.

ARTICLE VII CONFIDENTIAL INFORMATION

1. In the event that Sub-grantee, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Sub-grantee shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City's written permission. Sub-grantee agrees for a period of six (6) years to hold in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:
 - a. was known to Sub-grantee prior to receipt from the City, as evidenced through written documentation;
 - b. was or becomes a matter of public information or publicly available through no fault on the part of Sub-grantee;
 - c. is acquired from a third party entitled to disclose the information to Sub-grantee;
 - d. is developed independently by Sub-grantee;
 - e. is required to be disclosed pursuant to law, regulation or court order. However, in the event of a demand for disclosure under law or court order, Sub-grantee shall not make such disclosure without prior written notice to the City and an adequate opportunity for the City to oppose such disclosure.

ARTICLE VIII INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

1. Sub-grantee agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.
2. Sub-grantee further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.
3. The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

ARTICLE IX INTEREST OF MEMBERS, OFFICERS OR EMPLOYEE THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

1. No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Cities RISE gran program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

2. Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

1. No member of the New York State Assembly or Senate, or any other member of New York State government, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

1. Sub-grantee represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE X REPRESENTATIONS OF SUBGRANTEE

1. Sub-grantee acknowledges and agrees that services performed pursuant to this Agreement are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
2. Sub-grantee will not use funds under this Agreement to: 1) engage in activities that are other than for the purposes stated in the RFP; 2) attempt to influence legislation, by propaganda or otherwise; or 3) directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.
3. Sub-grantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, or any state department or agency. Sub-grantee agrees to comply with all applicable State and Federal regulations including, but not limited to, non-discrimination, rights of the handicapped and equal opportunity, during the performance of activities within this Agreement, including Title VI of the Civil Rights Act of 1964, and with Executive Order 11246, as amended by E.O. 11375 and 41 CFR, Part 60.

ARTICLE XI EQUAL EMPLOYMENT OPPORTUNITY

1. In carrying out the obligation of this Agreement, Sub-grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. Sub-grantee shall take affirmative action to ensure that applicants for employment and employees of Sub-grantee are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment

advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

2. Sub-grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Sub-grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.
3. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE XII FACILITIES AND PERSONNEL

1. Sub-grantee represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder.
2. Sub-grantee further represents that it will terminate and dismiss from further performance of work and services under this Agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to Sub-grantee by the City that such officer, employee, agent sub-contractor or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for Sub-grantee to replace to meet its obligations under this Agreement. It is expressly understood that nothing in the Article shall relieve Sub-grantee from meeting its obligations under the terms and conditions of this Agreement.

ARTICLE XIII INDEMNIFICATION

1. Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of Sub-grantee or its agents, sub-contractors, servants or employees.
2. If any person shall make a claim for any damage or injury (including death resulting therefrom) as described above, Sub-grantee hereby agrees to hold harmless the City from and against any and all loss, expense, damage or injury whatsoever and indemnify the City from the same.
3. Sub-grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

- a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.
 - b. Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:
 - i. Property Damage Liability \$1,000,000 for each occurrence
 - ii. Personal Injury Liability \$1,000,000 for each person
\$2,000,000 for each occurrence
4. The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

SECTION XIV NOTICES

1. Notices of any nature referred to in this agreement shall be in writing by certified mail, hand delivery, or sent by facsimile. Notices shall be effective on the date of receipt.

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

Newburgh Ministry
[ADDRESS]
[ADDRESS]

SECTION XV MISCELLANEOUS

1. No changes may be made to this Agreement without written consent/amendment by the City.
2. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, directors or agents, to the extent allowed by law.
3. This Subaward shall be governed by the laws of the State of New York without regard to its choice of law provisions.

Signature Page
Subgrantee Agreement, Cities RISE Grant
City of Newburgh / Newburgh Ministry

IN WITNESS WHEREOF, Sub-grantee and the City have executed this Agreement the day and year herein mentioned.

DATED: _____, 2020

CITY OF NEWBURGH

By: _____
Name: Joseph P. Donat
Title: City Manager

DATED: _____, 2020

RECAP

By: _____
Name: _____
Title: _____

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

On this ____ day of _____, in the year 2020, before me personally appeared Joseph P. Donat, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

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

On this ____ day of _____, in the year 2020, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

EXHIBIT A – SCOPE OF SERVICES

Reimbursement of pre-development costs of \$1,500.00 per unit for 30 units of supportive housing located at 19 Johnston Street, Newburgh, New York 12550.

All work performed under this award must be completed by December 31, 2020.

Approved uses for funding are related to the premises located at 19 Johnston Street, Newburgh, New York and include:

- Site acquisition costs

Terms of grant are to reimburse for actual costs. In order to receive payment reimbursement for the services above, Sub-grantee must provide the following information with each invoice, plus any information required in this Agreement:

- Copy of contractor or sub-contractor invoices
- Proof of payment of said invoices
- Report on status of project / milestones



NOTICE

RFP # 5.20

Date Issued: June 1, 2020

Request for Proposal (RFP) for Reimbursement of Pre-Development Expenses for Emergency, Transitional, and/or Supportive Housing

Purpose of the Proposal

The City of Newburgh, New York, requests the submission of proposals from qualified non-profit organizations seeking reimbursement of pre-development expenses directly related to the creation of emergency, transitional and/or supportive housing. Proposals will be received by Todd Venning, City Comptroller located at City Hall, 83 Broadway, fourth floor, Newburgh, New York 12550 by no later than 4 p.m. on June 30, 2020.

Background:

With funding from The New York State Attorney General's Office, through the Cities RISE grant program, the City of Newburgh seeks to reimburse qualified non-profit organizations for pre-development expenses to organizations that provide emergency (a/k/a rapid re-housing), transitional, and/or supportive housing options for members of the City of Newburgh community. The City prioritizes reimbursing organizations that service the poorest and most vulnerable residents who are disproportionately impacted by a lack of affordable, quality housing. A qualified organization must have access to various support services, including but not limited to trauma therapy, employment and training opportunities, parenting education, independent living skills training, substance use disorder treatment, mental health care, and child care. These are all critical components of any project related to this plan.

While providing a comprehensive set of support services is not required, applicants will be required to list the services that it currently provides. Services should be appropriate to either an emergency, transitional, or supportive housing model, or some combination thereof. A policy of harm-reduction is expected. Services should be voluntary. Drug/alcohol testing is not acceptable. Priority will be given to organizations with a record of assisting people who have experienced homelessness, finding housing for them as quickly as possible, and providing services as needed. Additional priority will be given to providers with a plan that accommodates persons or families displaced due to sub-standard housing conditions.

The City will reimburse applicants for certain pre-development costs – including, but not limited to site acquisition, design, permitting or municipal approvals - associated with the new construction of a building or the adaptive reuse of an existing property to create housing or related services.

Funds may not be used for administrative costs in connection with providing housing or support services.

Project Timeline:

Funds must be committed by August 31, 2020. Any funds not committed by August 31, 2020 will be withdrawn. Applicants shall submit supportive or emergency housing project plan and timeline with any proposal.

Project Budget:

\$1,500 of pre-development costs per unit of emergency, transitional, or supportive housing planned. Each applicant may apply for funding for up to 30 units of housing throughout the City of Newburgh.

Cost Reimbursement:

All grants are awarded on a cost reimbursement basis; grant disbursements occur after expenses have been incurred. All Grantees are required to submit an activity report documenting their work to date with the disbursement request. Additionally, Grantees will be required to submit documentation supporting the expenses being invoiced.

Selection Criteria:

All proposals will be evaluated and funded based on the following:

- The quality of the proposal and the applicant's readiness to proceed with development plan.
- Proposals must include any other approved funding sources necessary to complete the project.
- Priority will be given to applicants with a history of successfully completing similar projects.
- Applications will be reviewed for how effectively they meet the needs of the target population.
- Selection preference will be given to applicants that demonstrate a proven ability to leverage its existing resources in ways to deliver housing services at a reasonable cost.

Minimum Qualifications:

This funding opportunity is only open to non-profit organizations that provide housing services to individuals and/or families that have experienced and are at risk of homelessness. Eligible applicants must have a contract with Orange County Continuum of Care to operate supportive and/or emergency housing in the City of Newburgh.

Proposal Requirements:

Qualified and interested non-profit housing providers and housing developers shall submit their proposals by mail or in person to the City of Newburgh no later than June 30, 2020. Responses which do not meet this deadline will not be considered.

Proposals should be sent to Todd Venning, City Comptroller, City Hall, 83 Broadway, Newburgh, New York 12550 on Tuesday June 30, 2020 with "Subject Line" filled as "RFP: Pre-development for Emergency and Supportive Housing – [Your/Organization Name]".

- Cover letter Please provide details about how the grant funds will help further overall project, and describe to what extent the project fills gaps in the Continuum of Care. Explain how the proposed program funded under this RFP will be coordinated with the existing programs in the CoC or local planning process, and how duplication of effort will be avoided with this project. Demonstrate that the applicant has the support of the local CoC.
- Resume/CV or Organizational Qualifications, including but not limited to: experience in administering rental assistance and/or supportive services, and identifying the populations they are able to serve.
- Project plan, pre-development funding budget and timetable for completion.

Award of the contract may be subject to approval by Newburgh City Council. The City of Newburgh may terminate the RFP process at any time for any reason. The City of Newburgh also reserves the right to reject any and/or all proposals.

The issuance of the RFP does not obligate the City of Newburgh to select a proposal and/or enter into any agreement. Any submission does not constitute business terms under any eventual agreement.

This RFP does not in any way commit the City of Newburgh to reimburse respondents for any costs associated with the preparation and submission of this proposal.

For any questions about the RFP, contact Erin Cousins at Ecousins@cityofnewburgh-ny.gov

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG-CV)
SUB-RECIPIENT GRANT AGREEMENT IN THE AMOUNT OF \$25,000.00
WITH REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM, INC. FOR THE
ALLOCATION OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT
FUNDING TO SUPPORT FOOD DISTRIBUTION PROGRAMS AND SERVICES**

WHEREAS, by Resolution No. 136-2020 of June 22, 2020, the City Council adopted a substantial amendment to the City of Newburgh Community Development Block Grant (“CDBG”) FY2019 annual action plan for the allocation of Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funding; and

WHEREAS, the new Activities added to the CDBG FY2019 annual action plan include emergency income payments in the form of a rent payment assistance program and emergency food service in the form of assistance to non-profit organizations engaged in food distribution programs and services; and

WHEREAS, the City has received proposals from two qualified non-profit organizations to support and expand food distribution programs and services to City of Newburgh residents in need; and

WHEREAS, it is recommended that the Regional Economic Community Action Program, Inc. (“RECAP”) be selected to receive funding to support and expand food distribution programs and services in an amount not to exceed \$25,000.00; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a sub-recipient grant agreement with RECAP to provide said food distribution and services as set forth in its proposal;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a sub-recipient grant agreement with the Regional Economic Community Action Program, Inc. in the amount of \$25,000.00, with all such terms and conditions as may be required by the Corporation Counsel, to support and expand food distribution programs and services to City of Newburgh residents in need.

**COMMUNITY DEVELOPMENT BLOCK GRANT SUBRECIPIENT AGREEMENT
BETWEEN THE CITY OF NEWBURGH AND
REGIONAL ECONOMIC COMMUNITY ACTION PROGRAM, INC.**

THIS COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT ("Agreement") is made as of the _____, 2020, by and between the CITY OF NEWBURGH, a municipal corporation with an address of 83 Broadway, Newburgh, New York 12550 ("City") and Regional Economic Community Action Program, Inc., a domestic non-profit corporation ("Subrecipient"), with an address of 40 Smith Street, Middletown, New York 10940.

RECITALS

- A. The City has entered into various funding agreements with the United States Department of Housing and Urban Development ("HUD"), which agreements provide funds ("CDBG Funds") to the City under the Federal Housing and Community Development Act of 1974 (42 USC Sections 5301 et seq.), as amended from time to time (the "Act"), and the regulations promulgated thereunder 24 CFR Sections 570 et seq. ("Regulations"). The Federal award date of the CDBG Funds provided subject to this Agreement is April 2, 2020. The Federal Award Number ("FAIN") for the CDBG Funds provided subject to this Agreement B-20-MW-36-0119. The Catalog of Federal Domestic Assistance ("CFDA") for the CDBG Funds provided subject to this Agreement is 14.218.
- B. The Act provides that the City may grant or loan the CDBG funds to nonprofit organizations for certain purposes allowed under the Act.
- C. The Subrecipient proposes to provide various services to low/moderate income persons as set forth in **Exhibit A** (Scope of Work).

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1 TERM OF AGREEMENT

- 1. Unless earlier terminated in accordance with Section 8 of this Agreement, this Agreement shall continue in force and effect until December 30, 2020.

SECTION 2 SUBRECIPIENT OBLIGATIONS

- 1. Use of CDBG Funds. Subrecipient hereby agrees to use the CDBG funds provided to Subrecipient solely for the project pursuant to all of the terms and conditions of this Agreement. The project is more particularly set forth in **Exhibit A** attached hereto and incorporated herein by reference. The CDBG funds shall be used solely to reimburse the actual expenses incurred by Subrecipient for the project as set forth in the "Budget" attached hereto as **Exhibit B** and incorporated herein by reference. The City may approve minor changes to the budget that do not exceed the maximum amount in Section 3 of this Agreement.
- 2. Representation and Warranties. Subrecipient hereby represents and warrants to the City as follows:

- a. Subrecipient has read and is familiar with all of the terms and provisions of the Act and the Regulations applicable to Subrecipient.
 - b. Subrecipient is a non-profit organization permitted to receive CDBG funds under the Act and the Regulations.
 - c. The use of the facility, the project, and the expenses to be reimbursed by the CDBG funds, as described in the budget, are permitted uses of CDBG funds under the Act and the Regulations.
3. Compliance with Law. Subrecipient shall perform the project and operate the facility in accordance with all ordinances, resolutions, statutes, rules, and Regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered, including, but not limited to the Act and the Regulations. Particularly, Subrecipient shall comply with the requirements and standards of the following:
 - a. OMB Circular No. A-122 "Cost Principles for Non-Profit Organizations" or OMB Circular No. A-21 "Cost Principles for Educational Institutions," as applicable;
 - b. All Federal laws and regulations described in 24 CFR Part 84 and Subpart K of 24 CFR Part 570, including all affirmative action requirements set forth therein, but excluding the City's environmental responsibilities under 24 CFR Section 570.604 and the City's responsibility for initiating the review process under 24 CFR Part 52; and
 - c. If Subrecipient is a religious organization, as defined by the Regulations, all conditions prescribed by HUD for the use of CDBG funds by religious organizations shall pertain.
4. Licenses, Permits, Fees and Assessments. Subrecipient shall obtain, at its sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of the project and the operation of the facility.
5. Personnel and Participant Conditions.
 - a. Civil Rights
 - i. Compliance. Subrecipient agrees to comply with City and State civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.
 - ii. Nondiscrimination. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance.

Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

- iii. Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570, part I. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.
- iv. Section 504. Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 721) that prohibits discrimination against the handicapped in any federally assisted program.

b. Affirmative Action

- i. EO 11246. Subrecipient, if applicable, will comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction Agreements. As specified in Executive Order 11246 and the implementing regulations, contractors, and subcontractors on federal or federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.
- ii. Women- and Minority-Owned Businesses (W/MBE). Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purposes of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Subrecipient may rely on written representations by Subrecipients regarding their status as minority and female business enterprises in lieu of an independent investigation.

- iii. Access to Records. Subrecipient shall furnish and cause each of its sub-subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.
 - iv. Notifications. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - v. EEO/AA Statement. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.
 - vi. Subcontract Provisions. Subrecipient will include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each sub-Subrecipient or vendor.
- c. Employment Restrictions
- i. Prohibited Activity. Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.
 - ii. OSHA. Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety.
- d. "Section 3" Clause
- i. Compliance. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement and binding upon the City, the Subrecipient and any sub-Subrecipients. Failure to fulfill these requirements shall subject the City, the Subrecipient and any sub-Subrecipients, their successors and assigns, to those sanctions specified by the agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this agreement: The work to be performed under this

Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and Agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the areas of the project.

- ii. Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with the requirements.
- iii. Notifications. Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other Agreement or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- iv. Subcontracts. Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-Subrecipient is in violation of Regulations issued by the grantor agency. The Subrecipient will not subcontract with any sub-Subrecipient where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the sub-Subrecipient has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Environmental Requirements. Lead Based Paint. In accordance with 24 CFR Part 570.608, Subrecipient shall be prohibited from using lead-based paint in residential structures rehabilitated with Community Development Block Grant funds. Lead-based paint is any paint containing more than five- tenths of one percent (5/10 of 1%) lead by weight in the total non-volatile content of liquid paints or in the dried film of paint already applied.
- f. Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the obligations of the other.

SECTION 3 DISBURSEMENT OF FUNDS

1. Maximum Amount of CDBG Funds. The maximum amount of CDBG funds to be provided to Subrecipient is \$25,000.00 in the form of a grant. Subrecipient hereby acknowledges that the City cannot guarantee that the CDBG funds will be received from HUD. The City's obligation to fund the work hereunder is limited to the availability of CDBG funds from HUD. If the

CDBG funds are not forthcoming from HUD for any reason, the City shall not have any obligation to fund the work through any other source of funds.

2. Maximum Amount of General Funds. Not applicable.
3. Termination of Fund Obligation. The services to be provided under this Agreement may be terminated without cause at any point in time in the sole and exclusive discretion of City. In this event, City shall compensate the Subrecipient for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Subrecipient shall maintain adequate logs and timesheets in order to verify costs incurred to date.
4. Method of Payment- CDBG Funds. Unless otherwise specified in **Exhibit A**, not more frequently than monthly and at least quarterly, Subrecipient may submit to the Agreement Officer an invoice, in a form and/or manner acceptable to the City, setting forth the amounts actually expended by Subrecipient for the project; provided that said expenses are included in the budget (**Exhibit B**) and performance standards have been met. Said invoice shall, at a minimum, set forth each budget category for which reimbursement is sought, a description of the expense, the total budgeted amount for the category, the amount requested to be reimbursed for each budget category, and the total amount expended for each budget category to date. Said invoice shall be accompanied with such additional supporting information as requested by the City, including, but not limited to, paid receipts for each expense. To the extent the CDBG funds actually have been received from HUD, the City shall pay Subrecipient for all expenses stated on the invoice that are approved by City pursuant to this Agreement no later than the thirtieth day after the invoice is received.
5. Method of Payment - General Funds, if applicable. City shall pay Subrecipient an amount not to exceed the total sum noted in Section 3.2 for services to be performed. The City shall make payments for services satisfactorily performed within 30 days after said services are invoiced. City shall not pay any additional sum for any expense or cost whatsoever incurred by the Subrecipient in rendering services pursuant to this Agreement.
6. Program Income. Any program income, as such term is defined in the regulations, received by Subrecipient shall be retained by Subrecipient. The program income received by Subrecipient shall solely be used for the project or for the purpose of operating the facility. All provisions of this Agreement shall apply to activities funded by program income. All program income shall be expended by Subrecipient before the City is obligated to advance any other CDBG funds to Subrecipient under this agreement.
7. Separation of Funds. The Subrecipient shall certify that Subrecipient's financial system is in accordance with the standards specified in OMB Circular 110, or 24 CFR Part 84.
8. Indirect Costs. Not applicable.

SECTION 4 PERFORMANCE SCHEDULE

1. Schedule of Performance. Subrecipient shall commence, prosecute and complete the project within the time periods established in the "Scope of Work" as referenced in **Exhibit A**.
2. Reversion of Assets. Upon the expiration or sooner termination of this Agreement, Subrecipient shall (i) transfer to the City any and all CDBG funds and program income on hand (ii) any accounts receivable attributable to the use of CDBG funds or program income; and (iii) if any CDBG funds or program income was used by Subrecipient to improve or acquire real property and said CDBG funds or program income was in excess of Twenty-Five Thousand Dollars (\$25,000), Subrecipient shall either (a) use said real property to meet one of the national objectives specified in 24 CFR Section 570.208 for a period of five (5) years after the termination or sooner expiration of this Agreement or (b) dispose of the real property and reimburse the City in an amount (together with any amounts previously repaid to the City) that is equal to the fair market value of the real property times a fraction, the numerator of which is equal to the amount of CDBG funds and/or other program income used to acquire or improve the property and denominator of which is equal to the fair market value of the real property immediately after the real property was acquired or improved with said funds.

SECTION 5 COORDINATION OF WORK

1. Representative of Subrecipient. The Executive Director is hereby designated as being the representative of Subrecipient authorized to act in its behalf with respect to this Agreement and make all decisions in connection therewith.
2. Contract Officer. Contract Officer shall be the City's CDBG Manager or such person as may be designated by the City Manager. It shall be Subrecipient's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Subrecipient shall refer any decisions that must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.
3. Prohibition Against Subcontracting or Assignment. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Subrecipient, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Subrecipient or any surety of Subrecipient of any liability hereunder without the express consent of City.
4. Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Subrecipient, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the

selection, discharge, supervision or control of Subrecipient's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Subrecipient shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with the role. Subrecipient shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Subrecipient in its business or otherwise of a joint venture or a member of any joint enterprise with Subrecipient.

5. Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no persons having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, Subrecipient, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.
6. The Subrecipient hereby certifies that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or co-operative agreement;
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contractor, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
 - c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
 - d. Lobbying Certification - Paragraph d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1353, title 31, U.S. Code. Any person who fails to file the required

certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION 6 INSURANCE REQUIREMENTS

1. Insurance. Before beginning any work under this Agreement, Subrecipient, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by Subrecipient and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Subrecipient shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Subrecipient shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Subrecipient's bid. Subrecipient shall not allow any subcontractor to commence work on any subcontract until Subrecipient has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Subrecipient shall maintain all required insurance listed herein for the duration of this Agreement.
2. Workers' Compensation. Subrecipient shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Subrecipient. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars (\$1,000,000) per accident. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Subrecipient, its employees, agendas, and subcontractors.
 - a. Submittal Requirements. To comply with Subsection 6.2, Subrecipient shall submit the following:
 - i. Certificate of Liability Insurance in the amounts specified in the section; and
 - ii. Waiver of Subrogation Endorsement as required by the section.
 - b. Commercial General and Automobile Liability Insurance.
 - i. General Requirements. Subrecipient, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) and automobile liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either

the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

- ii. Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- [A] The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

- [B] City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Subrecipient; or automobiles owned, leased, hired, or borrowed by the Subrecipient.

- [C] Subrecipient hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Subrecipient agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

- [D] For any claims related to this Agreement or the work hereunder, the Subrecipient's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Subrecipient's insurance and shall not contribute with it.

- iii. Submittal Requirements. To comply with Subsection 6.3 Subrecipient shall submit the following:

- [A] Certificate of Liability Insurance in the amounts specified in the section;

- [B] Additional Insured Endorsement as required by the section;

- [C] Waiver of Subrogation Endorsement as required by the section; and

- [D] Primary Insurance Endorsement as required by the section.

- c. Professional Liability Insurance.

- i. General Requirements. Subrecipient, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than one million dollars (\$1,000,000) covering the licensed professionals' errors and

omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

- ii. Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- [A] The retroactive date of the policy must be shown and must be before the date of the Agreement.

- [B] Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

- [C] If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Subrecipient shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

- [D] A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

- iii. Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

- iv. Submittal Requirements. To comply with Subsection 6.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

d. All Policies Requirements.

- i. Verification of Coverage. Prior to beginning any work under this Agreement, Subrecipient shall furnish City with complete copies of all certificates of insurance delivered to Subrecipient by the insurer, including complete copies of all endorsements attached to the policies. All copies of certificates of insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Subrecipient beginning work, it shall not waive the Subrecipient's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- ii. Deductibles or Self-Insured Retentions. Subrecipient shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Subrecipient shall provide a financial guarantee satisfactory to the City guaranteeing

payment of losses and related investigations, claim administration and defense expenses.

- iii. Wasting Policies. No policy required by this Section 6 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).
- iv. Endorsement Requirements. Each insurance policy required by Section 6 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days’ prior written notice has been provided to the City.
- v. Subcontractors. Subrecipient shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- vi. Remedies. In addition to any other remedies City may have if Subrecipient fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Subrecipient’s breach:

[A] Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

[B] Order Subrecipient to stop work under this Agreement or withhold any payment that becomes due to Subrecipient hereunder, or both stop work and withhold any payment, until Subrecipient demonstrates compliance with the requirements hereof; and/or

[C] Terminate this Agreement.

SECTION 7 ADMINISTRATIVE REQUIREMENTS

1. Financial Management.

- a. Accounting Standards. Subrecipient agrees to comply with 24 CFR Part 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- b. Cost Principles. Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable for all costs incurred whether charged on a direct or indirect basis.

2. Documentation and Record-Keeping

- a. Records to be Maintained. Subrecipient shall maintain all records required by the Federal regulations specific in 24 CFR Part 570.506, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
 - i. Records providing a full description of each activity undertaken;
 - ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program set forth in 24 CFR 570.208;
 - iii. Records required determining the eligibility of activities;
 - iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
 - v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
 - vi. Financial records as required by 24 CFR Part 570.502, and Part 84; and
 - vii. Other records necessary to document compliance with Subpart K of 24 CFR 570.
 - b. Retention. Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of four (4) years after the termination of all activities funded under this agreement, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four years after he/she has received final payment.
3. Client Data. Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.
4. Disclosure. Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited by law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
5. Property Records. The Subrecipient shall maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8).
6. National Objectives. Subrecipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's national objectives: (a) benefit low/moderate income persons, (b) aid in the prevention or elimination of slums or blight, (c) meet community development needs having a particular urgency (as defined in 24 CFR Part 570.208).
7. Performance Monitoring. The City will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by

the City will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated.

8. Close-Outs. Subrecipient obligations to the City shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including but not limited to the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), and determining the custodianship of records.
9. Audits and Inspections. All Subrecipient records with respect to any matters covered by this agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient within 30 days after receipt by Subrecipient. Failure of Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Subrecipient audits.

SECTION 8 ENFORCEMENT OF CONTRACT

1. Applicable Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of New York and the United States, as applicable. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Supreme Court of the County of Orange, State of New York, or the United States District Court for the Southern District of New York. Subrecipient covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.
2. Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the insuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within thirty (30) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Notwithstanding the foregoing, the City may suspend any further payment of CDBG funds until Subrecipient is in compliance with this Agreement. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the default is not cured.
3. Remedies Upon Default by Subrecipient. In addition to any other rights or remedies available at law or in equity, if Subrecipient fails to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8:

- a. Temporarily withhold payment of CDBG funds pending correction of the default by Subrecipient;
 - b. Refuse to advance all or any part of the CDBG funds for the project and reallocate said funds to another activity;
 - c. Wholly or partially suspend or terminate the award and this Agreement; and;
 - d. Withhold further awards for the project and/or the facility; and
 - e. Require Subrecipient to repay any CDBG funds that the City determines were not expended in compliance with the requirements of this Agreement, the Act or the Regulations.
4. Termination for Convenience. This Agreement may be terminated for convenience as provided in 24 CFR Section 85.44.
5. Waiver. No delay or omission in the exercise of any right or remedy by a non- defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.
6. Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
7. Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to complete specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of the Agreement.
8. Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

1. Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to Subrecipient, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to Subrecipient or to its successor, or for breach of any obligation of the terms of this Agreement.
2. Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his/her financial interest or the financial interest of any corporation, partnership or association in which s/he is, directly or indirectly, interested, in violation of any State statute or regulation. Subrecipient warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.
3. Indemnify and Hold Harmless. Subrecipient agrees to indemnify, defend, and hold harmless City and its officers, agents and employees, from any liabilities, claims, suits or actions, losses or expenses, including attorney fees, caused by, arising out of, or in connection with, either directly or indirectly, Subrecipient's performance under this Agreement. Nothing herein shall be construed to require Subrecipient to indemnify the City, its officers, agents and employees against any responsibility or liability.

1. Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid first-class mail at his/her address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

To Subrecipient: Regional Economic Community Action Program, Inc.
40 Smith Street
Middletown, New York 10940

2. Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.
3. Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.
4. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement that are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.
5. Corporate Authority. The persons executing this Agreement on behalf of the parties hereby warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and, (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

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Signature Page

City of Newburgh with Regional Economic Community Action Program, Inc.

Emergency Food Services Program in the City of Newburgh in Response to Coronavirus

IN WITNESS WHEREOF, the City and Subrecipient have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: _____, 2020

CITY OF NEWBURGH

By: _____

Name: Joseph P. Donat

Title: City Manager

DATED: _____, 2020

REGIONAL ECONOMIC COMMUNITY
ACTION PROGRAM, INC.

By: _____

Name: _____

Title: _____

STATE OF NEW YORK)

) ss.:

COUNTY OF ORANGE)

On this ____ day of _____, in the year 2020, before me personally appeared Joseph P. Donat, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)

) ss.:

COUNTY OF ORANGE)

On this ____ day of _____, in the year 2020, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG-CV)
SUB-RECIPIENT GRANT AGREEMENT IN THE AMOUNT OF \$25,000.00
WITH NEWBURGH URBAN FARM AND FOOD, INC. FOR THE ALLOCATION
OF CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT FUNDING
TO SUPPORT FOOD DISTRIBUTION PROGRAMS AND SERVICES**

WHEREAS, by Resolution No. 136-2020 of June 22, 2020, the City Council adopted a substantial amendment to the City of Newburgh Community Development Block Grant (“CDBG”) FY2019 annual action plan for the allocation of Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funding; and

WHEREAS, the new Activities added to the CDBG FY2019 annual action plan include emergency income payments in the form of a rent payment assistance program and emergency food service in the form of assistance to non-profit organizations engaged in food distribution programs and services; and

WHEREAS, the City has received proposals from two qualified non-profit organizations to support and expand food distribution programs and services to City of Newburgh residents in need; and

WHEREAS, it is recommended that the Newburgh Urban Farm and Food, Inc. (“NUFFI”) be selected to receive funding to support and expand food distribution programs and services in an amount not to exceed \$25,000.00; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a sub-recipient grant agreement with NUFFI to provide said food distribution and services as set forth in its proposal;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a sub-recipient grant agreement with the Newburgh Urban Farm and Food, Inc. in the amount of \$25,000.00, with all such terms and conditions as may be required by the Corporation Counsel, to support and expand food distribution programs and services to City of Newburgh residents in need.

**COMMUNITY DEVELOPMENT BLOCK GRANT SUBRECIPIENT AGREEMENT
BETWEEN THE CITY OF NEWBURGH AND
NEWBURGH URBAN FARM AND FOOD, INC.**

THIS COMMUNITY DEVELOPMENT BLOCK GRANT AGREEMENT ("Agreement") is made as of the _____, 2020, by and between the CITY OF NEWBURGH, a municipal corporation with an address of 83 Broadway, Newburgh, New York 12550 ("City") and Newburgh Urban Farm and Food, Inc., a domestic non-profit corporation ("Subrecipient"), with an address of P.O. Box 541, Newburgh, New York 12551.

RECITALS

- A. The City has entered into various funding agreements with the United States Department of Housing and Urban Development ("HUD"), which agreements provide funds ("CDBG Funds") to the City under the Federal Housing and Community Development Act of 1974 (42 USC Sections 5301 et seq.), as amended from time to time (the "Act"), and the regulations promulgated thereunder 24 CFR Sections 570 et seq. ("Regulations"). The Federal award date of the CDBG Funds provided subject to this Agreement is April 2, 2020. The Federal Award Number ("FAIN") for the CDBG Funds provided subject to this Agreement B-20-MW-36-0119. The Catalog of Federal Domestic Assistance ("CFDA") for the CDBG Funds provided subject to this Agreement is 14.218.
- B. The Act provides that the City may grant or loan the CDBG funds to nonprofit organizations for certain purposes allowed under the Act.
- C. The Subrecipient proposes to provide various services to low/moderate income persons as set forth in **Exhibit A** (Scope of Work).

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1 TERM OF AGREEMENT

- 1. Unless earlier terminated in accordance with Section 8 of this Agreement, this Agreement shall continue in force and effect until December 30, 2020.

SECTION 2 SUBRECIPIENT OBLIGATIONS

- 1. Use of CDBG Funds. Subrecipient hereby agrees to use the CDBG funds provided to Subrecipient solely for the project pursuant to all of the terms and conditions of this Agreement. The project is more particularly set forth in **Exhibit A** attached hereto and incorporated herein by reference. The CDBG funds shall be used solely to reimburse the actual expenses incurred by Subrecipient for the project as set forth in the "Budget" attached hereto as **Exhibit B** and incorporated herein by reference. The City may approve minor changes to the budget that do not exceed the maximum amount in Section 3 of this Agreement.
- 2. Representation and Warranties. Subrecipient hereby represents and warrants to the City as follows:

- a. Subrecipient has read and is familiar with all of the terms and provisions of the Act and the Regulations applicable to Subrecipient.
 - b. Subrecipient is a non-profit organization permitted to receive CDBG funds under the Act and the Regulations.
 - c. The use of the facility, the project, and the expenses to be reimbursed by the CDBG funds, as described in the budget, are permitted uses of CDBG funds under the Act and the Regulations.
3. Compliance with Law. Subrecipient shall perform the project and operate the facility in accordance with all ordinances, resolutions, statutes, rules, and Regulations of the City and any Federal, State or local governmental agency having jurisdiction in effect at the time service is rendered, including, but not limited to the Act and the Regulations. Particularly, Subrecipient shall comply with the requirements and standards of the following:
 - a. OMB Circular No. A-122 "Cost Principles for Non-Profit Organizations" or OMB Circular No. A-21 "Cost Principles for Educational Institutions," as applicable;
 - b. All Federal laws and regulations described in 24 CFR Part 84 and Subpart K of 24 CFR Part 570, including all affirmative action requirements set forth therein, but excluding the City's environmental responsibilities under 24 CFR Section 570.604 and the City's responsibility for initiating the review process under 24 CFR Part 52; and
 - c. If Subrecipient is a religious organization, as defined by the Regulations, all conditions prescribed by HUD for the use of CDBG funds by religious organizations shall pertain.
4. Licenses, Permits, Fees and Assessments. Subrecipient shall obtain, at its sole cost and expense, such licenses, permits and approvals as may be required by law for the performance of the project and the operation of the facility.
5. Personnel and Participant Conditions.
 - a. Civil Rights
 - i. Compliance. Subrecipient agrees to comply with City and State civil rights ordinances and with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 109 of Title I of the Housing and Community Development Act of 1974, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375 and 12086.
 - ii. Nondiscrimination. Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, ancestry, national origin, sex, disability or other handicap, age, marital status, or status with regard to public assistance.

Subrecipient will take affirmative action to ensure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

- iii. Land Covenants. This Agreement is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570, part I. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this Agreement, Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the City and the United States are beneficiaries of and entitled to enforce such covenants. Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant and will not itself so discriminate.
- iv. Section 504. Subrecipient agrees to comply with any federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 721) that prohibits discrimination against the handicapped in any federally assisted program.

b. Affirmative Action

- i. EO 11246. Subrecipient, if applicable, will comply with Executive Order 11246, as amended by Executive Order 12086, and the regulations issued pursuant thereto (41 CFR Chapter 60) which provides that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted construction Agreements. As specified in Executive Order 11246 and the implementing regulations, contractors, and subcontractors on federal or federally assisted construction contracts shall take affirmative action to insure fair treatment in employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, or other forms of compensation and selection for training and apprenticeship.
- ii. Women- and Minority-Owned Businesses (W/MBE). Subrecipient will use its best efforts to afford minority and women-owned business enterprises the maximum practicable opportunity to participate in the performance of this Agreement. As used in this Agreement, the term "minority and female business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purposes of this definition, "minority group members" are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. Subrecipient may rely on written representations by Subrecipients regarding their status as minority and female business enterprises in lieu of an independent investigation.

- iii. Access to Records. Subrecipient shall furnish and cause each of its sub-subrecipients to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the City, HUD or its agent, or other authorized federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.
 - iv. Notifications. Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - v. EEO/AA Statement. Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.
 - vi. Subcontract Provisions. Subrecipient will include the provisions of Paragraphs VIII A, Civil Rights, and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding upon each sub-Subrecipient or vendor.
- c. Employment Restrictions
- i. Prohibited Activity. Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.
 - ii. OSHA. Where employees are engaged in activities not covered under the Occupational Safety and Health Act of 1970, they shall not be required or permitted to work, be trained, or receive services in buildings or surroundings or under working conditions which are unsanitary, hazardous or dangerous to the participants' health or safety.
- d. "Section 3" Clause
- i. Compliance. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Agreement and binding upon the City, the Subrecipient and any sub-Subrecipients. Failure to fulfill these requirements shall subject the City, the Subrecipient and any sub-Subrecipients, their successors and assigns, to those sanctions specified by the agreement through which federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements. The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontracts executed under this agreement: The work to be performed under this

Agreement is a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to lower income residents of the project area and Agreements for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the areas of the project.

- ii. Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with the requirements.
- iii. Notifications. Subrecipient agrees to send to each labor organization or representative of workers with which it has a collective bargaining agreement or other Agreement or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.
- iv. Subcontracts. Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the sub-Subrecipient is in violation of Regulations issued by the grantor agency. The Subrecipient will not subcontract with any sub-Subrecipient where it has notice of knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the sub-Subrecipient has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.
- e. Environmental Requirements. Lead Based Paint. In accordance with 24 CFR Part 570.608, Subrecipient shall be prohibited from using lead-based paint in residential structures rehabilitated with Community Development Block Grant funds. Lead-based paint is any paint containing more than five- tenths of one percent (5/10 of 1%) lead by weight in the total non-volatile content of liquid paints or in the dried film of paint already applied.
- f. Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the obligations of the other.

SECTION 3 DISBURSEMENT OF FUNDS

1. Maximum Amount of CDBG Funds. The maximum amount of CDBG funds to be provided to Subrecipient is \$25,000.00 in the form of a grant. Subrecipient hereby acknowledges that the City cannot guarantee that the CDBG funds will be received from HUD. The City's obligation to fund the work hereunder is limited to the availability of CDBG funds from HUD. If the

CDBG funds are not forthcoming from HUD for any reason, the City shall not have any obligation to fund the work through any other source of funds.

2. Maximum Amount of General Funds. Not applicable.
3. Termination of Fund Obligation. The services to be provided under this Agreement may be terminated without cause at any point in time in the sole and exclusive discretion of City. In this event, City shall compensate the Subrecipient for all outstanding costs incurred for work satisfactorily completed as of the date of written notice thereof. Subrecipient shall maintain adequate logs and timesheets in order to verify costs incurred to date.
4. Method of Payment- CDBG Funds. Unless otherwise specified in **Exhibit A**, not more frequently than monthly and at least quarterly, Subrecipient may submit to the Agreement Officer an invoice, in a form and/or manner acceptable to the City, setting forth the amounts actually expended by Subrecipient for the project; provided that said expenses are included in the budget (**Exhibit B**) and performance standards have been met. Said invoice shall, at a minimum, set forth each budget category for which reimbursement is sought, a description of the expense, the total budgeted amount for the category, the amount requested to be reimbursed for each budget category, and the total amount expended for each budget category to date. Said invoice shall be accompanied with such additional supporting information as requested by the City, including, but not limited to, paid receipts for each expense. To the extent the CDBG funds actually have been received from HUD, the City shall pay Subrecipient for all expenses stated on the invoice that are approved by City pursuant to this Agreement no later than the thirtieth day after the invoice is received.
5. Method of Payment - General Funds, if applicable. City shall pay Subrecipient an amount not to exceed the total sum noted in Section 3.2 for services to be performed. The City shall make payments for services satisfactorily performed within 30 days after said services are invoiced. City shall not pay any additional sum for any expense or cost whatsoever incurred by the Subrecipient in rendering services pursuant to this Agreement.
6. Program Income. Any program income, as such term is defined in the regulations, received by Subrecipient shall be retained by Subrecipient. The program income received by Subrecipient shall solely be used for the project or for the purpose of operating the facility. All provisions of this Agreement shall apply to activities funded by program income. All program income shall be expended by Subrecipient before the City is obligated to advance any other CDBG funds to Subrecipient under this agreement.
7. Separation of Funds. The Subrecipient shall certify that Subrecipient's financial system is in accordance with the standards specified in OMB Circular 110, or 24 CFR Part 84.
8. Indirect Costs. Not applicable.

SECTION 4 PERFORMANCE SCHEDULE

1. Schedule of Performance. Subrecipient shall commence, prosecute and complete the project within the time periods established in the "Scope of Work" as referenced in **Exhibit A**.
2. Reversion of Assets. Upon the expiration or sooner termination of this Agreement, Subrecipient shall (i) transfer to the City any and all CDBG funds and program income on hand (ii) any accounts receivable attributable to the use of CDBG funds or program income; and (iii) if any CDBG funds or program income was used by Subrecipient to improve or acquire real property and said CDBG funds or program income was in excess of Twenty-Five Thousand Dollars (\$25,000), Subrecipient shall either (a) use said real property to meet one of the national objectives specified in 24 CFR Section 570.208 for a period of five (5) years after the termination or sooner expiration of this Agreement or (b) dispose of the real property and reimburse the City in an amount (together with any amounts previously repaid to the City) that is equal to the fair market value of the real property times a fraction, the numerator of which is equal to the amount of CDBG funds and/or other program income used to acquire or improve the property and denominator of which is equal to the fair market value of the real property immediately after the real property was acquired or improved with said funds.

SECTION 5 COORDINATION OF WORK

1. Representative of Subrecipient. The Executive Director is hereby designated as being the representative of Subrecipient authorized to act in its behalf with respect to this Agreement and make all decisions in connection therewith.
2. Contract Officer. Contract Officer shall be the City's CDBG Manager or such person as may be designated by the City Manager. It shall be Subrecipient's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Subrecipient shall refer any decisions that must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.
3. Prohibition Against Subcontracting or Assignment. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Subrecipient, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release Subrecipient or any surety of Subrecipient of any liability hereunder without the express consent of City.
4. Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Subrecipient, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the

selection, discharge, supervision or control of Subrecipient's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Subrecipient shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with the role. Subrecipient shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Subrecipient in its business or otherwise of a joint venture or a member of any joint enterprise with Subrecipient.

5. Conflict of Interest. The Subrecipient agrees to abide by the provisions of 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. The Subrecipient further covenants that in the performance of this Agreement no persons having such a financial interest shall be employed or retained by the Subrecipient hereunder. These conflict of interest provisions apply to any person who is an employee, agent, Subrecipient, officer, or elected official or appointed official of the City, or of any designated public agencies or subrecipients which are receiving funds under the CDBG Entitlement program.
6. The Subrecipient hereby certifies that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or co-operative agreement;
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contractor, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
 - c. It will require that the language of paragraph (d) of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
 - d. Lobbying Certification - Paragraph d. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1353, title 31, U.S. Code. Any person who fails to file the required

certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

SECTION 6 INSURANCE REQUIREMENTS

1. Insurance. Before beginning any work under this Agreement, Subrecipient, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by Subrecipient and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Subrecipient shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work to the City. Subrecipient shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Subrecipient's bid. Subrecipient shall not allow any subcontractor to commence work on any subcontract until Subrecipient has obtained all insurance required herein for the subcontractor(s) and provided evidence that such insurance is in effect to City. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Subrecipient shall maintain all required insurance listed herein for the duration of this Agreement.
2. Workers' Compensation. Subrecipient shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Subrecipient. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than one million dollars (\$1,000,000) per accident. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the entity for all work performed by the Subrecipient, its employees, agendas, and subcontractors.
 - a. Submittal Requirements. To comply with Subsection 6.2, Subrecipient shall submit the following:
 - i. Certificate of Liability Insurance in the amounts specified in the section; and
 - ii. Waiver of Subrogation Endorsement as required by the section.
 - b. Commercial General and Automobile Liability Insurance.
 - i. General Requirements. Subrecipient, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) and automobile liability insurance for the term of this Agreement in an amount not less than one million dollars (\$1,000,000) per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either

the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

- ii. Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- [A] The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.

- [B] City, its officers, officials, employees, and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Subrecipient; or automobiles owned, leased, hired, or borrowed by the Subrecipient.

- [C] Subrecipient hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Subrecipient agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.

- [D] For any claims related to this Agreement or the work hereunder, the Subrecipient's insurance covered shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Subrecipient's insurance and shall not contribute with it.

- iii. Submittal Requirements. To comply with Subsection 6.3 Subrecipient shall submit the following:

- [A] Certificate of Liability Insurance in the amounts specified in the section;

- [B] Additional Insured Endorsement as required by the section;

- [C] Waiver of Subrogation Endorsement as required by the section; and

- [D] Primary Insurance Endorsement as required by the section.

- c. Professional Liability Insurance.

- i. General Requirements. Subrecipient, at its own cost and expense, shall maintain for the period covered by this Agreement professional liability insurance for licensed professionals performing work pursuant to this Agreement in an amount not less than one million dollars (\$1,000,000) covering the licensed professionals' errors and

omissions. Any deductible or self-insured retention shall not exceed \$150,000 per claim.

- ii. Claims-Made Limitations. The following provisions shall apply if the professional liability coverage is written on a claims-made form:

- [A] The retroactive date of the policy must be shown and must be before the date of the Agreement.

- [B] Insurance must be maintained and evidence of insurance must be provided for at least 5 years after completion of the Agreement or the work, so long as commercially available at reasonable rates.

- [C] If coverage is canceled or not renewed and it is not replaced with another claims-made policy form with a retroactive date that precedes the date of this Agreement, Subrecipient shall purchase an extended period coverage for a minimum of 5 years after completion of work under this Agreement.

- [D] A copy of the claim reporting requirements must be submitted to the City for review prior to the commencement of any work under this Agreement.

- iii. Additional Requirements. A certified endorsement to include contractual liability shall be included in the policy.

- iv. Submittal Requirements. To comply with Subsection 6.3, Consultant shall submit the Certificate of Liability Insurance in the amounts specified in the section.

d. All Policies Requirements.

- i. Verification of Coverage. Prior to beginning any work under this Agreement, Subrecipient shall furnish City with complete copies of all certificates of insurance delivered to Subrecipient by the insurer, including complete copies of all endorsements attached to the policies. All copies of certificates of insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Subrecipient beginning work, it shall not waive the Subrecipient's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.
- ii. Deductibles or Self-Insured Retentions. Subrecipient shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Subrecipient shall provide a financial guarantee satisfactory to the City guaranteeing

payment of losses and related investigations, claim administration and defense expenses.

- iii. Wasting Policies. No policy required by this Section 6 shall include a “wasting” policy limit (i.e. limit that is eroded by the cost of defense).
- iv. Endorsement Requirements. Each insurance policy required by Section 6 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days’ prior written notice has been provided to the City.
- v. Subcontractors. Subrecipient shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- vi. Remedies. In addition to any other remedies City may have if Subrecipient fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Subrecipient’s breach:

[A] Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;

[B] Order Subrecipient to stop work under this Agreement or withhold any payment that becomes due to Subrecipient hereunder, or both stop work and withhold any payment, until Subrecipient demonstrates compliance with the requirements hereof; and/or

[C] Terminate this Agreement.

SECTION 7 ADMINISTRATIVE REQUIREMENTS

1. Financial Management.

- a. Accounting Standards. Subrecipient agrees to comply with 24 CFR Part 84 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.
- b. Cost Principles. Subrecipient shall administer its program in conformance with OMB Circulars A-122, "Cost Principles for Non-Profit Organizations," or A-21, "Cost Principles for Educational Institutions," as applicable for all costs incurred whether charged on a direct or indirect basis.

2. Documentation and Record-Keeping

- a. Records to be Maintained. Subrecipient shall maintain all records required by the Federal regulations specific in 24 CFR Part 570.506, and that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:
 - i. Records providing a full description of each activity undertaken;
 - ii. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG program set forth in 24 CFR 570.208;
 - iii. Records required determining the eligibility of activities;
 - iv. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
 - v. Records documenting compliance with the fair housing and equal opportunity components of the CDBG program;
 - vi. Financial records as required by 24 CFR Part 570.502, and Part 84; and
 - vii. Other records necessary to document compliance with Subpart K of 24 CFR 570.
 - b. Retention. Subrecipient shall retain all records pertinent to expenditures incurred under this Agreement for a period of four (4) years after the termination of all activities funded under this agreement, or after the resolution of all Federal audit findings, whichever occurs later. Records for non-expendable property acquired with funds under this Agreement shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four years after he/she has received final payment.
3. Client Data. Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to City monitors or their designees for review upon request.
4. Disclosure. Subrecipient understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of the City or Subrecipient's responsibilities with respect to services provided under this Agreement, is prohibited by law unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.
5. Property Records. The Subrecipient shall maintain real property inventory records that clearly identify properties purchased, improved or sold. Properties retained shall continue to meet eligibility criteria and shall conform with the "changes in use" restrictions specified in 24 CFR Parts 570.503(b)(8).
6. National Objectives. Subrecipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under this Agreement meet one or more of the CDBG program's national objectives: (a) benefit low/moderate income persons, (b) aid in the prevention or elimination of slums or blight, (c) meet community development needs having a particular urgency (as defined in 24 CFR Part 570.208).
7. Performance Monitoring. The City will monitor the performance of the Subrecipient against goals and performance standards required herein. Substandard performance as determined by

the City will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by the Subrecipient within a reasonable period of time after being notified by the City, contract suspension or termination procedures will be initiated.

8. Close-Outs. Subrecipient obligations to the City shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including but not limited to the return of all unused materials, equipment, unspent cash advances, program income balances, and receivable accounts to the City), and determining the custodianship of records.
9. Audits and Inspections. All Subrecipient records with respect to any matters covered by this agreement shall be made available to the City, grantor agency, their designees or the Federal Government, at any time during normal business hours, as often as the City or grantor agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by Subrecipient within 30 days after receipt by Subrecipient. Failure of Subrecipient to comply with the above audit requirements will constitute a violation of this Agreement and may result in the withholding of future payments. Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current City policy concerning Subrecipient audits.

SECTION 8 ENFORCEMENT OF CONTRACT

1. Applicable Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of New York and the United States, as applicable. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Supreme Court of the County of Orange, State of York, or the United States District Court for the Southern District of New York. Subrecipient covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.
2. Disputes. In the event of any dispute arising under this Agreement, the injured party shall notify the insuring party in writing of its contentions by submitting a claim therefore. The injured party shall continue performing its obligations hereunder so long as the injuring party commences to cure such default within ten (10) days of service of such notice and completes the cure of such default within thirty (30) days after service of the notice, or such longer period as may be permitted by the injured party; provided that if the default is an immediate danger to the health, safety and general welfare, such immediate action may be necessary. Notwithstanding the foregoing, the City may suspend any further payment of CDBG funds until Subrecipient is in compliance with this Agreement. Compliance with the provisions of this Section shall be a condition precedent to termination of this Agreement for cause and to any legal action, and such compliance shall not be a waiver of any party's right to take legal action in the event that the depute is not cured.
3. Remedies Upon Default by Subrecipient. In addition to any other rights or remedies available at law or in equity, if Subrecipient fails to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 8:

- a. Temporarily withhold payment of CDBG funds pending correction of the default by Subrecipient;
 - b. Refuse to advance all or any part of the CDBG funds for the project and reallocate said funds to another activity;
 - c. Wholly or partially suspend or terminate the award and this Agreement; and;
 - d. Withhold further awards for the project and/or the facility; and
 - e. Require Subrecipient to repay any CDBG funds that the City determines were not expended in compliance with the requirements of this Agreement, the Act or the Regulations.
4. Termination for Convenience. This Agreement may be terminated for convenience as provided in 24 CFR Section 85.44.
5. Waiver. No delay or omission in the exercise of any right or remedy by a non- defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.
6. Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.
7. Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to complete specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of the Agreement.
8. Attorneys' Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

1. Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to Subrecipient, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to Subrecipient or to its successor, or for breach of any obligation of the terms of this Agreement.
2. Conflict of Interest. No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects his/her financial interest or the financial interest of any corporation, partnership or association in which s/he is, directly or indirectly, interested, in violation of any State statute or regulation. Subrecipient warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.
3. Indemnify and Hold Harmless. Subrecipient agrees to indemnify, defend, and hold harmless City and its officers, agents and employees, from any liabilities, claims, suits or actions, losses or expenses, including attorney fees, caused by, arising out of, or in connection with, either directly or indirectly, Subrecipient's performance under this Agreement. Nothing herein shall be construed to require Subrecipient to indemnify the City, its officers, agents and employees against any responsibility or liability.

1. Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid first-class mail at his/her address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

To City: City of Newburgh
attn.: City Clerk
83 Broadway, 1st Floor
Newburgh, New York 12550

copy to: City of Newburgh
attn.: Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

To Subrecipient: Newburgh Urban Farm and Food, Inc.
P.O. Box 541
Newburgh, New York 12551

2. Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.
3. Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.
4. Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement that are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.
5. Corporate Authority. The persons executing this Agreement on behalf of the parties hereby warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and, (iv) the entering into this Agreement does not violate any provision of any other agreement to which said party is bound.

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Signature Page

City of Newburgh with Newburgh Urban Farm and Food, Inc.

Emergency Food Services Program in the City of Newburgh in Response to Coronavirus

IN WITNESS WHEREOF, the City and Subrecipient have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: _____, 2020

CITY OF NEWBURGH

By: _____

Name: Joseph P. Donat

Title: City Manager

DATED: _____, 2020

NEWBURGH URBAN FARM AND FOOD, INC.

By: _____

Name: _____

Title: _____

STATE OF NEW YORK)

) ss.:

COUNTY OF ORANGE)

On this ____ day of _____, in the year 2020, before me personally appeared Joseph P. Donat, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK)

) ss.:

COUNTY OF ORANGE)

On this ____ day of _____, in the year 2020, before me personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE GROUP FITNESS INSTRUCTION CLASSES
IN DOWNING PARK THROUGH NOVEMBER 27, 2020**

WHEREAS, the COVID-19 pandemic has caused physical fitness and well-being to suffer from both a provider and recipient standpoint, leaving decreased access to health and well-being instruction for the community; and

WHEREAS, in response, the City of Newburgh recently advertised a “Call for Fitness Instructors” to provide free fitness classes outdoors to the public in Downing Park through November 27, 2020; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which eligible fitness instructors can provide fitness instruction classes to the public; and

WHEREAS, the eligible fitness instructors will provide fitness instruction classes to the public at no charge to the public or to the City; and

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into the referenced agreements in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with eligible fitness instructors to provide group fitness instruction classes in Downing Park through November 27, 2020.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2020, 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 _____, a firm [or person] with principal offices at _____, 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”).

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning as of the date of this Agreement and ending November 27, 2020.

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.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

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

ARTICLE 7. FAIR PRACTICES

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

A. The prices in this Agreement have been arrived at independently by VENDOR

without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and/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. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

VENDOR agrees to maintain 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, and to the extent practicable and if required by law, 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, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

<u>Type of Coverage</u>	<u>Limit of Coverage</u>
General Liability	\$1,000,000 aggregate
Professional Liability	\$1,000,000 aggregate

If available, VENDOR shall attach to this Agreement applicable certificates of insurance evidencing VENDOR'S compliance with these requirements.

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.

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 16. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES 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

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

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

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

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

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

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

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

ARTICLE 18. GENERAL RELEASE

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

VENDOR arising out of the performance of this Agreement.

ARTICLE 19. SET-OFF RIGHTS

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

ARTICLE 20. 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 or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

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

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY

employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

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

ARTICLE 23. ENTIRE AGREEMENT

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

ARTICLE 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum 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.

DRAFT

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
Joseph Donat
City Manager
Per Resolution No.

BY: _____
NAME:
TITLE:

DATE: _____

DATE: _____

DRAFT

SCHEDULE A

SCOPE OF SERVICES: Outdoor Fitness Instructor

This scope of services will outline the schedule and other requirements for fitness classes to be provided at the Downing Park Amphitheatre for the summer and fall 2020 season, from August 15, 2020 (approximate), through November 27, 2020.

Vendor Name: [_____]

Proposed date of first class: [_____] / [_____] / [_____]]

Proposed date of last class: [_____] / [_____] / [_____]]

Frequency: [_____]

Class type: [_____]

Dates and times: [_____] at [_____] : [_____] AM / PM
[_____] at [_____] : [_____] AM / PM
[_____] at [_____] : [_____] AM / PM

Responsibilities of the Instructor (for class):

- Arrive at least 15 minutes prior to class in order to ensure the site is prepared.
- Create master sign-in sheet for all class participants.
- Have all participants sign a liability waiver at the beginning of each class. Waivers will be provided to you by the City.
- Ensure all participants are at least 6 feet apart at all times. Maximum 25 participants per class.
- Ensure that all equipment provided by you is cleaned and sanitized both before and after each class session.

Responsibilities of the Instructor (with City of Newburgh):

- Provide required documentation to qualify as eligible instructor.
- Work with Department of Planning and Development program contact to confirm actual class schedule assignments at least one (1) week in advance of class.
- Obtain sufficient number of blank waiver forms for each class.
- Deliver signed waiver forms to Department of Planning and Development program contact within 48 hours after each class.
- Create brief report (in writing) to Department of Planning and Development program contact about the class, including but not limited to number of participants in attendance, personal questions or concerns about the class, and any feedback from class participants.

- Notify the City's program contact immediately via e-mail if you need to cancel class for any reason.

As consideration for the services provided above, the City of Newburgh will promote the classes on its website and other social media platforms. Vendor shall not charge any fees or other consideration to the City or to class participants.

DRAFT

RESOLUTION NO.: _____ - 2020

OF

AUGUST 10, 2020

**A RESOLUTION RE-APPOINTING GARIN BAKER AND STUART SACHS
AND APPOINTING ERICA FORNERET AND MANDA MARTIN
TO THE CITY OF NEWBURGH ARTS AND CULTURAL COMMISSION
FOR THREE YEAR TERMS AND APPOINTING ROBERT PAGLIARO
TO FILL THE REMAINDER OF AN UNEXPIRED TERM**

WHEREAS, the City of Newburgh has created an Arts and Cultural Commission to develop and promote arts and culture in the City as an integral part of City life; to encourage tourism; to foster a creative environment which reflects the rich diversity of our City; and to increase and enhance the role played by the arts in education in all its forms; and

WHEREAS, by Resolution No. 186-2018 of July 9, 2018, the City Council appointed 13 new members to The Arts and Cultural Commission; and

WHEREAS, the initial two-year terms of the Arts and Cultural Commission Members expired on July 9, 2020 and Mr. Baker and Mr. Sachs wish to continue to serve new three-year terms and Erica Forneret and Manda Martin have submitted letters of interest to serve as Members of The Arts and Cultural Commission to replace two Members who do not seek reappointment; and

WHEREAS, Robert Pagliaro has submitted a letter of interest to serve as a Member to complete term of Ms. Layne which expires on July 9, 2021; and

WHEREAS, the Council finds making such appointments is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Garin Baker and Stuart Sachs are hereby re-appointed and Erica Forneret and Manda Martin are hereby appointed to The Arts and Cultural Commission each for a three (3) year term commencing July 10, 2020 and ending on July 9, 2023; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that Robert Pagliaro be and is hereby appointed to The Arts and Cultural Commission to complete the term of Ms. Layne which term expires on July 9, 2021.