

1. Agendas

Documents:

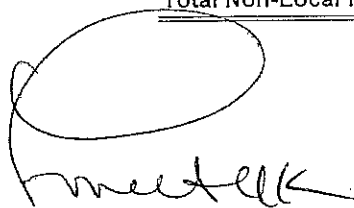
[4-22-13_COUNCIL_AGENDA_PT._2.PDF](#)

[4-22-13_COUNCIL_AGENDA_PT._3.PDF](#)

[4-22-13_COUNCIL_AGENDA_PT._1.PDF](#)

Account#	Account Description	Fee Description	Qty	Local Share
	Marriage License	Marriage License	31	542.50
	Vet Fees	Vet Fees	1	35.00
		Sub-Total:		\$577.50
1550	Bordatella Booster	Bordatella Booster	1	38.00
		Sub-Total:		\$38.00
2590	Recycling License	Junkyard License	2	500.00
		Sub-Total:		\$500.00
A1255	Conservation	Conservation	9	27.76
		Sub-Total:		\$27.76
A12550003	Misc. Fees	Certified Copies - Marriage	31	310.00
		Sub-Total:		\$310.00
A12550008	Misc. Fees	Copies	202	50.50
		Sub-Total:		\$50.50
A12550012	Thumbprint Fee	Thumbprint Fee	1	5.00
		Thumbprint Fee	3	15.00
		Sub-Total:		\$20.00
A1550	Public Pound	Public Pound	1	10.00
		Sub-Total:		\$10.00
A15500004	Dog Redemption	Redemptions	1	35.00
		Sub-Total:		\$35.00
A15500010	Vet Bill (rabies)	Vet Bill (Rabies)	1	28.00
		Sub-Total:		\$28.00
A25010001	Liquor Tax	Liquor Tax	1	224.00
		Sub-Total:		\$224.00
A2544	Dog Licensing	Female, Spayed	11	82.50
		Female, Unspayed	4	50.00
		Male, Neutered	8	60.00
		Male, Unneutered	4	50.00
		Sub-Total:		\$242.50
A25900019	Taxi Application Fee	Taxi Application Fee	3	300.00
		Sub-Total:		\$300.00
A25900020	Taxi Drivers License	Taxi Drivers License	1	100.00
		Sub-Total:		\$100.00

Account#	Account Description	Fee Description	Qty	Local Share
Total Local Shares Remitted:				\$2,463.26
Amount paid to:	NYS Ag. & Markets for spay/neuter program			43.00
Amount paid to:	NYS Environmental Conservation			475.24
Amount paid to:	State Health Dept. For Marr. Licenses			697.50
Total State, County & Local Revenues:		\$3,679.00	Total Non-Local Revenues: \$1,215.74	



City Clerk

4/2/13

Date



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

APRIL 2, 2013

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: REGISTRAR OF VITAL STATISTICS

I RESPECTFULLY REPORT THAT THERE HAS BEEN
RECEIVED IN THE OFFICE OF VITAL STATISTICS DURING THE MONTH
OF MARCH 2013 THE SUM OF \$6,934.00 AS FOLLOWS:

250 CERTIFIED COPIES OF BIRTH CERTIFICATES	\$2,500.00
443 CERTIFIED COPIES OF DEATH CERTIFICATES	<u>\$4,434.00</u>
TOTAL	\$6,934.00

IN ADDITION:

253 BIRTHS HAVE BEEN FILED IN THIS OFFICE TO DATE,
182 DEATHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

LORENE VITEK

PERSONNEL REPORT
CIVIL SERVICE COMMISSION
MARCH/APRIL 2013

ENGINEERING:

Jason Morris
11 Van Dam Road
Hyde Park, NY

Asst. City Engineer
Appointed Provisional
4/19/13 \$61,472

**PARKING
TRIBUNAL:**

Keith Douglas
1271 Albany Post Road
Croton on Hudson, NY

Director of Parking Violations
Appointed Provisional
4/8/13 \$61,472

POLICE:

Joseph Lee
600 South Street
Newburgh, NY

P/T Prisoner Attendant
Deceased 3/31/13
\$20.00/hr.

FIRE:

David Acker
25 Ridge Avenue
Walden, NY

Fire Lieutenant
Service Retirement
3/28/13 \$68,046

DPW:

Joecephous Smith
12 Bush Avenue
Newburgh, NY

From Sanitation Worker
to Permanent Laborer
3/29/13 \$38,748

Kenyon Nolcox
241 Third Street
Newburgh, NY

From Temp CDBG Laborer
to Permanent Sanitation Worker
3/29/13 \$38,748

Sharrieff Anderson
56 Bay View Terrace
Newburgh, NY

From Temp CDBG Laborer
to Permanent Laborer
3/29/13 \$38,748

**PLANNING &
DEVELOPMENT:**

Acacia Bellamy
80 Prospect Street
Newburgh, NY

Intern
End of term
3/29/13 \$10/hr.



CITY OF NEWBURGH

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LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lisette Acosta-Ramirez, Deputy City Clerk

RE: Notice of Claim:
Deborah Perez vs. City of Newburgh

DATE: April 09, 2013

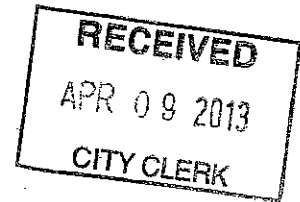
Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager
Mayor & Council



In the Matter of the Claim of



TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. The name and post-office address of each claimant and claimant's attorney is:

Deborah Perez
P.O. Box 10004
Newburgh, NY 12550
(845) 926-0463

2. The nature of the claim:

Car was parked and overgrown tree branch
Fell on my car breaking back windshield
and damaging my speakers. Seeking payment.

3. The time when, the place where and the manner in which the claim arose:

9.18.12 at about 1:00pm, at 132 Dubois St.
in Newburgh, NY 12550. Car Parked
and Overgrown branch Fell on car.

4. The items of damage or injuries claimed are (do not state dollar amounts)

Back Windshield and back speakers,
of my 1998 Honda Accord Coupe.

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated:

Deborah Perez

The name signed must be printed beneath

Debbie Perez Prose

Attorney(s) for Claimant(s)

Office and Post Office Address, Telephone Number

The name signed must be printed beneath

CORPORATE VERIFICATION

State of New York, County of

ss.:

being duly sworn, deposes and says that deponent is the of corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because said claimant is a corporation, and deponent an officer thereof, to wit its The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

INDIVIDUAL VERIFICATION

State of New York, County of orange ss.:

Deborah Perez being duly sworn, deposes and says that deponent is the claimant in the within action; that She has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

Kathryn E. Moloney

Sworn to before me, this 5th day of April, 2013

KATHRYN E. MOLONEY
NOTARY PUBLIC, STATE OF NEW YORK
NO. 01M061184624
QUALIFIED IN ORANGE COUNTY
COMMISSION EXPIRES NOVEMBER 15, 2016

Sworn to before me, this day of

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)
Office and Post Office Address

Windshields To Go USA Inc.

From: orders@windshieldstogo.com

Sent: Wed 9/26/12 11:00 AM

To: deborahperez@live.com

Thank you for your order!

You can now view the status of your order online at any time. You can also send us a question or comment about your order.

<http://www.windshieldstogo.com/status/>

You will be granted access by entering your Order Number and Customer Key.

Your Order Number is: 55548

Your Customer Key is: 5683

Windshields To Go USA Inc.

Corporate Office

960 Tulare Street

Pismo Beach, CA 93449

Toll-Free: (800) 549-4470

Order # 55548

Customer Information

Name: Debra Perez

Address: 128 Dubois St

Newburgh, NY 12550

Company:

Phone: 845-926-0463 / 845-464-4015

Fax:

Cross Street:

Requested Date: September 21 2012

Requested Time: 1 to 5

Billing Information

Name: Debra Perez

Address: 128 Dubois St

Newburgh, NY 12550

Email: debraperez@live.com

Company:

Phone: 845-926-0463 / 845-464-4015

Payment: Visa

Expires: 6/2015

Order Summary

Year: 1998

Make: Honda

Model: Accord

Style: 2 Door Coupe

Installed: Yes

Hardware: N/A

Quantity: 1

Part: ns:bd45c815

NAGS® #: FB20358

Molding Part:

Details: GTN

Subtotal: \$246.87

Shipping: \$0.00

Total: \$246.87 (includes any discounts)

Comments:

I HEREBY AUTHORIZE the above repair work to be done along with the necessary material.

SIGNATURE _____ VIN _____ LIC _____ Miles _____

CONDITION OF SALE: I authorize my insurance company to pay the company named above. I authorize the above named company to endorse my signature on any insurance checks or drafts issued for glass replacement. A FINANCE CHARGE of 1.5% per month or 18% annual may be added to all past-due accounts. If collection is made, by suit or otherwise, I agree to pay interest at the above rate until the amount due is paid; also collection costs including reasonable attorney's fees, legal and administrative expenses.

CUSTOMER SIGNATURE: _____

Our Guarantee:

Your order will be processed and scheduled for the date and time you have requested, if for any reason we can not meet your request, a customer service representative will contact you. Please note that if you have placed your order over a weekend, we will not be able to process your order until the following Monday.

We guarantee our auto glass against any manufacturer defect and the installation for as long as you own your vehicle. (Pre-existing rust or body damage voids this guarantee)



CITY OF NEWBURGH

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FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Notice of Claim:
Eleonora Yudovich vs. City of Newburgh

DATE: April 9, 2013

Please find attached Notice of Claim regarding the above, which was received in our office via Certified Mail on this date.

Attachment

Cc City Manager ✓
Mayor & Council

-----X
In the Matter of the Claim of

ELEONORA YUDOVICH,

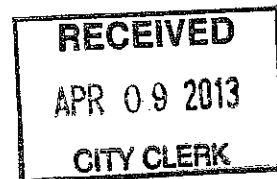
Claimant,

-against-

the CITY OF NEWBURGH, a Municipal Corporation of
the State of New York located in Orange County,
New York,

Defendant.
-----X

NOTICE OF CLAIM



PLEASE TAKE NOTICE THAT the undersigned Claimant, pursuant to Section 50-e of the General Municipal Law of the State of New York, to the extent required thereby, if any, hereby makes claim against the CITY OF NEWBURGH, orange County, New York, and in support of such claim, states the following:

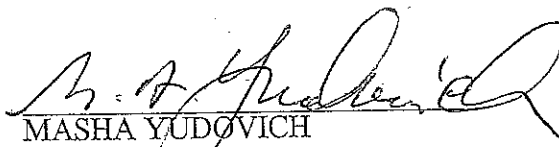
1. Claimant: ELEONORA YUDOVICH, residing at 702 Suffern Road, Teaneck, New Jersey 07666.
2. Claimant's attorneys: Jacobowitz and Gubits, LLP, 158 Orange Avenue, P. O. Box 367, Walden, New York 12586.
3. This claim is against the City of Newburgh for property damage, trespass, negligence, public nuisance, private nuisance, loss of use and value of property and related claims, and governmental taking of property and property rights. The claim arose on or about January 9, 2013. The City of Newburgh and City Council of the City of Newburgh authorized, directed and/or permitted the demolition of an abandoned building adjoining Claimant's property, which demolition resulted in a crater on the adjoining lot causing instability and cracks in the foundation of Claimant's house, and generation of debris falling onto the roof of Claimant's house which lead to damage to the roof resulting in the discovery of leaks from the roof and within the walls. The demolition resulted in damage to Claimant's property and the loss of tenants, loss of revenue and the security, safety, use and enjoyment and value of the property. Claimant has suffered significant damages in an amount to be determined.
4. The property affected by the aforesaid tortious conduct is located on 157 Grand Street in the City of Newburgh, Orange County, and is shown on the Tax Map of the City of Newburgh as

S/B/L 18-6-17.

WHEREFORE, ELEONORA YUDOVICH, respectfully requests that this claim be allowed
by the CITY OF NEWBURGH.

Dated: Walden, New York
April 8, 2013


ELEONORA YUDOVICH
By her Attorney in Fact MASHA YUDOVICH

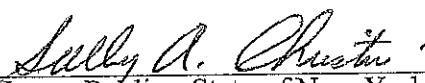

MASHA YUDOVICH

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

I, MASHA YUDOVICH, Attorney in Fact for ELEONORA YUDOVICH, being duly sworn,
says: I have read the annexed Notice of Claim, know the contents thereof and the same are true to my
knowledge.


MASHA YUDOVICH

Sworn to before me this
8th day of April, 2013


Notary Public - State of New York

SALLY A. CHRISTIAN
Notary Public, State of New York
No. 4890610
Qualified in Ulster County
Commission Expires May 4, 20 15

GENERAL POWER OF ATTORNEY

KNOW EVERYONE BY THESE PRESENTS, which are intended to constitute a Durable General Power of Attorney, **THAT I, Eleanora Yudovich**, having an address at 702 Suffern Road, Teaneck, NJ 07666, hereby make, constitute and appoint **Masha Alexandra Yudovich**, having an address at 702 Suffern Road, Teaneck, NJ 07666, as my attorney-in-fact TO ACT in my name, place and stead in any way which I could do, if I were personally present, to the extent that I am permitted by law to act through an agent:

(a) to ask, demand, sue for, recover and receive all manner of goods, chattels, debts, rents, interest, sums of money and demands whatsoever, due or to become due, that are thought to be owing, belonging or payable to me in my own right or otherwise, and to execute, acknowledge and deliver acquittances, receipts, releases, satisfactions or other discharges for the same;

(b) to sell, transfer, exchange, convert, abandon, or otherwise dispose of, or grant options with respect to, real and personal property, at public or private sale, with or without security, in such manner, at such times, for such prices, and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate;

(c) to buy, sell, exchange, invest and reinvest in common or preferred stocks, bonds, commodities, options, limited liability companies, investment trusts, mutual funds, regulated investment companies and other types of securities and financial instruments, foreign or domestic, including any undivided interest in any one or more common trust funds, whether or not such investments be of the character permissible for investments by fiduciaries under any applicable law, and without regard to the effect any such investment may have upon the diversity of investments; to demand, receive and obtain any money or other things of value to which I am or may become or may claim to be entitled in connection with any stocks, bonds or other financial instruments; to cause securities or other property to be held or registered in the name of a nominee or nominees or unregistered or in any other form; to vote in person at meetings of stock or security holders and adjournments thereof, to enter into voting trusts, and to vote by general or limited proxy with respect to any stock or securities;

(d) to make, execute, endorse, accept and deliver in my name or in the name of my attorney-in-fact all checks, notes, drafts, warrants, securities, stock certificates, certificates of deposit, bonds, acknowledgments, and any other agreements, certificates or instruments of any nature, as my attorney-in-fact may deem necessary or appropriate;

(e) to deposit and withdraw any sums to or from any bank, savings or similar account maintained by me alone or jointly; to open, continue, modify or terminate any account or banking arrangement in my name or jointly with others; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor from my assets; to pay, renew or extend the time of payment of any note given by me or on my behalf; to prepare financial statements concerning my assets and liabilities or income and expenses, and deliver them to financial institutions; to receive statements, notices and other documents from financial institutions; to open or cause to be opened any safe deposit box in my name and to examine and remove any or all of the contents of such box; and to conduct such other banking transactions as set forth in Section 2 of P.L. 1991, c.95 (C.46:2B-10 et seq.) as my attorney-in-fact may deem necessary or appropriate;

(f) to take possession of, recover, obtain and hold any tangible personal property belonging to me or to which I may be entitled, and to receive and take for me and in my name any rents, issues and profits of any such property; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, grant options upon, assign, transfer, abandon, pledge, encumber or otherwise dispose of any personal property of any nature and wherever situate; to store property for hire or on a gratuitous bailment; to make repairs and alterations; and to execute, acknowledge and deliver all contracts, leases, notes, security agreements, guarantees, bills of sale, assignments, extensions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any personal property, as my attorney-in-fact may deem necessary or appropriate;

(g) to possess, recover, manage, hold, control, develop, subdivide, partition, mortgage, lease or otherwise deal with any real property belonging to me or to which I may be entitled; to purchase, invest in, reinvest in, accept as a gift, sell, exchange, lease, sublease, grant options upon, convey with or without covenants, quitclaim, assign, transfer, abandon, encumber or otherwise dispose of any real property of any nature and wherever situate; to borrow money at such interest rates and upon such terms and conditions as my attorney-in-fact may deem necessary or appropriate, and to provide security therefor by mortgage or pledge of any property; to satisfy, discharge, release or extend the term of any mortgage; to apply for zoning, rezoning or other governmental permits; to make repairs, replacements and improvements, structural or otherwise; to pay, compromise or contest real estate taxes, assessments, water charges and sewer rents; to abstain from the payment of real estate taxes, assessments, water charges and sewer rents, repairs, maintenance and upkeep of the same; to abandon property if deemed to be worthless

or not of sufficient value to warrant keeping or protecting; to permit property to be lost by tax sale, foreclosure or other proceeding or to convey property for a nominal consideration or without consideration; and to execute, acknowledge and deliver all contracts, deeds, leases, mortgages, notes, security agreements, guarantees, transfers to trusts, bills of sale, assignments, extensions, satisfactions, releases, waivers, consents, and any other agreements, writings and instruments of any nature affecting any real property, as my attorney-in-fact may deem necessary or appropriate;

(h) to commence any actions or proceedings for the recovery of any real or personal property or for any other purpose; to appear in, answer and defend any actions or proceedings commenced against me; and to prosecute, maintain, appeal, discontinue, compromise, arbitrate, mediate, settle and adjust all actions, proceedings, accounts, dues and demands that now or hereafter may exist, as my attorney-in-fact may deem necessary or appropriate;

(i) to create, amend or terminate one or more trusts, partnerships, corporations, limited liability companies, co-tenancies or any other form of ownership or entity for the purpose of dealing with any property or property interest of any nature that I may have or hereafter acquire, under such terms and with such provisions as my attorney-in-fact may deem necessary or appropriate; to transfer any or all property in which I have an interest into any trusts, partnerships, corporations, limited liability companies, co-tenancies or other entities, whether created by me or my attorney-in-fact or otherwise (and, in this regard, that my attorney-in-fact may be a remainderman, partner, shareholder, member, co-tenant or beneficiary of any such entity shall not affect the validity of any action hereunder, and shall not, by itself, constitute a breach of fiduciary duty); to remove property from any such entity; and to give to any such entity, or to any person acting as agent or trustee under any instrument executed by me or on my behalf, such instructions or authorizations as I may have the right to give;

(j) to join or become a party to, or to oppose, any reorganization, readjustment, recapitalization, foreclosure, merger, voting trust, dissolution, consolidation or exchange, and to deposit any securities with any committee, depository or trustee, and to pay any fees, expenses and assessments incurred in connection therewith, and to charge the same to principal, and to exercise conversion, subscription or other rights, and to make any necessary payments in connection therewith, or to sell any such privileges;

(k) to deal with all matters relating to all forms of insurance and annuities, including the procurement, maintenance and termination thereof; however,

notwithstanding the powers given my attorney-in-fact in this and other provisions of this power of attorney, my attorney-in-fact shall have no incidents of ownership in any life insurance policy in which I own an interest and which insures the life of my attorney-in-fact;

(l) to do all acts necessary to maintain my customary standard of living and that of my family and other persons customarily supported by me, including without limitation the power to pay for medical, dental and surgical care, living quarters, usual vacation and travel expenses, shelter, clothing, food, education, organizational fees and contributions, and other living costs;

(m) to act for me in all matters which affect my right to government benefits and assistance, including without limitation Social Security, Medicare, Medicaid, qualified state tuition programs, and other governmental benefits and benefits relating to civil or military service; to file, prosecute, submit to arbitration or settle any claim for benefits or assistance; to establish new residency and domicile; and to receive the proceeds of claims and conserve, invest, disburse and use them on my behalf;

(n) to take all steps and remedies necessary or appropriate for the conduct and management of any business in which I may have an interest; to exercise in person or by proxy any right, privilege or option which I may have with respect to any business; to continue, modify, negotiate, renegotiate, extend and terminate any and all contracts or agreements heretofore or hereafter made with respect to the business; to pay, compromise or contest business taxes or other claims or obligations; to determine the policies of the business as to the location, methods and manner of its operations including its financing, accounting, and insurance; and to add or remove capital from the business;

(o) to employ such agents, attorneys, accountants, investment counsel, trustees, caretakers and other persons and entities providing services or advice, irrespective of whether my attorney-in-fact may be associated therewith, and to rely upon information or advice furnished thereby or to ignore the same, and to delegate duties hereunder and pay such compensation, as my attorney-in-fact may deem necessary or appropriate; and

(p) to do, execute, perform and finish for me and in my name all things which my attorney-in-fact shall deem necessary or appropriate in and about or concerning my property or any part thereof.

This power of attorney is a durable power of attorney, and it shall not be affected by my becoming disabled, incompetent or incapacitated or the lapse of time. It

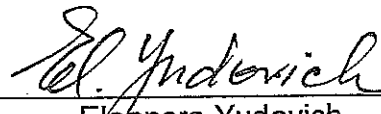
is my intent that the authority conferred herein shall be exercisable notwithstanding my physical disability or mental incompetence.

It may be necessary for my attorney-in-fact to have access to my medical records to establish whether medical bills are valid and appropriate or for other purposes. I grant to my attorney-in-fact the authority and power to serve as my personal representative for all purposes of the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, and the regulations in 45 C.F.R. Sec. 160 et seq., and any other applicable federal, state or local laws or regulations (collectively "HIPAA"), including the authority to request, receive, obtain and review, and be granted full and unlimited access to, and consent to the disclosure of complete unredacted copies of any and all health, medical and financial information and any information or records referred to in 45 C.F.R. Sec. 164.501 and regulated by the Standards for Privacy of Individually Identifiable Health Information found in 65 Fed. Reg. 82462 as protected private records or otherwise covered under HIPAA. I understand that health and medical records can include information relating to subjects such as sexually transmitted diseases, acquired immunodeficiency syndrome (AIDS), AIDS-related complex (ARC) and human immunodeficiency virus (HIV), behavioral or mental health services, and treatment for alcohol or drug abuse or addiction. I understand that I may have access to or receive an accounting of the information to be used or disclosed as provided in 45 C.F.R. Sec. 164.524 et seq. I further understand that authorizing the disclosure of this health information is voluntary and that I can refuse to sign this authorization. I further understand that any disclosure of this information carries with it the potential for an unauthorized further disclosure of this information by third parties and that such further disclosure may not be protected under HIPAA. In order to induce the disclosing party to disclose the aforesaid private and/or protected confidential information, I forever release and hold harmless said disclosing party who relies upon this instrument from any liability under confidentiality rules arising under HIPAA as a consequence of said disclosure. I authorize my attorney-in-fact to execute any and all releases or other documents that may be necessary in order to obtain disclosure of my patient records and other medical information subject to and protected by HIPAA.

To induce any third party to act hereunder, I hereby agree that any third party receiving a duly executed copy or facsimile of this power of attorney may act hereunder, and that revocation or termination hereof shall be ineffective as to such third party unless and until actual notice or knowledge of such revocation or termination shall have been received by such third party. I, for myself and my heirs, executors, legal representatives and assigns, hereby agree to indemnify and hold harmless any such third party from and against any and all claims that may arise against such third party by reason of such third party having relied upon the provisions of this power of attorney.

This power of attorney shall be governed by New Jersey law, although I request that it be honored in any state or other location in which I or my property may be found. If any provisions hereof shall be unenforceable or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this power of attorney.

IN WITNESS WHEREOF, I have executed this power of attorney this 16th day of April, 2009.

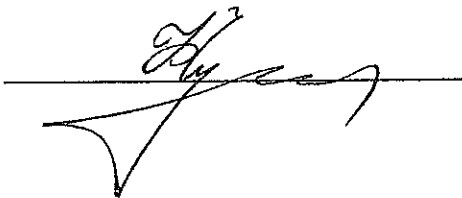

Eleanora Yudovich

WITNESS:



residing at

11 Spruce St
Garden City, NY 11530



residing at

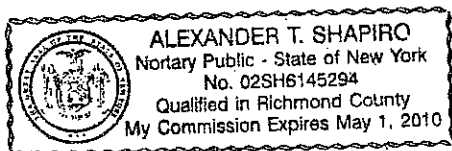
300 E 6th St., Apt. 2
New York, NY 10003

STATE OF NEW YORK, COUNTY OF KINGS, ss.

Be it remembered that on this 16th day of April, 2009, before me, the subscriber, a notary public authorized to take acknowledgments and proof in said County and State, personally appeared Eleanora Yudovich, who I am satisfied is the individual named in and who executed the within power of attorney, and she acknowledged that she signed, sealed and delivered said power of attorney as her act and deed for the uses and purposes therein expressed.



Notary Public
My commission expires on



NOTE: The following affidavit may be executed by the attorney-in-fact at a later date if some third party requests evidence that the power of attorney is in effect.

**AFFIDAVIT THAT POWER OF ATTORNEY
IS IN FULL FORCE AND EFFECT**

STATE OF NEW YORK, COUNTY OF KINGS, ss.

I, Masha Alexandra Yudovich, being duly sworn, depose and say:

THAT Eleanora Yudovich, having an address at 702 Suffern Road, Teaneck, NJ 07666, as principal, did, in a writing dated April 16, 2009, appoint me her true and lawful attorney-in-fact, and that attached hereto is a true copy of said power of attorney.

THAT I have no actual knowledge or actual notice of the revocation or termination of the aforesaid power of attorney by death or otherwise, or knowledge of any facts indicating the same. I further represent, to the best of my knowledge after diligent search and inquiry, that: said principal is now alive; has not, at any time, revoked, terminated, suspended or repudiated the power of attorney; and the power of attorney still is in full force and effect.

THAT I make this affidavit for the purpose of inducing

to accept delivery of the following instrument(s), as executed by me in my capacity of attorney-in-fact of said principal, with full knowledge that this affidavit will be relied upon in accepting the execution and delivery of said instrument(s) and in paying good and valuable consideration therefor:

Dated:

Masha Alexandra Yudovich

Subscribed and sworn to before me
on

Notary Public



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Cesar Lujan vs. City of Newburgh

DATE: April 9, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager
Mayor & Council

In the matter of the claim of

OF CESAR LUTAN

-AGAINST-

NOTICE OF CLAIM

City of NEWBURGH N.Y. X

RECEIVED

APR 09 2013

CITY CLERK

TO: RISK MGMT.

PLEASE TAKE NOTICE that the claimant herein hereby makes Claim and Demand against PUBLIC WORKS

1) The name and post office address of the claimant:

CESAR LUTAN

1104 PURISIMA CT.

WAKE FOREST, NC. 27587 (845) 926-0376

2) The nature of the claim: Claim Number 0281671875

a. Claim for property damage to motor vehicle owned by subrogor of claimant in the sum of \$ 3,000.00 Year/make 1997 NISSAN SENTRA Plate number YVW 2213

b. Claim for personal injury protection benefits paid to subrogor of claimant in the sum of \$ _____

3) Date 4/5/2013

Place IN FRONT of City Hall @ W BROADWAY

Dept involved PUBLIC WORKS Year/Make _____

Plate number _____ Operator _____

Accident description ATTACK FROM City of NEWBURGH Public Works

BACK IN TO MY PASSENGER SIDE DOOR, WHEN HE WAS LEAVING

HIS PARKING SPACE, DAMAGING MY BOTH PASSENGER DOORS.

That said Claim and Demand is hereby presented for adjustment and payment.

Dated 4/9/13

City of New York

County of Rockland

Sworn to before me this

9 day of April, 2013

Respectfully yours,

By [Signature]

[Signature]
Notary Public

LUIS A. PEÑA

Notary Public, State of New York

Qualified in Orange County

Reg. No. 01PE6225959

My Commission Expires Aug. 2, 2014



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE WILLIAMS
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Jessica Olivencia vs. City of Newburgh

DATE: March 21, 2013

Please find attached Notice of Claim regarding the above, which was personally served on our office on this date.

Attachment

Cc City Manager
Mayor & Council

*** Attached rider to Notice of Claim ***

In the Matter of Claim of

JESSICA OLIVENCIA,

Claimant,

-against-

CITY OF NEWBURGH,

Respondent,

3. Continued.

negligence, wantonness, recklessness and carelessness of the respondents, their agents, servants and/or employees, in causing and/or permitting their motor vehicle to come into contact with the motor vehicle in which this claimant was a passenger; in failing to take those steps necessary to avoid the contingency which herein occurred; in failing to keep the motor vehicle under proper control; in failing to operate the motor vehicle in a manner and at a speed that was reasonable and proper under the prevailing traffic conditions; in failing to properly keep and maintain the motor vehicle so as to prevent the contingency which herein occurred; in failing to properly operate the braking and acceleration devices of the motor vehicle under the circumstances of the roadway where the accident occurred; in failing to keep a proper lookout; in failing to stop and/or slow down; in violating the rules of the road; in failing to observe that degree of caution, prudence and care which was reasonable and proper under the controlling circumstances; in acting with reckless disregard for the safety of others; in failing to keep alert and attentive; in following too closely; in failing to avoid a rear-end collision; in failing to properly apply brakes; in failing to sound horn; in failing to obey traffic signs, signals and/or lights; in hiring and continued to employ inept, incompetent and/or unskilled employees, and the respondents, their agents, servants and/or employees were in other ways negligent, wanton, reckless and careless.

**See attached rider to Notice of Claim **

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated: March 18, 2013 200

Finkelstein & Partners, LLP
Attorneys for Claimant
1279 Route 300
P.O. Box 1111
Newburgh, NY 12551
Phone No: (800) 634-1212

"X"

The name signed must be printed beneath

JESSICA OLIVENCIA

"X"

The name signed must be printed beneath

By:

DAVID E. GROSS, ESQ.

INDIVIDUAL VERIFICATION

State of New York, County of Orange

ss.:

being duly sworn, deposes and says that deponent is the claimant in the within action; that he/she has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponents own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

"X"

The name signed must be printed beneath

JESSICA OLIVENCIA

"X"

The name signed must be printed beneath

Sworn to before me, this 13
8th Day of January, 2013

NOTARY PUBLIC

MELISSA ANN NELSON
Notary Public, State Of New York
Qualified In Orange County
Registration #01NE6080668
Commission Expires September 9, 2014



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:
Christopher Page vs. City of Newburgh

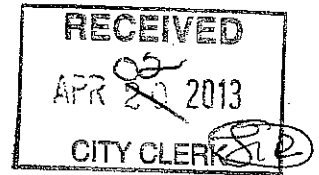
DATE: April 2, 2013

Please find attached Notice of Claim regarding the above, which was hand delivered to our office on this date.

Attachment

Cc City Manager
Mayor & Council

In the Matter of the Claim of
Christopher Page
-vs-
City of Newburgh



TO:

PLEASE TAKE NOTICE that the undersigned claimant(s) hereby make(s) claim and demand against you as follows:

1. The name and post-office address of each claimant and claimant's attorney is:

Christopher Page
296 Carpenter Avenue
Newburgh, New York 12550

2. The nature of the claim:

Monetary Compensation
as a result of Car
accident

3. The time when, the place where and the manner in which the claim arose:

Wed. March 20, 2013 09:35am City of Newburgh, N.Y.

There was an incident in which my vehicle was struck by a City of Newburgh owned and insured vehicle. The result of the accident was a total loss of my vehicle.

4. The items of damage or injuries claimed are (do not state dollar amounts)

2003 Pontiac Grand Am and other monetary losses incurred as a result of the car accident.



CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

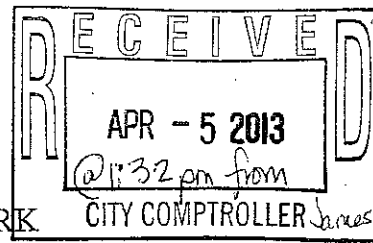
RE: Notice of Claim:
Maria F. Vacante vs. City of Newburgh

DATE: April 5, 2013

Please find attached Notice of Claim regarding the above, which was served on the Comptroller's Office and forwarded to our office on this date.

Attachment

Cc City Manager ✓
Mayor & Council



SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

James Korosi
Process Server

MARIA F. VACANTE,

Claimant,

--against--

NOTICE OF
CLAIM

CITY OF NEWBURGH,

Defendant.



To: The Comptroller of the City of Newburgh
Newburgh City Hall - 4th Floor
83 Broadway
Newburgh, New York 12550

PLEASE TAKE NOTICE that the claimant, MARIA F. VACANTE, hereby claims damages against the CITY OF NEWBURGH for serious and permanent bodily injuries as specified in the statement below, and that an action will be commenced against said CITY OF NEWBURGH to recover for such damages pursuant to law. The following statement of said claim is made pursuant to the General Municipal Law of the State of New York:

1. The post office address of the claimant herein, MARIA F. VACANTE, is 379 South Street, Newburgh, New York 12550.
2. The attorneys for the claimant herein are LAWRENCE R. TRANK, PLLC, and their post office address and telephone number are: 124 Main Street, Suite 2B, P.O. Box 308, New Paltz, New York 12561; (845) 255-2848.
3. The defendant, CITY OF NEWBURGH, was and still is a municipal corporation within the County of Orange, State of New York.

4. The nature of the claim is a claim for personal injuries sustained by the claimant, MARIA F. VACANTE, as a result of the hazardous, dangerous, and defective condition of the City of Newburgh owned sidewalk adjacent to 385 South Street, located in the City of Newburgh, County of Orange, State of New York.

5. The time, place, and manner in which such claim arose and the nature of same are as follows: upon information and belief, on January 7, 2013, at approximately 10:15 a.m., the claimant, MARIA F. VACANTE, was a lawful pedestrian on a City of Newburgh owned sidewalk located adjacent to 385 South Street, in the City of Newburgh, County of Orange, State of New York, when, through the negligence and misconduct of said CITY OF NEWBURGH, its officers, agents or employees and without any fault on the claimant's part, claimant, MARIA F. VACANTE, was caused to trip, fall and be violently precipitated to the ground by reason of a hazardous, dangerous and defective condition on the sidewalk, to wit, the surface of the subject sidewalk was uneven, cracked, broken and deteriorated to the extent that it represented a tripping hazard, and which caused claimant, MARIA F. VACANTE, to be violently precipitated to the ground, and as a result thereof, claimant, MARIA F. VACANTE sustained severe personal injuries as hereinafter set forth. Annexed hereto and made a part hereof as Exhibit "A" is a photocopy of a photograph depicting the subject location. Annexed hereto and made a part hereof as Exhibit "B" is a copy of a map depicting the subject location.

6. That, upon information and belief, at all times herein mentioned, the portion of said sidewalk located on South Street in the City of Newburgh, County of Orange, State of New York, was constructed several years prior to this action and

has since been maintained by the CITY OF NEWBURGH, its officers, agents or employees, and the CITY OF NEWBURGH, its officers, agents or employees duly undertook to design, construct, repair, keep in repair, maintain, and assume all charge of such portion of said sidewalk over a period of several years, specifically including the date of this incident.

7. Upon information and belief, the items of damages and injuries claimed are as follows: by reason of the negligence and carelessness of the CITY OF NEWBURGH, its officers, agents or employees as aforesaid, claimant, MARIA F. VACANTE sustained various and diverse personal injuries, including but not limited to, the following: a severe fracture of her right arm resulting in limitations of motion and restriction of use of her right upper extremity; scrapes, abrasions and bruises on her arms and muscles; other personal injuries of which the claimant is not yet informed, including permanent effects, the nature of which is not yet known to this claimant; and pain and suffering; that the claimant, MARIA F. VACANTE, has been and will be compelled to incur medical and hospital expenses.

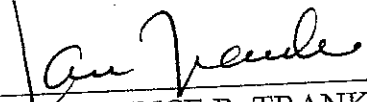
8. That upon your failure to pay such claim within the statutory period provided therefore, it is the intention of the claimant, MARIA F. VACANTE, to commence an action against said CITY OF NEWBURGH and such others as may be liable therefore, to recover the damages sustained by this claimant as hereinbefore set forth.

WHEREFORE, this claimant respectfully requests that this, her claim, be adjusted and paid as provided by law.

Dated: April 2, 2013
New Paltz, New York

Yours, etc.

LAWRENCE R. TRANK, PLLC
Attorneys for Plaintiff

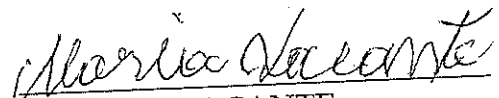
A handwritten signature in cursive script, appearing to read "Law Trank", is written over a horizontal line.

By: LAWRENCE R. TRANK
124 Main Street - Suite 2B
P.O. Box 308
New Paltz, NY 12561
(845) 255-2848

INDIVIDUAL VERIFICATION

STATE OF NEW YORK }
 } ss.:
COUNTY OF ULSTER }

MARIA F. VACANTE, being duly sworn, deposes and says that deponent is the claimant in the within action; that deponent has read the foregoing NOTICE OF CLAIM against the CITY OF NEWBURGH and knows the contents thereof; that the same is true to deponent's own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters deponent believes it to be true.


MARIA F. VACANTE

Sworn to before me this
2ND day of April, 2013.


NOTARY PUBLIC

LAWRENCE TRANK
Notary Public, State of New York
No. 02TR5030931
Qualified in Dutchess County 2014
My Commission Expires July 25, 2014

EXHIBIT "A"

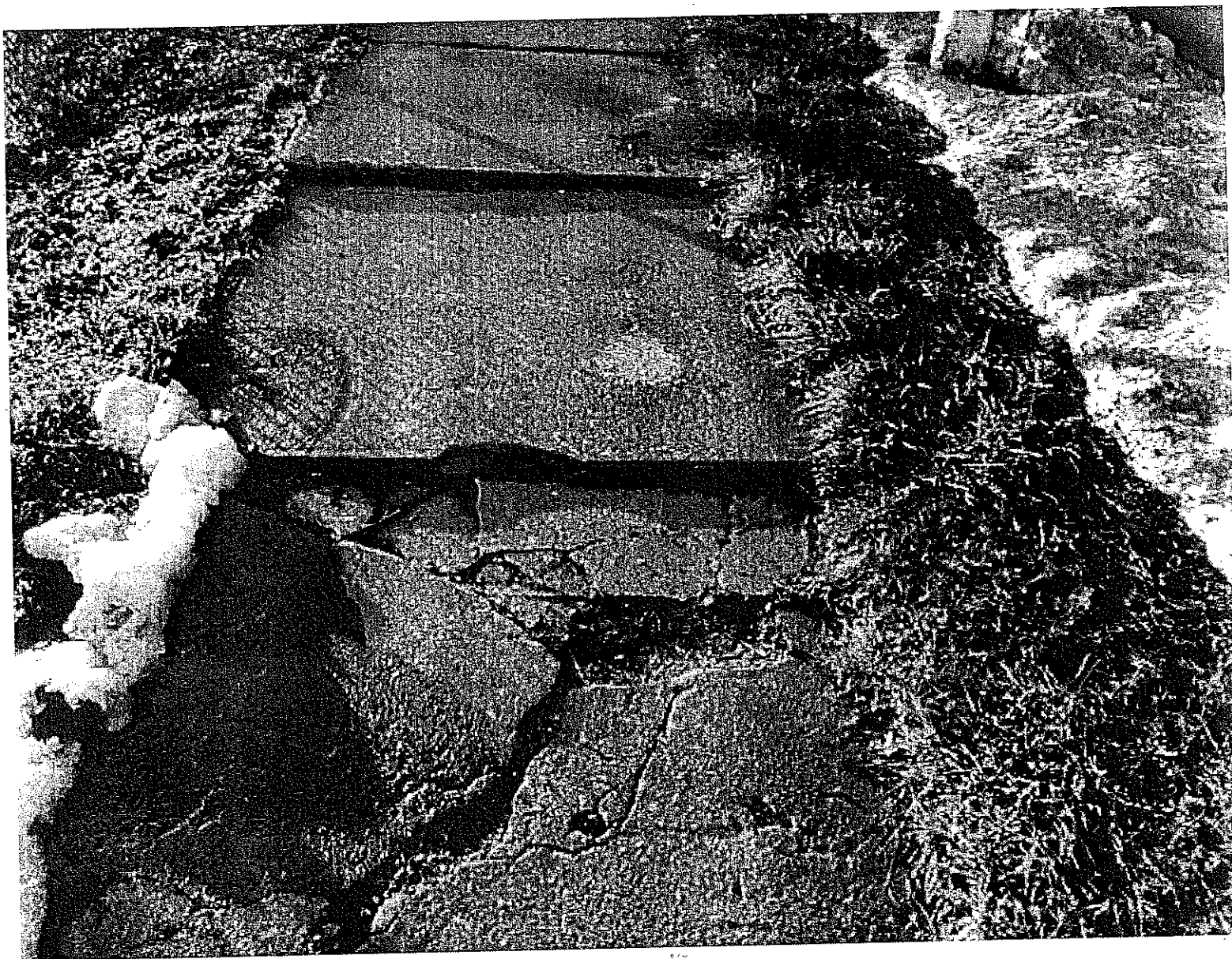


EXHIBIT "B"

LEGEND

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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ORANGE COUNTY-NEW YORK



CITY OF NEWBURGH



385 South St
City of Newburgh

Vacante
379 South St

4 Bennett St
440 South St
201-575-5757
City of Newburgh

PUBLIC HEARING

PLEASE TAKE NOTICE that the City Council of the City of Newburgh will hold a public hearing on Monday, April 22, 2013 at 7:00 p.m. at the City Council Chambers, 3rd Floor, City Hall, 83 Broadway, Newburgh, New York to receive comments concerning "An Ordinance to Amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to add Section 300-38 entitled "Large-Scale Mixed-Use Development Special Use Permit"

**LORENE VITEK
CITY CLERK**

DATED: April 9, 2013

PUBLISH: April 16, 2013 (The Sentinel)

**April 17, 2013 (Hudson Valley Press
& Mid-Hudson Times)**



ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW A LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT

City of Newburgh, New York

ENVIRONMENTAL ASSESSMENT FORM – Part 1

March 25, 2013

BFJ Planning

**ADOPTION OF AMENDMENTS TO THE TC-1 ZONING DISTRICT TO ALLOW A
LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT**

City of Newburgh, New York

ENVIRONMENTAL ASSESSMENT FORM PART 1

Prepared on behalf of:
City of Newburgh City Council
City Hall
83 Broadway
Newburgh, NY 12550-5617

Prepared by:
BFJ Planning
115 Fifth Avenue
New York, NY 10003

Prepared: **March 25, 2013**

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1.0 LOCATION AND PROJECT COMPATIBILITY	1
1.1 Project Location	1
1.2 Project Compatibility	1
2.0 DESCRIPTION OF PROPOSED ACTION	9
3.0 ANALYSIS	8
4.0 FULL ENVIRONMENTAL ASSESSMENT FORM – Parts 1 and 2	14

Appendix A: Proposed Zoning Text Amendments

1.0 INTRODUCTION: LOCATION, PROJECT COMPATIBILITY AND DESCRIPTION OF THE PROPOSED ACTION

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District.

1.1 Project Location

The City of Newburgh is located on the western shore of the Hudson River in Orange County, approximately 60 miles north of New York City. The City is bordered by the Town of Newburgh to the west and north, the Hudson River to the east and the Town of New Windsor to the south (see Figure 1). Newburgh is a small, densely settled community, comprising 3.9 square miles.

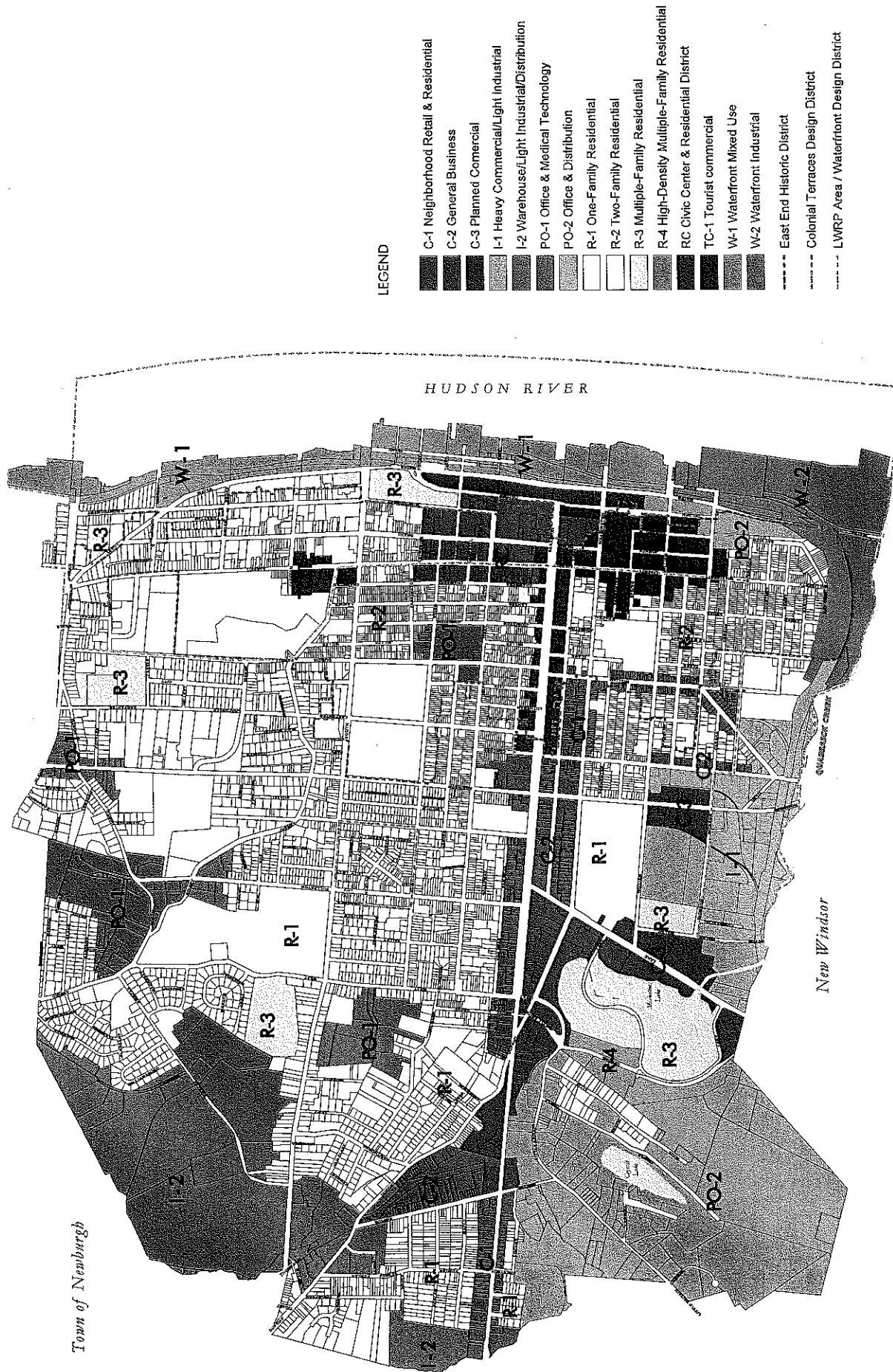
The proposed zoning text amendments will only apply within the City's TC-1 Zoning District and only to parcels located within the TC-1 District that have frontage along Broadway (see Figure 2: Existing Zoning Map). Of the 310-acres of land zoned TC-1 the proposed new large-scale mixed-use special use permit would only apply within the 13.8 acres of TC-1 land fronting Broadway located between Concord Street to the east and Colden Street to the west (see Figure 3:).

1.2 Project Compatibility

The proposed action is consistent with the recommendations made in the 2008 *"Plan-It Newburgh"* Sustainable Master Plan and the 2011 City of Newburgh Future Land Use Plan which was adopted as an addendum to the 2008 Master Plan.

"Plan-It Newburgh" Sustainable Master Plan

The *"Plan-It Newburgh"* Sustainable Master Plan, adopted December 8, 2008, describes the "visions and hopes of the city regarding future growth and development." Goals, targets and strategies in the Master Plan outline how the City of Newburgh will accommodate growth and development until the target date 2040. The objective of the Master Plan is to direct and guide public and private decisions and actions in a consistent and logical manner (pg. 8). Specifically, the Master Plan included targets to provide balance in the City's zoning districts to accommodate all types of land use, including mixed-use development and directing that a future land use plan be prepared to assess where residential development can be accommodated at increased densities in appropriate areas (Housing Goal 2, pg. 61-62). In addition, the Master Plan called for a



LEGEND

- C-1 Neighborhood Retail & Residential
- C-2 General Business
- C-3 Planned Commercial
- I-1 Heavy Commercial/Light Industrial
- I-2 Warehouse/Light Industrial/Distribution
- PO-1 Office & Medical Technology
- PO-2 Office & Distribution
- R-1 One-Family Residential
- R-2 Two-Family Residential
- R-3 Multiple-Family Residential
- R-4 High-Density Multiple-Family Residential
- RC Civic Center & Residential District
- TC-1 Tourist commercial
- W-1 Waterfront Mixed Use
- W-2 Waterfront Industrial
- East End Historic District
- Colonial Terraces Design District
- LWRP Area / Waterfront Design District

FIGURE 2: CITY OF NEWBURGH EXISTING ZONING MAP

LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

NEWBURGH, NY

SOURCE: BFJ PLANNING

0 1,000 ft



BFJ Planning



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 3: TC-1 PARCELS FRONTING BROADWAY

NEWBURGH, NY

SOURCE: BFI PLANNING



BFI Planning

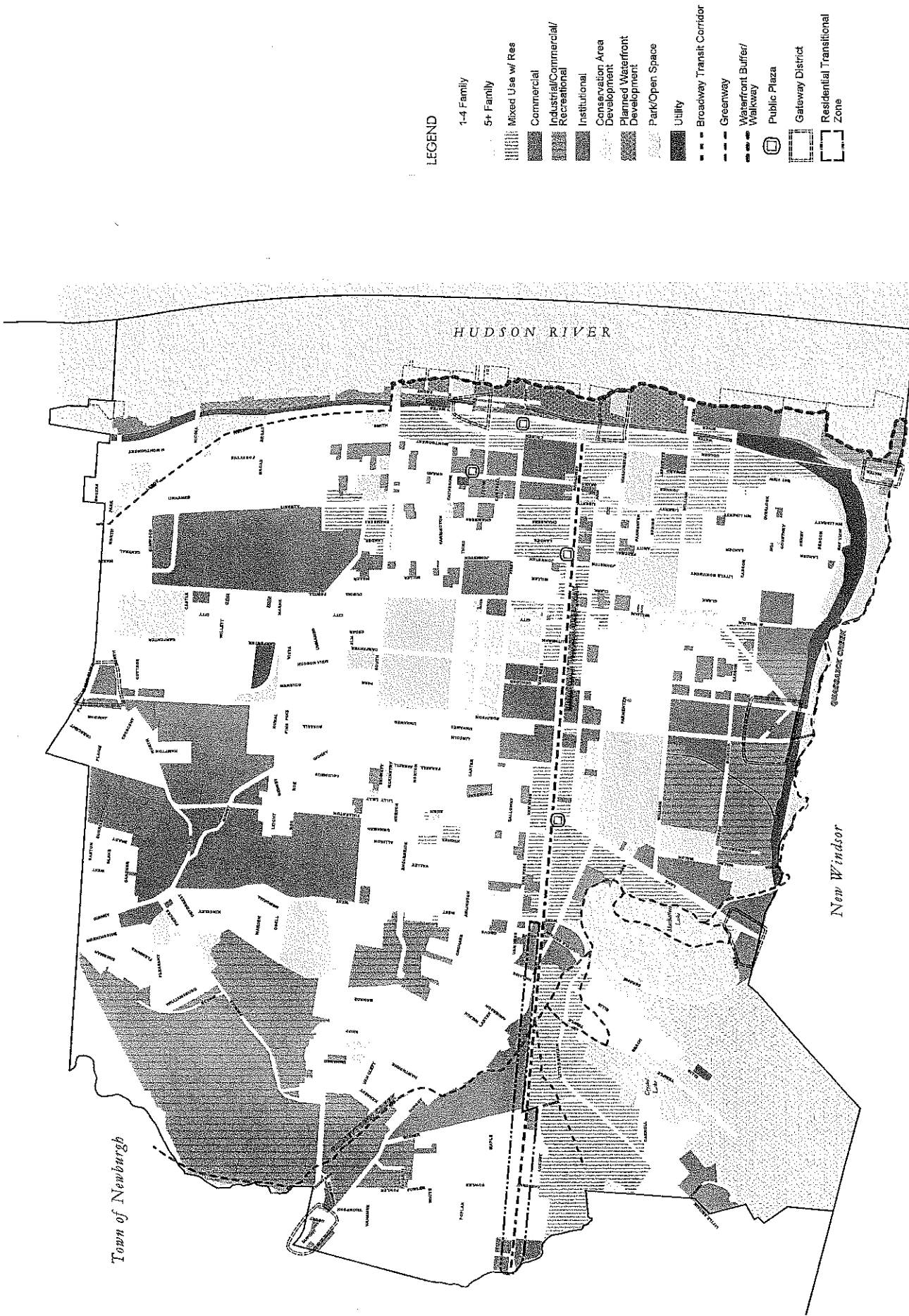
reduction in off-street parking requirements in traditional mixed-use and business/retail corridors where adequate off-street parking is within walking distance (Economic Development Goal 2, pg. 88) as well as a reduction or elimination of front yard setback requirements to allow for traditional neighborhood design (Economic Development Goal 4, pg. 90). The proposed zoning text amendments are consistent and compatible with the recommendations of the 2008 Master Plan and seek to implement, on a limited scale, the Plan recommendations outlined above.

Future Land Use Plan

Although the Master Plan identified and described issues regarding land use planning, the document did not specifically contain a future land use component, which provides a framework for potential future zoning changes. The proposed Future Land Use Plan, adopted September 12, 2011, supports the goals enumerated in the 2008 Master Plan and was prepared as an addendum to the plan, pursuant to the New York State General City Law §28. The proposed Future Land Use Plan serves as the land use component of the Master Plan. All land use regulations adopted in the City must be in accordance with the proposed Future Land Use Plan.

Specifically, the Future Land Use Plan calls for higher density mixed-use development in the Lower Broadway corridor [See Figure 4: Future Land Use Plan (Opportunity Area I, pg. 15)]. The Future Land Use Plan states that “there is a significant opportunity in this area to promote the re/development of a traditional urban/city neighborhood that has a mix of uses; is pedestrian oriented; and provides for a diverse public to live, learn, work and play” (pg. 15). Further, the plan recommends that an increase in mixed-use development in the Lower Broadway area will promote an urban lifestyle typical of thriving urban areas where residences, related commercial and entertainment uses support one another and that by promoting mixed-use development and increasing residential density in this area, the City will re-establish a physical and walkable connection between the Broadway corridor and the waterfront.

The Future Land Use Plan also included revisions to the Zoning Code are proposed to include “building coverage” standards and Floor Area Ratios (FAR), where appropriate, to the existing schedules of area and bulk controls. When combined with a height control, building coverage and FAR control density on any given site. Recommended revisions to the City’s parking standards and use group definitions as well as to the City’s administrative and enforcement aspects of the Zoning Code are also proposed.



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 4: FUTURE LAND USE MAP

NEWBURGH, NY

SOURCE: NEWBURGH FUTURE LAND USE PLAN, 2011

The Plan recommends zoning changes that support the goal of increasing opportunities for mixed-use development at increased densities. In the Broadway portion of the existing TC-1 District, the Plan recommends zoning changes that would permit heights ranging from 6-8 stories and significant increases in residential densities. The proposed zoning text amendments are a first step in implementing the land use and zoning recommendations contained in the Future Land Use Plan. The proposed action is consistent and compatible with the Future Land Use Plan.

2.0 DESCRIPTION OF THE PROPOSED ACTION

The Newburgh City Council, through the adoption of the proposed action seeks to support the recommendations to provide opportunities for mixed-use development of an increased scale and density along the Lower Broadway Corridor expressed in both the 2008 Master Plan and 2011 Future Land Use Plan. The proposed zoning text amendments are compatible with both the Master Plan and Future Land Use Plan. Specifically, the City Council is proposing amendments to the City Zoning Code (§300-38 and §300 Attachment 8) adding a new special use permit subject to review and approval by the City Council to permit new large-scale mixed-use developments within the TC-1 District.

The proposed zoning text amendments would create a new "Large-Scale Mixed-Use Development" Special Use Permit within the City's existing TC-1 District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the *Schedule of Use and Bulk Regulations* for the TC-1 District (§300 Attachment 8). In order to apply for a large-scale mixed-use development special use permit an applicant would have to meet the following area and bulk requirements:

- Only applicable to TC-1 zoned lots with frontage on Broadway;
- Projects may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside the TC-1 zone is part of a unified development parcel with frontage on Broadway;
- 20,000 square foot minimum lot size;
- 100 foot minimum lot width;
- 15 foot minimum front yard and up to a 5 foot side yard, subject to reduction or elimination at the discretion of the City Council;
- 20 foot minimum rear yard; and
- Maximum building height of 65 feet/6 stories within 200 feet of Broadway and 45 feet/4 stories beyond 200 feet.

In addition, a new special use permit section (§300-38) has been added within the Zoning Code to allow large-scale mixed-use developments within the TC-1 District. This section sets forth the power, applicability, conditions to be fulfilled and the standards that must be met in order to qualify for a large-scale mixed-use development special use permit. The conditions and standards set forth in this section are similar to other special permit uses in the City, except that this special use permit can only be granted by the City Council; all other special permit uses in the City are subject to review and approval by the Planning Board. The approval authority for this special permit use has been placed with the City Council in recognition of the importance of the Lower Broadway Corridor to the City as a whole, as well as the potential benefits these types of large-scale projects could have on the City. The proposed zoning text also includes provisions for shared parking and grants the City Council the authority to modify parking requirements based on a parking analysis that demonstrates that the parking demands of a proposed development can be met through the provision of fewer spaces than those required by the City's off-street parking regulations. Finally, the City Council may also allow up to 25% of the required parking spaces to be provided at an off-site location within 300 feet of the project site.

See Appendix A for the proposed Zoning Text Amendments.

3.0 ANALYSIS OF DEVELOPMENT POTENTIAL

Based on a review of the TC-1 zoned lots with frontage along Broadway, it is projected that only two potential development sites exist that are likely to be developed under the proposed special use permit. These two sites, shown on Figure 5, are both currently vacant and meet all of the dimensional requirements set forth in the proposed zoning text amendments. Additional large-scale mixed-use development sites may exist, but due to current ownership constraints, their redevelopment would require assembling numerous parcels from multiple property owners which would most likely serve to hinder this type of large-scale development. Small scale mixed-use developments are currently permitted within the TC-1 District as-of-right.

Since the special use permit process for a large-scale mixed-use development will be discretionary and based on a review of site specific development plan, the exact number of future potential residential units and commercial square footage cannot be determined with certainty at this time. However, based on a cursory review of the two potential development sites illustrated in Figure 5, which total approximately 105,600 square feet, it is estimated that redevelopment of these parcels could result in approximately 144 residential units and 19,500 square feet of commercial space. This estimate assumes a 30% building coverage and groundfloor retail uses fronting Broadway. In addition, this estimate assumes a 6-story building within 200 feet of Broadway tapering down to a 4-story building beyond 200 feet of Broadway.



LARGE-SCALE MIXED-USE DEVELOPMENT SPECIAL USE PERMIT EAF

FIGURE 5: POTENTIAL LARGE-SCALE MIXED-USE DEVELOPMENT SITES

NEWBURGH, NY

SOURCE: BEJ PLANNING



BEJ Planning

This potential increase in density along the Broadway Corridor and the resultant potential increase in population, could result in impacts to the City's infrastructure, including water, sewer, and transportation systems. Given that special use permits are not granted as-of-right, any site specific proposal for a large-scale mixed-use development would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR. Therefore, the exact number and unit type of residential units and associated parking requirements, the projected future population, and breakdown of commercial space cannot be determined. However, when testing the implications of new zoning, a realistic market based approach and demographic based projection of what the likely population that could result is an important benchmark.

Within this context, it is important to look at Newburgh's population over time, as well as to project anticipated future growth within the City over the next 10 years. Table 1 below, presents the City's population, as reported by the US Census, since 1940. As this table demonstrates, the City's population peaked in 1950 and steadily declined by 27% over the following 30 years. Since the 1980s the City's population has grown, but is still 9.7% lower than the 1950 historic high.

Table 1: City of Newburgh Population

Year	Population	% Change from Previous 10-year period
1940	31,883	--
1950	31,956	2.3%
1960	30,979	-3.1%
1970	26,219	-15.1%
1980	23,438	-10.6%
1990	26,454	12.9%
2000	28,259	6.8%
2010	28,866	2.1%
% Change 1950 – 2010:		-9.7%

Source: US Bureau of the Census. <http://www.census.gov/prod/www/abs/decennial>

Using population growth projections generated by Orange County¹, and adjusting for the actual 2010 US Census data, the City of Newburgh is only projected to grow to 29,410

¹The Orange County Planning Department generated population projections using four different methodologies for each of the County's municipalities. For Newburgh, depending on the methodology used, the County projected growth rates of -0.03%, 0.07%, 0.09%, and 0.17%. To be conservative, the highest projected growth rate of 0.17% has been used in this analysis. http://www.orangecountygov.com/filestorage/124/1362/3210/Municipal_Population_Projections_Comparison_Sheet.pdf

residents by 202, an increase of only 1.9% over the next 10 years and still 8.0% below the 1950 population high. The City's overall infrastructure is able to reasonably sustain the small impact of the proposed zoning text amendments as any increase in population reasonably anticipated to occur over the next 10 years would be below the peak 1950 numbers.

However, in part, the purpose of the zoning text amendments is to foster development along the Lower Broadway Corridor that could in turn result in related increases in population density. This possible increase in density could result in impacts to the City's infrastructure as discussed below².

Water

The City of Newburgh's water supply is from the Washington Lake reservoir, located at the intersection of Route 300 and Little Britain Road, in the Town of New Windsor. The Washington Lake Reservoir was constructed in 1907 and holds approximately 1.5 billion gallons of water. An emergency water supply source from the NYC Catskill Aqueduct is also available. Raw water from the reservoir is conveyed to the City's water filtration plant through a 30-inch diameter water main. The City's water filtration plant has the ability to treat approximately 9 million gallons of water per day (MGD) and its current average daily demand is 4.2 MGD. The plant employs a series of mechanical and chemical treatments to remove color, odor, and tastes along with organic material, dirt, and particles. The water then passes through a series of sand filters; chlorine is added for disinfection; fluoride is added to help promote sound dental health; and corrosion inhibitors are added to reduce the corrosive effects of water on pipes and plumbing. Once treated, the water is pumped to the distribution system.

The City water system is comprised of two zones, the high service zone, which services properties north of Broadway and west of Lake Street, and the low service zone, which services the remainder of the City, including Lower Broadway. The high service district is serviced by two water storage tanks, a one (1) million gallon tank located on Brady Avenue and a one and one half (1.5) million gallon tank located on Marne Avenue. A small pumping station is located on Marne Avenue to boost the pressure for residence located around the base of the tank (University Heights neighborhood in the vicinity of Mount St. Mary's College). The two tanks are fed by the Marne Avenue/Carter Street Pumping Station, which draws water from the low service district.

² The analysis in this section is based in part on the analysis contained in the June 2008 Preliminary DEIS for "The Newburgh Waterfront Redevelopment Project Preliminary DEIS," prepared by Saccardi & Schiff, Inc. as well as on an October 15, 2010 meeting between BFJ Planning and Craig Marti, Newburgh City Engineer.

The low service district is serviced by two (2) water storage tanks. The first tank is a two (2) million gallon tank located near the water treatment plant on Little Britain Road. A second two (2) million gallon tank is located on Ellis Avenue. The high water level of the tanks is at approximately 275 ft.

Water distribution for the City is through approximately 80 miles of water mains ranging from 4 inches to 30 inches in diameter. The mains within the City are, for the most part, interconnected for improved hydraulic characteristics and decrease of minor losses. The distribution system provides domestic water and fire demand for residents within the water district.

As demonstrated there is not a significant constraint on serving the entire City with water. The water demand of the City would have to more than double (a 100% increase in demand) before any constraints to the design capacity of the City's water filtration plant would occur. As the population of Newburgh is only projected to grow by approximately 1.9% over the next ten years, even if the zoning text amendments result in an increase in density along Lower Broadway, no impact to the City's water supply are anticipated.

According to the Newburgh City Engineer, the issue with water is not one of capacity, but rather has to do with water pressure in certain parts of the City, in particular the University Heights section. Water pressure is not an issue for areas along Lower Broadway which may increase in density as a result of proposed zoning text amendments.

Sanitary Sewer

The City of Newburgh is serviced by the City of Newburgh wastewater treatment plant (WWTP), located in the southern portion of the waterfront, off of Martin Luther King Boulevard. The WWTP has a dry weather capacity of nine (9) million gallons per day (MGD); 3.8 MGD are reserved for the Town of Newburgh and 5.2 MGD are available for the City of Newburgh. The plant currently operates at an average daily flow rate of approximately six (6) MGD, of which 1.6 MGD is generated by the Town of Newburgh. Based on the current flow rates, approximately 3 MGD of remaining plant capacity is available for use by the City of Newburgh and available to meet the needs of any future population generated by the proposed zoning text amendments; a 68% increase in demand would need to occur before the WWTP would reach dry weather capacity.

Traffic and Parking

The adoption of the proposed zoning text amendments does not appear to result in significant traffic issues along Broadway. Localized impacts at specific intersections may occur as part of implementation of future projects seeking the proposed special use permit, but these would be addressed during site specific review of future actions under

SEQR. The Newburgh Waterfront Redevelopment Project proposed the development of approximately 1,170 residential units, a 150-room hotel, 100,000 square feet of office space, and 140,000 of retail space to be located in the area just west of the TC-1 District parcels with frontage along Broadway.

The traffic study, prepared by Saccardi & Schiff, Inc. as part of the Preliminary Draft Environmental Impact Statement (DEIS) for the Waterfront Redevelopment Project found that the proposed development program outlined above would have an impact on the operation of the road network in the area, including slight changes in the level of service at the intersections of Broadway and Robinson Avenue, Robinson Avenue and South Street, Robinson Avenue and Plank Road, and North Street and Balmville Road. The DEIS did provide mitigation measures for these localized intersection impacts; these measures should be considered, and implemented, if deemed appropriate, as part of the SEQR review of future development projects seeking the large-scale mixed-use development special use permit, if deemed applicable.

In addition to on-street metered parking that is available on most of the streets located within the vicinity of the Lower Broadway Corridor, the City of Newburgh currently has a significant amount of off-street parking. Much of the off-street parking is located in close proximity to Broadway and Martin Luther King Jr. Boulevard. Currently there is approximately 22 acres of parking east of Route 9W, roughly 13 acres of which is located east of Liberty Street within close proximity to Broadway and the TC-1 District.

As demonstrated above, Newburgh has the water capacity, sewer capacity and street network capacity to sustain a substantial amount of growth. In the case of Newburgh, the population has slightly increased over the last 30 years, but is still 9.7% below its 1950 historic peak. In addition, using the most aggressive growth rate provided by the County, the population is only projected to grow by 1.9% over the next 10 years; which is still 8.0% below the historic peak. Therefore, the limited growth that might realistically be expected to occur can be accommodated by the City's existing infrastructure.

Further, as special use permits are not granted as-of-right, any site specific large-scale mixed-use development proposal would be required to comply with the special use permit standards set forth in the proposed zoning text amendments as well as all existing standards set forth in the City's Zoning Code, including site plan review as well site specific review under SEQR.

4.0 FULL ENVIRONMENTAL ASSESSMENT FORM

This EAF evaluates the potential for environmental impacts to be created by the adoption of amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. This legislative action is generic in nature, not site-specific, and does not directly result in any physical changes to the environment. Part 1 of the Full EAF is designed for a site specific action rather than area-wide or generic proposals. As a result, many of the questions in Part 1 are not relevant to the proposed action and have been answered "not applicable" or "NA."

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Adoption of Amendments to the TC-1 Zoning District to allow a Large-Scale Mixed-Use Development Special Use Permit

Location of Action (include Street Address, Municipality and County)

Broadway between Concord Street and Grand Street, City of Newburgh, Orange County, NY 12550

Name of Applicant/Sponsor City of Newburgh City Council

Address City Hall, 83 Broadway

City / PO Newburgh State NY Zip Code 12550-5617

Business Telephone (845) 569-7301

Name of Owner (if different) N/A

Address _____

City / PO _____ State _____ Zip Code _____

Business Telephone _____

Description of Action:

Pursuant to the New York State Environmental Quality Review Act [6 NYCRR Part 617 (SEQR)], the proposed action discussed in this Full Environmental Assessment Form (EAF) is the adoption of text amendments to the City of Newburgh Zoning Code to create a Large-Scale Mixed-Use Development Special Use Permit within the City's Tourist Commercial (TC-1) District. The purpose of this special use permit is to facilitate the redevelopment of vacant or underutilized properties along the Lower Broadway Corridor with a mix of vibrant residential and commercial uses. This new special use permit would be added to the Schedule of Use and Bulk Regulations for the TC-1 District (§300 Attachment 8). Please see the attached project description for a detailed discussion of the proposed action.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☒ Urban ☐ Industrial ☒ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
☐ Forest ☐ Agriculture ☒ Other mixed-use, vacant

2. Total acreage of project area: 13.8 acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	<u>N/A</u> acres	<u>N/A</u> acres
Forested	<u>N/A</u> acres	<u>N/A</u> acres
Agricultural (Includes orchards, cropland, pasture, etc.)	<u>N/A</u> acres	<u>N/A</u> acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	<u>N/A</u> acres	<u>N/A</u> acres
Water Surface Area	<u>N/A</u> acres	<u>N/A</u> acres
Unvegetated (Rock, earth or fill)	<u>N/A</u> acres	<u>N/A</u> acres
Roads, buildings and other paved surfaces	<u>N/A</u> acres	<u>N/A</u> acres
Other (Indicate type) <u>vacant</u>	<u>N/A</u> acres	<u>N/A</u> acres

3. What is predominant soil type(s) on project site? Urban Land

- a. Soil drainage: ☐ Well drained ____% of site ☐ Moderately well drained ____% of site.
N/A ☐ Poorly drained ____% of site

- b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? N/A acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☒ No

- a. What is depth to bedrock N/A (in feet)

5. Approximate percentage of proposed project site with slopes: N/A

- ☒ 0-10% ____% ☒ 10- 15% ____% ☒ 15% or greater ____%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☒ Yes ☐ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☒ No

8. What is the depth of the water table? >6.5 (in feet)

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☒ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☒ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ☐ No

According to:

Not known. The proposed action is generic in nature and will not result in any direct impacts to plant or animal species; however, the TC-1 District is predominantly comprised of urban developed land and formerly developed vacant land. The potential for threatened or endangered species limited.

Identify each species:

There are no state-designated Significant Coastal Fish and Wildlife Habitats located within Newburgh.

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?)

☐ Yes ☒ No

Describe:

N/A

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ☒ No

If yes, explain:

14. Does the present site include scenic views known to be important to the community?

☒ Yes ☐ No

Newburgh's View Preservation District regulations identify the following view planes for protection: Grand and Washington Streets, Washington's Headquarters, Broadway and Colden Street, Grand and Second Streets, Public Library, First and Grand Streets.

15. Streams within or contiguous to project area:

None.

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

None.

b. Size (in acres):

17. Is the site served by existing public utilities? ☒ Yes ☐ No
- a. If **YES**, does sufficient capacity exist to allow connection? ☐ Yes ☐ No N/A
- b. If **YES**, will improvements be necessary to allow connection? ☐ Yes ☐ No N/A
18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No
19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No
20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. Project Description N/A*

1. Physical dimensions and scale of project (fill in dimensions as appropriate).
- a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.
- b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.
- c. Project acreage to remain undeveloped: N/A acres.
- d. Length of project, in miles: N/A (if appropriate)
- e. If the project is an expansion, indicate percent of expansion proposed. N/A %
- f. Number of off-street parking spaces existing N/A ; proposed N/A
- g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?
- h. If residential: Number and type of housing units: N/A
- | | One Family | Two Family | Multiple Family | Condominium |
|------------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| Initially | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| Ultimately | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
- i. Dimensions (in feet) of largest proposed structure: N/A height; N/A width; N/A length.
- j. Linear feet of frontage along a public thoroughfare project will occupy is? N/A ft.
2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.
3. Will disturbed areas be reclaimed ☐ Yes ☐ No ☒ N/A
- a. If yes, for what intended purpose is the site being reclaimed?
-
- b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No
- c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No
4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

*The proposed action is the adoption of a Zoning Text Amendments to the City's TC-1 District to allow a new special use permit with respect to large-scale mixed-use developments. This legislative action is generic in nature, not site-specific, and does not directly result in physical changes to the environment. Thus, project-related impacts assumed by the EAF are generally not applicable or variable dependent on location within the City.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

☐ Yes

☒ No

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

a. Total number of phases anticipated _____ (number)

b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

c. Approximate completion date of final phase: _____ month _____ year.

d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No

8. Will blasting occur during construction? ☐ Yes ☐ No N/A

9. Number of jobs generated: during construction N/A; after project is complete N/A

10. Number of jobs eliminated by this project None.

11. Will project require relocation of any projects or facilities? ☐ Yes ☐ No N/A

If yes, explain:

12. Is surface liquid waste disposal involved? ☐ Yes ☐ No N/A

a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? ☐ Yes ☒ No Type _____

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ☒ No

If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ☒ No

16. Will the project generate solid waste? ☐ Yes ☐ No N/A

a. If yes, what is the amount per month? _____ tons

b. If yes, will an existing solid waste facility be used? ☐ Yes ☐ No

c. If yes, give name _____; location _____

d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☐ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? ☐ Yes ☒ No

a. If yes, what is the anticipated rate of disposal? _____ tons/month.

b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? ☐ Yes ☐ No N/A

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ☐ No N/A

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ☐ No N/A

21. Will project result in an increase in energy use? ☐ Yes ☐ No N/A

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ☒ No

If yes, explain:

25. Approvals Required:

		Type	Submittal Date
City, Town, Village Board	☒ Yes ☐ No	City Council - Resolution to Amend Zoning Text	_____ _____ _____
City, Town, Village Planning Board	☐ Yes ☒ No	Referral to Newburgh Planning Board	_____ _____ _____
City, Town Zoning Board	☐ Yes ☒ No	Referrals to adjoining municipalities: Town of Newburgh, Town of New Windsor	_____ _____ _____
City, County Health Department	☐ Yes ☒ No		_____ _____ _____
Other Local Agencies	☐ Yes ☒ No	Referral to County Planning Department	_____ _____ _____
Other Regional Agencies	☐ Yes ☒ No		_____ _____ _____
State Agencies	☐ Yes ☒ No		_____ _____ _____
Federal Agencies	☐ Yes ☒ No		_____ _____ _____

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No

If Yes, indicate decision required:

☒ Zoning amendment	☐ Zoning variance	☒ New/revision of master plan	☐ Subdivision
☐ Site plan	☐ Special use permit	☐ Resource management plan	☐ Other

2. What is the zoning classification(s) of the site?

TC-1 Tourist Commercial

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

Approximately 937,759 square feet.

4. What is the proposed zoning of the site?

N/A.

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A.

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ☒ Yes ☐ No

The Propose Zoning Text Amendments are consistent with both the 2011 Future Land Use Plan and the 2008 Sustainable Master Plan.

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

Uses within a 1/4-mile include residential, office, commercial and institutional zones.

Zoning districts include: C-1 Neighborhood Retail and Residential, C-2 General Business, RC Civic Center and Residential District, R-2 Two-family Residential, PO-1 Office and Medical Technology, and R-1 One-Family Residential.

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? ☒ Yes ☐ No

9. If the proposed action is the subdivision of land, how many lots are proposed? No

- a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ☒ No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection)?

☐ Yes ☒ No

a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☐ No

12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ☒ No

a. If yes, is the existing road network adequate to handle the additional traffic. ☐ Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Sarah K. Yackel

Date March 25, 2013

Signature *Sarah K. Yackel*

Title Associate Principal, BFJ Planning

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

Appendix A

Proposed Zoning Text Amendments

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.

§ 300-36. Procedures.

§ 300-37. Standards for individual special uses.

§ 300-38. Large-Scale Mixed-Use Development Special Use Permit
and § 300-39. (Reserved)

§ 300-35. Special uses.

A. Power. The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.

B. Conditions to be fulfilled. In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:

(1) The use requested is listed among the special uses in the zone for which application is made.

(2) The special use is essential or desirable to the public convenience or welfare.

(3) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.

(4) The special use will be in conformity with the Master Plan.

(5) Consistency with policies.

(a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.

[1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).

[2] To retain and promote commercial and recreational water-dependent uses (Policy 2).

[3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).

[4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).

[5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).

[6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).

[7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).

[8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

(1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.

(2) The conservation of property values and the encouragement of the most appropriate uses of land.

- (3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.
- (4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.
- (5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.
- (6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.
- (7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.
- (8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.
- (9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.
- (10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.
- (11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.
- (12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

- (1) Such conditions may include a time limitation.
- (2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.

(3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.

(4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.

E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.

F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.

G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.

H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

§ 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful. The fees filed in connection with applications under § 300-35 shall not be returnable regardless of the disposition of the case by the Planning Board.

C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.

D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.

- E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.
- F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.
- H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.
- I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.
- J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.

L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.

M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:

(1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.

(2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.

(3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.

(4) No repair or storage of vehicles shall be on the public street.

(5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.

(6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.

(7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.

(8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.

(9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.

(10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article VIII of this chapter.

(11) The use shall be screened from all abutting residences or residential districts in accordance with § 300-12 of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § 300-12. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.

(12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § 300-35 of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection A(1) through (11) of this section.

(13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.

B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.

(1) The minimum lot size shall be 7,500 square feet.

(2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.

(3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

(4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

(5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.

(6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.

(7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.

(8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.

(9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

(1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.

(2) A floor plan of the day-care center shall be submitted.

(3) In addition to the parking space requirements contained in Article VIII, Table 1, *Editor's Note: See § 300-45*, additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.

(4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.

(5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.

(6) Said facility shall provide a minimum of two exits.

(7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.

(8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.

(9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

D. Bed-and-breakfasts shall be subject to the following:

(1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to

become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.

(2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:

- (a) A sketch showing the floor plan of the home and the location of proposed guest rooms.
- (b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.
- (c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.
- (d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.
- (e) Proof of insurance to operate a bed-and-breakfast.

(3) Requirements and conditions of operation.

- (a) The bed-and-breakfast shall be the primary residence of the owner.
- (b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.
- (c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.
- (d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.
- (e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.
- (f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.
- (g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.
- (h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in

size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.

(i) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.

(j) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.

(k) There shall be no more than two employees in addition to the owner.

(l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.

(4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.

(5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.

(6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

(7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

E. Community parking area. Community parking areas shall be subject to the following:

(1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.

(2) Adequate drainage shall be provided.

- (3) The owner shall be responsible for keeping said parking area clean and debris-free.
- (4) The community parking area shall be screened from abutting residential uses in accordance with § 300-12.
- (5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.
- (6) No more than one curb cut shall be permitted per each street frontage.

F. Planned residential development shall be subject to the following:

- (1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.
- (2) The site plan shall be accompanied by building elevations and a landscape plan.
- (3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.
- (4) No building shall exceed 120 feet in length.
- (5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.
- (6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.
- (7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.
- (8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.
- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.
- (10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.

(12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.

(13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

(1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.

(2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.

(3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.

(4) A landscape plan shall be submitted with the site plan.

(5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.

(6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

(1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.

(2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.

(3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.

(4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.

(5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.

(6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.

(7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

1. Colleges or universities shall be subject to the following:

- (1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.
- (2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.
- (3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.
- (4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.
- (5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.
- (6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

1. Used car lots shall be subject to the following:

- (1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § 300-12 of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building Inspector.

§ 300-38. and Large-Scale Mixed-Use Development Special Use Permit

A. Power. The City Council shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council's opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

- (1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.
- (2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.

- (3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.
- (4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.
- (5) Off-street parking.
- (a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44. provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;
- (b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
- (c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.
- (6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:
- (a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
- (b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.
- (7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or

fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials.

(8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.

(9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.

(10) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.

(11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.

(12) On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

Zoning

300 Attachment 8

City of Newburgh
Schedule of Use and Bulk Regulations
TC-1 Tourist Commercial District¹

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10**	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only****	P	2,500	25	100	15	0/5**	20	3	45
Professional and business office	P	2,500	25	100	15	0/5**	20	3	45
Government office	P	2,500	25	100	15	0/5**	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5**	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5**	20	3	45
Museum	P	2,500	25	100	15	0/5**	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5**	20	3	45
Craft shop	SP	2,500	25	100	15	0/5**	20	3	45
Restaurant, bar	SP	2,500	25	100	15	0/5**	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5**	20	3	45
Laundromat	SP	2,500	25	100	15	0/5**	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development****	SP	20,000	100	100	15****	0/5****	20	6/4****	65/4****
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								

P = Permitted SP = Special Permit Use A = Accessory Use

NOTES:

¹In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street

* Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.

** Minimum area is per unit.

*** One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

**** Only applicable to lots with frontage on Broadway pursuant to Section 300-38.

***** Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.

***** Six stories (65 feet) are permitted within 200 feet of Broadway. Four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300-38.

RESOLUTION NO.: 81 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH WORKFORCE DEVELOPMENT INSTITUTE
TO DEVELOP A BUSINESS ADVISORY COUNCIL OF LOCAL EMPLOYERS TO
PROVIDE EMPLOYMENT OPPORTUNITIES FOR QUALIFIED CITY OF NEWBURGH
RESIDENTS AT A COST TO THE CITY OF \$50,000.00**

WHEREAS, by Resolution No. 185-2011 of September 12, 2011, the City Council of the City of Newburgh authorized the City Manager to execute a contract with the Workforce Development Institute (hereinafter "WDI") to recruit and hire a Program Coordinator, establish a specific selection and assessment criteria within the Newburgh population, review caseloads and establish enrollment, engagement and reporting requirements and protocols with community organizations; and

WHEREAS, the term of the initial contract for the first phase of such services was effective through December of 2011 and by Resolution No. 18-2012 of February 14, 2012, the City Council extended the term of this contract to April 30, 2012; and

WHEREAS, WDI completed the initial phase of the project and by Resolution No. 52-2012 of April 23, 2012, the City Council authorized the City Manager to execute a contract with WDI to provide the next phase of services; and

WHEREAS, WDI has completed the second phase of its services and now proposes to assist the City of Newburgh in developing a Business Advisory Council of local employers to provide employment opportunities for qualified City of Newburgh Residents as set forth in the "Scope of Services" of the contract annexed hereto and made part hereof; and

WHEREAS, this Council has determined that entering into a new contract with WDI for the purpose of developing a Business Advisory Council is in the best interests of the City of Newburgh and its residents and citizens alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to a contract with Workforce Development Institute to provide assistance in the development of a Business Advisory Council at a cost to the City of \$50,000.00.

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CONTRACTUAL AGREEMENT

PARTIES

This **CONTRACT** is between the City of Newburgh as the **FUNDER** and the Workforce Development Institute (WDI) as the **CONTRACTOR**. The respective locations and contacts are as follows:

City of Newburgh
83 Broadway
Newburgh NY 12550

Workforce Development Institute
96 South Swan St.
Albany, NY 12210

PURPOSE OF CONTRACT

The City of Newburgh has suffered from high unemployment for a number of years, and residents have expressed frustration at an inability to find employment. The purpose of this agreement is for WDI to provide assistance to the City of Newburgh to develop a program to help City of Newburgh residents find employment. WDI contracted services will focus on outreach to employers to find positions (the demand side). The City of Newburgh will compensate WDI for WDI's efforts as outlined below.

SCOPE OF SERVICES

WDI will provide the following:

- Work with a City-based advisory group comprised of the City Manager, the Director of Community Development, two City Council members, and two CDBG Advisory Group members to develop a Business Advisory Council (BAC). The goal of the BAC is to engage local employers in discussions about employment trends, skills required, and potential openings, and ultimately obtain commitments from BAC members and other private and non-profit employers to hire qualified City of Newburgh residents. The BAC will represent a cross-section of major economic sectors representative of City and regional employers. It is intended that the BAC may be a collaborative BAC developed in conjunction with the Workforce Investment Board (WIB) and other entities.
- Report progress to the advisory group on a regular basis, every other month beginning in May of 2013.
- Engage a minimum of 20 employers and obtain commitments from 10 employers to participate on the BAC.
- The development of a demand-driven system that results in ongoing commitments of job opportunities to qualified City of Newburgh residents is the goal of the BAC. To that end, the number and type of employment opportunities committed by participating employers will be determined by the needs of the employers and will include temporary, part-time and full-time opportunities. This contract sets a target that all participating members of the BAC will commit employment opportunities to qualified Newburgh City residents as concrete evidence of their commitment to Newburgh. The larger BAC members will allocate a minimum of 3

positions each, for a minimum target number of 30 commitments (3 positions for a minimum of 10 employers).

- Hold regular BAC meetings every other month, beginning in July of 2013.
- Facilitate the BAC meetings – help develop agendas, keep employers engaged.
- Perform outreach to regional employers (over and above those on the BAC) with a goal of understanding employment trends, growth opportunities, skills requirements for various jobs. Obtain commitments from these businesses to hire qualified City of Newburgh residents.
- Develop business profiles on employers. Profiles will include background information about the company, types of jobs for which it hires, skills required of the jobs, turnover rates, barriers to finding employees, growth potential, and jobs for which it plans to hire in the future. Develop 20 profiles which will be shared in an aggregate manner.
- The information generated from the BAC and through outreach to employers will be shared with local vocational service providers, the NYS Department of Labor, and others in an effort to find qualified individuals to fill the positions.

TIMEFRAME

This agreement is valid from May 1, 2013 through April 30, 2014 and may be extended through mutual agreement.

COMPENSATION AND REPORTS REQUIRED FOR PAYMENT

The City of Newburgh has indicated it has limited funding, and that \$50,000 is available for this initiative. The cost of developing a BAC and performing outreach to employers as described above is significantly more than \$50,000. WDI acknowledges this discrepancy and is willing to commit other resources to support the differential.

The \$50,000 that is available for the initiative will be paid in monthly installments from the City of Newburgh to WDI, upon submission of an invoice. The invoice will also include a declarative statement that 1/12 of the \$50,000 in costs has been incurred during the month in question.

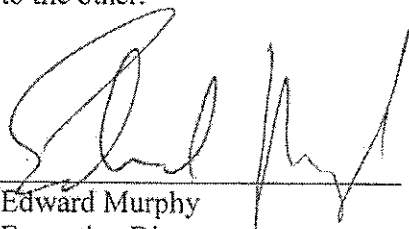
Note that implementation of the items as outlined under Scope of Services may be accomplished by a few WDI staff members, including a Project Director, the Hudson Valley Regional Director, the Director of Operations, and an Economic Development Specialist. All of these staff members will assist in the development of the BAC and in outreach to employers.

The WDI will submit a quarterly report to the City of Newburgh regarding the progress to date on July 15, October 15, January 15, and then a final report including a compilation of all business profiles and a recommendation for moving forward by April 15. Reports will include details on numbers of employers profiled, numbers of employers serving on the BAC, and numbers of positions that have been committed to the City of Newburgh residents (and filled).

TERMINATION

If either party fails to perform any material obligation under this Agreement or violates material terms or condition of this Agreement, and such failure or violation is not cured within ten (10) days following receipt of a notice from the non-breaching party describing the default or failure,

then the non-breaching party shall have the right to terminate this Agreement upon written notice to the other.



Edward Murphy
Executive Director
Workforce Development Institute

4/19/13

Date

Richard Herbek
City Manager
City of Newburgh, NY

Date



Workforce Development Institute

96 South Swan Street
Albany, NY 12210

Tel: 518.463.2141
Fax: 518.432.5809
www.wdiny.org

April 19, 2013

Mr. Richard Herbek
City Manager
City of Newburgh
83 Broadway
Newburgh, NY, 12550

Dear Mr. Herbek:

I am following up on our meeting with the City Council on April 4, where I stated that the Workforce Development Institute (WDI) is willing to devote resources, over and above that which is available from the City of Newburgh's CDBG grant, to development of a supply-demand employment model in Newburgh.

WDI knows the City of Newburgh has suffered from high unemployment for a number of years, and residents have expressed frustration at an inability to find employment. As discussed in the Council meeting, provided that the City of Newburgh contracts with WDI for a demand side project, WDI will provide additional assistance to the City of Newburgh to develop a program to help City of Newburgh residents find employment. The supplemental program will focus on outreach to employers to find positions (demand side) and then working with vocational service providers to find/screen appropriate candidates (supply side).

Supplemental tasks provided by WDI for residents of the City of Newburgh will not be reimbursed by the City. Rather, WDI will assume the costs associated with these tasks from WDI's own resources in order to complement work performed under a CDBG related contract for which the City is compensating WDI. These uncompensated costs are estimated at more than \$50,000.

WDI is willing to perform these additional tasks related to development of an employment program for the City of Newburgh because the project is within WDI's mission to create and retain good jobs in New York State. In addition, it is anticipated that creation of a successful employment model in Newburgh may be used by WDI in other parts of the state.

Mr. Richard Herbek
April 19, 2013
Page 2

To that end, WDI will provide the following tasks, *uncompensated*:

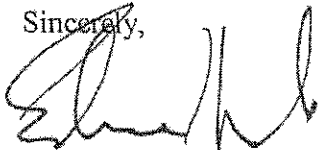
- Take information gathered from outreach to local employers/work of the Business Advisory Council (BAC) to local vocational service providers in order to find City of Newburgh residents qualified for the positions.
- Work with vocational service providers to ensure City of Newburgh residents/job candidates are adequately screened before candidates are put forward to local employers.
- Work with the City, vocational service providers, the NYSDOL, and others to develop an employment screening program (such as work readiness programs) that would direct applicants to programs and services that will help make them more employment-ready.
- Assist vocational service providers in the development of new training initiatives to meet the specific needs of employers.
- Assist potential job candidates in making the connection with employers.
- Track outcomes/progress of individuals placed into employment opportunities.
- Once a track record of placing City of Newburgh residents into employment has been established, seek outside funding for renewal of the project and additional staffing.

The time period in which WDI will perform these tasks is the same as that included under the compensated contract, or from May 1, 2013 through April 30, 2014.

Reporting associated with these tasks will be performed on a quarterly basis on the same schedule as that developed for the compensated contract.

Rick, I look forward to working with you, and hope that together we can make a real difference in the City of Newburgh.

Sincerely,



Edward Murphy
Executive Director



RESOLUTION NO.: 82 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO NATURAL GAS AND ELECTRIC CONTRACTS WITH HESS CORP.
THROUGH THE MUNICIPAL ELECTRIC AND GAS ALLIANCE ("MEGA")
FOR A TWO (2) YEAR TERM AT A FIXED RATE**

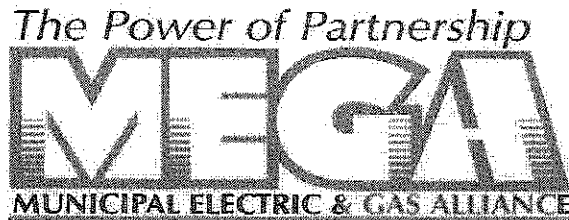
WHEREAS, by Resolution No. 276-2010 of December 13, 2010, the City Council of the City of Newburgh authorized the City Manager to execute contracts for the provision of natural gas and electric for a two (2) year term at a fixed rate with Hess Corporation as the Municipal Electric and Gas Alliance's ("MEGA") endorsed supplier for the Central Hudson Utility Service; and

WHEREAS, , Municipal Electric and Gas Alliance ("MEGA") has been promoting utility savings to Municipalities across New York State and the purpose of entering into the contracts with Hess Corporation for the supply of natural gas and electric was to lower the City's utility costs; and

WHEREAS, pursuant to the last twelve (12) months of the initial two-year contract with Hess Corporation, the City of Newburgh has realized a savings of \$28,735.00; and

WHEREAS, this Council finds that continuing to maintain the City's utility cost savings through the renewal of such contracts 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 contracts for the provision of Natural Gas and Electric for a two (2) year term at a fixed rate to the City of Newburgh in the general form attached hereto with Hess Corporation, with all such terms and conditions as may be required by the Corporation Counsel.



A Local Development Corporation

P.O. Box 88 • Ithaca, New York 14851

Phone: 1-518-465-1473

<http://www.megaenergy.org>

**ELECTRIC AND NATURAL GAS SUPPLY ENDORSEMENT
Winter-Spring 2013**

Dear MEGA Participant,

MEGA is pleased to provide this endorsement of Hess Corp.'s electricity and natural gas pricing program for Central Hudson utility customers, through January 31, 2016. Hess Corp.'s pricing, whether you opt for variable or fixed pricing will provide you with the best pricing, based on their competitive public bid received by MEGA in January. As you know, MEGA, the Municipal Electric and Gas Alliance, operates in partnership with the New York State Association of Counties, and serves more than 250 municipalities across New York State.

Electricity Program

Hess's approach offers two approaches for variable pricing, plus fixed pricing. A fixed price, including energy, capacity, ancillary services and losses, will stabilize your costs going forward up to nearly 3 years if you choose. Recent volatility in electric markets have prompted many MEGA participants to select fixed pricing so that "budget certainty" can be attained for public agencies.

Hess's variable pricing will allow you to save compared to utility rates, but without the stability provided by fixed pricing. Option 1 is to have the costs of capacity, ancillary and losses bundled together within the fixed "adder." Option 2 would have the cost of these elements passed through by Hess based on current market conditions, in addition to the variable price for energy. Savings might be increased, but variability will be increased too.

If you are considering whether to select fixed or variable pricing for any of Hess's supply options, please feel free to discuss with MEGA's consultants, EnergyNext, at 518-580-9244.

Natural Gas Program

We are delighted that Hess's basis price bid was significantly lower for this procurement, reflecting market conditions at the time of the bid. In addition to offering the lowest basis price bid, Hess also offers excellent approaches to help you manage your natural gas costs and reduce uncertainty in this sometimes volatile market. Two Hess programs, its PRiME and its Price Protection programs are available to all MEGA participants. The PRiME program will allow you to manage your natural gas pricing based on whether you want to take a Conservative, Moderate or Aggressive approach. Once you have made that choice, in consultation with Hess's representative and/or MEGA's consultants, Hess will procure your natural gas requirements based on your chosen risk profile.

The Price Protection program allows you to have variable pricing that is capped by an upper limit, not to be exceeded. In this case, your Hess representative will help you determine the pricing parameters that are best for your fiscal plans.

MEGA is delighted to offer these programs from Hess because we believe it will allow our participants to use the most advanced tools to manage natural gas costs.

Thank you for your continued participation in MEGA. We are delighted to bring you continued savings, and increased choices for managing your electric and natural gas requirements.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Ron Feldstein', written over the printed name.

Ron Feldstein
Executive Director



HESS CORPORATION

One Hess Plaza, Woodbridge, NJ 07095

Phone: 1-800-HESS-USA

www.hessenergy.com

Marketer Name	Loucks, Todd	Date	4/8/2013	Time	11:12:59AM
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CUSTOMER INFORMATION

Customer Name	City of Newburgh	☐ New	☒ Renewal
Contact Name		Billing Contact	
Address	City Hall 83 Broadway Newburgh, NY 12550	Billing Address	
Telephone		Fax	

NATURAL GAS TRANSACTION CONFIRMATION AND CUSTOMER DISCLOSURES

This Transaction Confirmation confirms the terms of the Gas Transaction entered into between Hess Corporation ("Seller"), and the customer above ("Buyer" or "Customer") pursuant to the terms of the Commodity Master Agreement ("CMA") between Buyer and Seller dated 12/23/2010 as may be amended. The Purchase Price excludes Utility distribution charges and Taxes that are or may be the responsibility of Buyer. Gas volumes will be adjusted for Utility line loss, where applicable. The prices listed below are based on market conditions as of the time, stated above, that this Transaction Confirmation was issued and may be adjusted by Seller to reflect market conditions as of the date it is executed and returned by Buyer. THIS TRANSACTION CONFIRMATION WILL NOT BE EFFECTIVE UNTIL SIGNED BY BOTH PARTIES.

Service Locations (Additional pages may be attached if necessary)	Service Address	Utility Account No	Rate
	83 Broadway	8265-1630-00	G220
	83 Broadway	8282-0080-00	G220
	83 Broadway	8666-0370-00	G220
	83 Broadway	8666-0420-00	G220
	83 Broadway	8666-0770-00	G220
	83 Broadway	8666-0925-00	G220
	83 Broadway	8667-0560-01	G220
	83 Broadway	8670-1130-00	G220
	83 Broadway	8670-1355-00	G220
	83 Broadway	8672-0820-03	G220
	83 Broadway	8673-0915-00	G220
	83 Broadway	8681-0950-00	G220
	83 Broadway	8681-0970-00	G220
	83 Broadway	8681-0980-00	G220
	83 Broadway	8683-1435-02	G220

Delivery Period	Begin: 05/01/2013 End: 04/30/2015 The service start date hereunder will be the date that the Utility enrolls Customer for Seller's service. Seller will request the Utility to enroll Customer on the first meter read date within the Delivery Period. Upon the expiration of the Delivery Period, this Transaction shall continue for successive one month terms (collectively the "Renewal Term") until either Party notifies the other Party in writing of its intention to terminate, at least 15 days prior to the end of the Delivery Period or 15 days prior to the end of each successive month Renewal Term. The termination date shall be the next effective drop date permitted by the Utility. All terms of the Agreement will remain in effect through the termination date as set by the applicable Utility. During the Renewal Term, the Purchase Price for each successive month Renewal Term will be the then Market Price for delivery to the Delivery Point, unless otherwise agreed to in writing by the Parties.
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Delivery Point	Central Hudson/CHUD DCQ POOL
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Contract Quantity (Dth)	Buyer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed below, provided, that for purposes of determining whether a Material Usage Deviation has occurred and for purposes of calculating Contract Quantities remaining to be delivered under Section 12 of the Agreement, Contract Quantity shall be determined by reference to the applicable estimated quantity(ies) listed below. <table border="1"> <thead> <tr> <th></th><th>Daily</th><th>x</th><th>Monthly</th><th></th></tr> </thead> <tbody> <tr> <td>May</td><td>562</td><td></td><td>November</td><td>1,530</td></tr> <tr> <td>June</td><td>174</td><td></td><td>December</td><td>2,472</td></tr> <tr> <td>July</td><td>72</td><td></td><td>January</td><td>2,778</td></tr> <tr> <td>August</td><td>72</td><td></td><td>February</td><td>2,320</td></tr> <tr> <td>September</td><td>269</td><td></td><td>March</td><td>2,005</td></tr> <tr> <td>October</td><td>974</td><td></td><td>April</td><td>1,160</td></tr> </tbody> </table>		Daily	x	Monthly		May	562		November	1,530	June	174		December	2,472	July	72		January	2,778	August	72		February	2,320	September	269		March	2,005	October	974		April	1,160
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Tax Exemption	☐ Non-exempt ☐ Exempt If exempt, must attach certificate.																																			
Purchase Price	See special provisions below.																																			
Special Provisions	For inquiries related to your purchase, or for any other questions or complaints against Hess, please contact Hess at the address above. For general inquiries related to the sale and delivery of gas you may contact the New York Public Service Commission ("PSC"), Department of Public Service ESCO hotline at 1-888-697-7728; write the PSC at the Office of Consumer Education & Advocacy, Three Empire State Plaza, Albany, NY 12223, or visit the PSC's website at http://www.dps.state.ny.us. For consumer complaints, contact the New York Department of Public Service at 1-800-342-3377. Customer represents and acknowledges that: (a) any rights to a rescission period, longer grace periods or notice periods afforded to residential customers do not apply; and (b) upon any discontinuance of service by Hess, Hess will return the Customer to full Utility service by the next effective drop date permitted by the Utility and upon at least fifteen (15) days prior notice. Furthermore, the Parties agree that the following representations will be added to Section 13(B)(f) of the Agreement, as a new subsections (v) and (vi), respectively: "(v) it may rescind the authorization for release of such information at any time, upon prior written notice; provided however, that such rescission will be considered a Default under Section 11(iv); and (vi) neither it, nor any Transaction, has been solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the New York Public Service Commission and the State of New York General Business Law § 349-d), and Buyer acknowledges that this representation is a material inducement to Seller entering into any Transaction." Customer Disclosures: A. Length of the agreement and end date: The Agreement may only terminate upon notice (i) as a result of a Default (provided that notice is not required in a Bankruptcy situation); (ii) for any reason so long as the Agreement remains in effect with respect to Transactions entered into prior to the effective date of the termination; and (iii) at the end of the above Delivery Period or any successive Renewal Term. For the exact length of the Transaction and end date, please see the "Delivery Period" Section above and/or this "Special Provisions" Section. For the specific text relating to the termination of the Agreement, please see Sections 12 and 14 of the Agreement. B. Process Customer may use to rescind the agreement without penalty: There are no contractual rights to rescind without penalty or without calculation of a settlement amount and Net Settlement Amount.* C. Amount of Early Termination Fee and method of Calculation: In "Section 12. Remedies" of the Agreement the non-defaulting Party has the right to terminate all Transactions, calculate a settlement amount and Net Settlement Amount for each Transaction and aggregate all amounts owing between the Parties under this Agreement or any other agreements between the Parties and their affiliates. For the specific text contained in this provision, please see Section 12 of the Agreement. Notwithstanding the foregoing, for any Transaction solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the PSC and the State of New York General Business Law § 349-d), the termination or early cancellation fee applicable to such Transaction is subject to limitation.** D. Amount of Late Payment Fee and method of calculation: "Section 4. Billing and Payment" of the Agreement sets forth the amount of days in which payment is due from the date of the invoice, the Interest Rate used to calculate late payments, and the calculation of any costs and expenses incurred in collecting																																			

payment, including reasonable attorney's fees. For the specific text contained in this provision, please see Section 4 of the Agreement.

* According to the State of New York Public Service Commission's Uniform Business Practices residential customers have the right to cancel a sales agreement, without penalty, within three business days after its receipt.

** According to the State of New York Public Service Commission's Uniform Business Practices and the State of New York General Business Law § 349-d for transactions solicited through "door-to-door sales" customers may not be charged a termination or early cancellation fee in excess of the greater of: (i) \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months, or (ii) twice the estimated commodity supply bill for an average month, provided that an estimate of an average monthly bill was provided to the customer when the offer was made by the Seller along with the amount of any early termination fee based on such estimate.

Change in Utility Account Numbers:

The account number for a Service Location shall be the Utility Account Number set forth in the Service Locations section above or as attached, as applicable, or any replacement account number issued by the Utility from time to time.

Price Protection: The Purchase Price for the Contract Quantity, unless otherwise specified in this Transaction Confirmation, during each month of the Delivery Period (excluding the Renewal Term) will equal the fixed Basis charge of \$2.616 per Dth, plus the applicable Commodity charge for that month. Buyer acknowledges that the Basis charge includes costs associated with settling the Commodity charge. Unless the Commodity charge has been set by agreement of the Parties per the restrictions below, for each month the "Commodity charge" shall be the per Dth price equal to the lesser of (1) \$4.500 or (2) the New York Mercantile Exchange ("NYMEX") settlement price on the expiration date for that month's NYMEX Henry Hub natural gas futures contract.

Commodity charge restrictions:

The Commodity charge may be set by agreement of the Parties at any time prior to 1:00 PM on the expiration date of the applicable month's NYMEX futures contract.

Buyer acknowledges that the Commodity charge may not be set (fixed) for more than 36 months but in no event beyond the "Max Commodity Date". The Max Commodity Date is defined as the latest date up to which the Parties may fix the Commodity charge, and is posted on the secure section of HessEnergy.com. The Max Commodity Date is currently 4/30/2015. The Seller reserves the right to amend these date restrictions at its sole discretion.

Buyer's "Responsible Trigger Contact(s)" have been identified as Richard Herbeck [citymanager@cityofnewburgh-ny.gov]. Seller will generate a confirmation to be sent to your Responsible Trigger Contact when the Commodity charge is fixed ("Trigger Confirmation"). Such Trigger Confirmations are to be regarded as a part of this Transaction Confirmation. All Trigger Confirmations are binding upon receipt by Buyer. Any notices regarding those Trigger Confirmations must be sent to trigger@hess.com. Changes to the Responsible Trigger Contact must be communicated in writing through your Hess Account Manager.

Buyer acknowledges that it is acting for its own account, and that it has made its own independent decisions with respect to this Transaction Confirmation and that Seller is not acting as a fiduciary, financial, investment or commodity trading advisor for it in connection with the negotiation and execution of this Transaction Confirmation, nor will any communication (written or oral) received from Seller be deemed to be an assurance or guarantee as to any results expected from executing this Transaction Confirmation.

Delivery Point:

Consistent with FERC requirements, Seller shall have the right (but not the obligation), to select or change a Delivery Point to a point where Buyer may receive Gas that is outside the jurisdictional limits of the municipality or other jurisdiction where a Service Location under this Transaction Confirmation is located, which shall constitute a Delivery Point at which title, control, possession and risk of loss will pass to Buyer

as further provided in the Agreement.

PLEASE SIGN AND RETURN THIS TRANSACTION CONFIRMATION LETTER BY FACSIMILE TO 2013564928 .

BUYER: City of Newburgh

SELLER: Hess Corporation

By: _____

By: _____

Print Name: Richard F. Herbek

Print Name: _____

Title: City Manager

Title: _____

Date: _____

Date: _____

**HESS CORPORATION**

48450 - 0

1 Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

www.hessenergy.com

Marketer Name	Todd Loucks	Date	04-08-2013	Time	11:16:33 AM
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CUSTOMER INFORMATION

☐ New ☒ Renewal ☐ Mixed					
Customer	City of Newburgh				
Contact Name					
Address	City Hall 83 Broadway NEWBURGH NY 12550				
Telephone		Fax			

ELECTRICITY TRANSACTION CONFIRMATION AND CUSTOMER DISCLOSURES

This Transaction Confirmation confirms the terms of the Transaction entered into between Hess Corporation ("Seller"), and the customer above ("Buyer" or "Customer") pursuant to the terms of the Commodity Master Agreement ("CMA") between Buyer and Seller dated 12/23/2010, as may be amended. The Purchase Price excludes Utility distribution charges and Taxes that are or may be the responsibility of Buyer. The prices listed below are based on market conditions as of the time, stated above, that this Transaction Confirmation was issued and may be adjusted by Seller to reflect market conditions as of the date it is executed and returned by Buyer. THIS TRANSACTION CONFIRMATION WILL NOT BE EFFECTIVE UNTIL SIGNED BY BOTH PARTIES.

Service Locations	See attached Exhibit A for details.
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Delivery Period	Term (# of months): 24 Months Start: For each Service Location, the first meter read date on or after 05/01/2013 The service start date hereunder will be the date that the Utility enrolls Customer for Seller's service. Seller will request the Utility to enroll Customer on the first meter read date within the Delivery Period. Upon the expiration of the Delivery Period, this Transaction shall continue for successive one month terms (collectively the "Renewal Term") until either Party notifies the other Party in writing of its intention to terminate, at least 15 days prior to the end of the Delivery Period or 15 days prior to the end of each successive month Renewal Term. The termination date shall be the next effective drop date permitted by the Utility. All terms of the Agreement will remain in effect through the termination date as set by the applicable Utility. During the Renewal Term, the Purchase Price for each successive month Renewal Term will be the then Market Price for delivery to the Delivery Point, unless otherwise agreed to in writing by the Parties.
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Delivery Point	See attached Exhibit A for details.
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Contract Quantity	Buyer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed below, provided, that for purposes of determining whether a Material Usage Deviation has occurred and for purposes of calculating Contract Quantities remaining to be delivered under Section 12 of the Agreement, Contract Quantity shall be determined by reference to the applicable estimated quantity(ies) listed on the attached Exhibit A.
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Tax Exemption Status	☐ Non-Exempt ☐ Exempt If exempt, must attach certificate.
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Purchase Price	Fixed Adder @ 1.70 ¢/kWh Fixed Adder includes Losses, Unforced Capacity, Ancillaries, Transmission (if applicable), Renewable Portfolio Standards (RPS) (if applicable). Energy is grossed up by losses and indexed to Day Ahead market.
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Bill Type	☐ Consolidated ☒ Dual
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Definitions	"On-Peak" hours are 7:00am to 11:00pm Monday through Friday, excluding the North American Electric Reliability Council (NERC) holidays. All other hours are "Off-Peak" hours.
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Special Provisions	Service Locations: The account number for a Service Location shall be the Utility Account Number set forth on the Exhibit A attached to this Transaction Confirmation, or any replacement account number issued by the Utility from time to time. If, as determined by Seller (in its sole reasonable discretion), at any time during the Delivery Period of this Transaction Confirmation, Buyer receives or loses an allocation for a portion of the supply of Electricity from the New York Power Authority ("NYPA") under the Recharge NY program, or other similar program, and such receipt or loss results in a deviation from the Contract Quantity (or, as applicable, estimated Contract Quantities) as set forth herein, Buyer will be responsible for the losses and costs incurred by Seller as a result thereof, including the costs of obtaining and/or liquidating the allocation quantity. For inquiries and information regarding ESCOs and the competitive energy market, please contact the New York State Department of Public Service Commission's ("PSC") toll-free retail access number - 1(888) 697-7728, write the PSC at the Office of Consumer Education & Advocacy, Three Empire State Plaza, Albany, NY 12223, or e-mail the PSC at http://www.dps.state.ny.us. For consumer complaints, contact the New York Department of Public Service at 1-800-342-3377. For inquiries related to your purchase, or for any other questions or complaints, please contact Hess at the address above. In case of emergencies or outages please contact your local Utility directly. Customer represents and acknowledges that: (a) any rights to a rescission period, longer grace periods or notice periods afforded to residential customers do not apply; and (b) upon any discontinuance of service by Hess, Hess will return the Customer to full Utility service by the next effective drop date permitted by the utility and upon at least fifteen (15) days prior notice. Furthermore, the Parties agree that the following representation will be added to Section 13(B)(f) of the Agreement, as a new subsections (v) and (vi), respectively: "and (v) it may rescind the authorization for release of such information at any time, upon prior written notice; provided however, that such rescission will be considered a Default under Section 11(iv) and (vi) neither it, nor any Transaction, has been solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the New York Public Service Commission and the State of New York General Business Law § 349-d), and Buyer acknowledges that this representation is a material inducement to Seller entering into any Transaction." Customer Disclosures: A. Length of the agreement and end date: The Agreement may only terminate upon notice (i) as a result of a Default (provided that notice is not required in a Bankruptcy situation); (ii) for any reason so long as the Agreement remains in effect with respect to Transactions entered into prior to the effective date of the termination; and (iii) at the end of the above Delivery Period or any successive Renewal Term. For the exact length of the Transaction and end date, please see the "Delivery Period" Section above and/or this "Special Provisions" Section. For the specific text relating to the termination of the Agreement, please see Sections 12 and 14 of the Agreement. B. Process customer may use to rescind the agreement without penalty: There are no contractual rights to rescind without penalty or without calculation of a settlement amount and Net Settlement Amount.¹ C. Amount of Early Termination Fee and method of Calculation: In "Section 12. Remedies" of the Agreement the non-defaulting Party has the right to terminate all Transactions, calculate a settlement amount and Net Settlement Amount for each Transaction and aggregate all amounts owing between the Parties under this Agreement or any other agreements between the Parties and their affiliates. For the specific text contained in this provision, please see Section 12 of the Agreement. Notwithstanding the foregoing, for any Transaction solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the PSC and the State of New York General Business Law § 349-d), the termination or early cancellation fee applicable to such Transaction is subject to limitation.² D. Amount of Late Payment Fee and method of calculation: "Section 4. Billing and Payment" of the Agreement sets forth the amount of days in which payment is due from the date of the invoice, the Interest Rate used to calculate late payments, and the calculation of any costs and expenses incurred in collecting payment, including reasonable attorney's fees. For the specific text contained in this provision, please see Section 4 of the Agreement. 1 According to the State of New York Public Service Commission's Uniform Business Practices residential customers have the right to cancel a sales agreement, without penalty, within three business days after its receipt. 2 According to the State of New York Public Service Commission's Uniform Business Practices and the State of New York General Business Law § 349-d for transactions solicited through "door-to-door sales" customers may not be charged a termination or early cancellation fee in excess of the greater of: (i) \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months, or (ii) twice the estimated commodity supply bill for an average month, provided that an estimate of an average monthly bill was provided to the customer when the offer was made by the Seller along with the amount of any early termination fee based on such estimate.
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Settlement Sheet

Total Charge = Energy + Fixed Adder

Energy Formula is as follows:

$$\sum_{n=1}^n (Q_n (1+LF)) * LBMP_{DZ}$$

Fixed Adder Formula is as follows:

$$\sum_{n=1}^n Q_n * \text{Fixed Adder}$$

Legend:

n=hours in the month
 Q=Actual energy used in hour n (kWh)
 Bn = Volume of block purchased each hour (kWh)
 BP = Block Price (\$/kWh)
 LF= Line Loss Factor
 LBMP_{DZ} = Hourly NYISO Zonal LBMP Delivery Zone (\$/kWh)
 LBMPHUB = Hourly NYISO Zonal LBMP Hub (ISO reference point) (\$/kWh)
 UCAP = Unforced Capacity (kW)

Units:

Energy - \$/kWh
 Block - \$/kWh
 Basis - \$/kWh
 Capacity - \$/kW - month
 Ancillaries - \$/kWh
 Fixed Adder - \$/kWh

PLEASE SIGN AND RETURN THIS TRANSACTION CONFIRMATION BY FACSIMILE TO (201) 356-4923

Buyer City of Newburgh
By: _____
Print Name: Richard F. Herbek
Title: City Manager
Date: _____

Seller Hess Corporation
By: _____
Print Name: _____
Title: _____
Date: _____

Pricing Date Stamp: 4/8/2013 11:16:33 AM using 4/8/2013 11:00:45 AM forwards

Proposal Id : 48450 - 0 Printed By: Rebecca Auresto On 4/8/2013 11:16:33 AM

**HESS CORPORATION**

One Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

www.hessenergy.com**Exhibit A Service location : Details**

Estimated Monthly Contract Quantities (kWh)					
	1	2	3	4	5
ACCOUNT NUMBER	8666037000	8666042000	8666076000	8672082003	8673049000
ADDRESS	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550
UTILITY	CHUD	CHUD	CHUD	CHUD	CHUD
Delivery Zone	G	G	G	G	G
Capacity Oblg (kW)	67	163	203	126	93
Transmission Oblg (kW)	0	0	0	0	0
Meter Read Date	05/06/2013	05/06/2013	05/03/2013	05/08/2013	05/30/2013
May 2013	11,286	52,454	115,731	29,500	2,535
June 2013	16,720	71,143	141,689	45,105	43,071
July 2013	20,554	81,488	140,190	50,249	51,567
August 2013	19,640	80,405	144,988	47,288	45,675
September 2013	15,393	111,842	107,009	38,030	31,501
October 2013	10,480	11,280	107,034	34,421	29,278
November 2013	9,695	52,213	106,055	33,080	24,223
December 2013	10,953	52,164	111,742	35,021	30,550
January 2014	11,614	55,106	113,881	35,476	39,917
February 2014	10,161	50,331	103,538	31,869	44,620
March 2014	11,614	53,119	99,948	35,782	39,591
April 2014	10,140	48,956	104,923	35,394	27,958
May 2014	13,303	61,992	123,616	37,757	36,096
June 2014	16,867	71,662	143,119	45,481	43,399
July 2014	20,569	81,506	140,179	50,239	51,632
August 2014	19,499	79,902	144,089	46,958	45,407
September 2014	15,512	112,920	107,837	38,337	31,733
October 2014	10,480	11,280	107,079	34,421	29,264
November 2014	9,598	51,848	105,055	32,750	23,972
December 2014	11,042	52,405	112,083	35,294	30,813
January 2015	11,523	54,760	113,306	35,179	39,504
February 2015	10,161	50,331	103,538	31,869	44,620
March 2015	11,718	53,432	100,573	36,074	40,039
April 2015	10,137	48,954	105,127	35,436	27,950
May 2015	2,136	9,972	7,885	8,593	33,871
Total	320,795	1,461,465	2,810,214	919,603	888,786

**HESS CORPORATION**

One Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

www.hessenergy.com**Exhibit A Service location : Details****Estimated Monthly Contract Quantities (kWh)**

	6	7	
ACCOUNT NUMBER	8681095700	8683144000	TOTAL
ADDRESS	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550	
UTILITY	CHUD	CHUD	
Delivery Zone	G	G	
Capacity Oblg (kW)	25	206	
Transmission Oblg (kW)	0	0	
Meter Read Date	05/13/2013	05/21/2013	
May 2013	2,004	26,908	240,418
June 2013	5,951	78,399	402,078
July 2013	13,496	87,437	444,981
August 2013	7,828	92,974	438,798
September 2013	2,396	96,317	402,488
October 2013	3,017	81,682	277,192
November 2013	8,825	78,022	312,113
December 2013	16,621	83,987	341,038
January 2014	17,775	84,167	357,936
February 2014	14,130	73,218	327,867
March 2014	11,175	79,533	330,762
April 2014	8,191	76,264	311,826
May 2014	3,220	75,298	351,282
June 2014	6,027	78,958	405,513
July 2014	13,530	87,453	445,108
August 2014	7,789	92,355	435,999
September 2014	2,401	96,835	405,575
October 2014	3,031	81,707	277,262
November 2014	8,727	77,493	309,443
December 2014	16,707	84,435	342,779
January 2015	17,627	83,664	355,563
February 2015	14,130	73,218	327,867
March 2015	11,278	79,999	333,113
April 2015	8,177	76,261	312,042
May 2015	1,293	48,880	112,630
Total	225,346	1,975,464	8,601,673

RESOLUTION NO.: 83 - 2013

OF

APRIL 22, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$1,004,000.00 FROM
GENERAL "FUND BALANCE" TO CAPITAL FUND
FOR THE PURPOSE OF PURCHASING VEHICLES

WHEREAS, by Resolution No. 24-2013 of January 28, 2013, the City Council of the City of Newburgh authorized the issuance of bond anticipation notes to finance the purchase of replacement vehicles for the Fire Department and the Department of Public Works; and

WHEREAS, the City of Newburgh has the opportunity to purchase the replacement vehicles through a New York State contract; and

WHEREAS, the purchase orders for the replacement vehicles must be submitted prior to the closing of the bond financing; and

WHEREAS, the funds for the purchase of the vehicles is available from the General Fund and will be replaced when the bond anticipation notes have been issued; and

WHEREAS, this Council finds that it is in the best interests of the City of Newburgh to make the funds available to purchase the replacement vehicles from the New York State contract.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0911 Fund Balance	\$1,004,000.00	
H1.3412 Fire Department		
.0202.8101.2013 Motor Equipment		\$ 465,000.00
H1.5132 DPW-Garage		
.0202.8101.2013 Motor Equipment		\$ 144,000.00

H1.5133	DPW-Police Garage	
	.0202.8101.2013 Motor Equipment	\$ 175,000.00
HS.8160	Sanitation	
	.0202.8101.2013 Motor Equipment	\$ 220,000.00

RESOLUTION NO.: 84 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT WITH
INTERNATIONAL DATA BASE CORP D/B/A
INTERACTIVE PROCUREMENT TECHNOLOGIES BY BIDNET
TO PROVIDE FOR WEB-BASED SOLICITATION AND BIDDING SERVICES**

WHEREAS, the City of Newburgh wishes to enter into the attached Agreement with International Data Base Corp., d/b/a Interactive Procurement Technologies by BidNet ("IPT"); and

WHEREAS, this agreement will authorize IPT to provide web-based solicitation and bidding services, including maintenance and support services; and

WHEREAS, these services will expand the City's vendor base for competitive bidding and streamlining some of the documents for the solicitations; and

WHEREAS, there is no subscription fee for the services with the exception of reimbursement for postage fees incurred to produce the mailing to suppliers and a programming fee if customized work is requested at a rate of One Hundred and Twenty-Five (\$125.00) Dollars per hour; and

WHEREAS, this Council has reviewed such agreement and has determined it to be in the best interest of the City;

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 and execute the attached agreement to provide for web-based solicitation system, providing on-line bidding services, including maintenance and support services in the general form attached hereto, with such other terms and conditions as may be required by Corporation Counsel and the City Manager, same as being in the best interest of the City of Newburgh.

AGREEMENT FOR SERVICES

Parties to this Agreement: The parties to this Services Agreement (hereinafter referred to as "the Agreement") are City of Newburgh (hereinafter referred to as the "Participating Organization") and International Data Base Corp., doing business under the trade name Interactive Procurement Technologies by BidNet, a legally incorporated body having its principal place of business at 20A Railroad Avenue, Albany, New York 12205 (hereinafter referred to as "IPT").

RECITALS:

WHEREAS the Participating Organization is in need of web-based solicitation and bidding services, including maintenance and support services;

WHEREAS under the Agreement, IPT has developed a web-based solicitation system, providing on-line bidding services, including maintenance and support services (hereinafter referred to as "The Network")

WHEREAS the Participating Organization wishes to join The Network and benefit from the services provided by IPT;

THE PARTIES AGREE:

1. **Description of Services:** System Membership: The Participating Organization has agreed to join The Network. It is understood that IPT will provide the Participating Organization with access to The Network.
2. **Term of Agreement:** This Agreement shall become effective on the date of the execution for an initial term of twelve (12) months (the "Initial term"). The Initial Term of this Agreement may be extended in one-year increments, without notice unless terminated by either party.
3. **Payment for Services:**

3.1 Participating Organization Fees:

- 3.1.1. **Subscription Fees:** There will be no subscription fees incurred by the Participating Organization under this Agreement.
- 3.1.2. **Mailing Fees:** IPT will send an invoice to the Participating Organization for reimbursement of postage fees incurred to produce the mailing to suppliers.
- 3.1.3. ~~Press Release Fees: IPT will send an invoice to the Participating Organization for reimbursement of Press Release distribution fees incurred to distribute Press Release.~~
- 3.1.4. **Programming Fees:** The Participating Organization agrees to use The Network on an "as is" basis. Any customized work requested by the Participating Organization shall be made available at One Hundred and Twenty-five dollars (\$125) per hour.

3.1.5. Surplus Auction Fees: Should the Participating Organization choose to use the Surplus Auctions program to sell unwanted goods and equipment, a 5% commission will be paid to IPT for items sold.

3.1.6. Future Enhancements: IPT reserves the right to offer future services to the Participating Organization which may or may not include service fees.

3.2 Supplier Registration Fees:

3.2.1. Basic Service: This option gives suppliers access to search for documents of interest for all Participating Organizations actively using The Network at no charge, but requires them to remember to login frequently to ensure they are able to view opportunities before they close. This includes bids, addendums and awards.

3.2.2. Optional Value Added Service: Suppliers that choose to register for the value added service option will be charged a nominal annual subscription fee. This includes notification from all Participating Organizations when bids, addendums and awards are posted on The Network that matches their profile.

3.2.3. Future Enhancements: IPT reserves the right to offer future services to all registered suppliers which may or may not include separate service fees.

4. Termination: This Agreement may be terminated by either party upon sixty (60) days notice. Notice shall be in writing, sent by certified mail, return receipt requested.

5. Entire Agreement: This Agreement constitutes the entire understanding of the parties and the parties agree that there are no other understandings, representations or warranties, either expressed or implied, whether written or oral, made by either party, except as stated within this Agreement.

6. Amendments: No alteration of this Agreement shall be valid unless made in writing and signed by the parties and no oral understanding or agreements not incorporated herein shall be binding on the parties.

7. Governing Law: This Agreement shall be governed by the laws of the State of New York.

8. Severability: If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable.

9. Work Product Ownership: Any copyrightable works, ideas, discoveries, inventions, patents, products, or other proprietary information developed in whole or in part by IPT in connection of this Agreement, will be the exclusive property of IPT.

10. Unauthorized Use: The Participating Organization agrees to require each user obtain a username and password to gain access The Network. Sharing of usernames and passwords is strictly prohibited. The Participating Organization also agrees to obtain written consent from IPT prior to showing demonstrations of The Network to any third party.

- 11. Warranty:** IPT shall provide its services and meet its obligations under this Agreement in a timely manner, using knowledge for performing the services which meet a standard of care equal to service providers similar to IPT on similar projects.
- 12. Signatures:** The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

The parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year written under the Participating Organization below.

City of Newburgh
83 Broadway
Newburgh, NY 12550

Name: _____

Title: _____

Date: _____

Signature: _____

**Interactive Procurement Technologies by BidNet ®, a division of
International Data Base Corp.**

Name: Dan Ansell

Title: Vice President

Date: _____

Signature: _____

APPROVED AS TO FINANCES

Kathryn Nivins
Acting Comptroller

APPROVED AS TO FORM

Michelle Kelson
Corporation Counsel

RESOLUTION NO.: 85 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH PRECISION PIPELINE
SOLUTIONS TO ALLOW ACCESS TO CITY-OWNED PROPERTY AS A STAGING
AREA FOR PIPE, EQUIPMENT AND RELATED MATERIALS FOR VARIOUS
PROJECTS DURING THE 2013 CONSTRUCTION SEASON**

WHEREAS, the Precision Pipeline Solutions has requested access to City-owned property located at 207 Carpenter Avenue and identified as Section 17, Block 5, Lot 6, on the tax map of the City of Newburgh for the purpose of temporary storage of pipe, equipment and related material for various projects during the 2013 construction season; 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 Precision Pipeline Solutions to allow access to City-owned property for the purpose of temporary storage of equipment and materials as a staging area for work to be performed during the 2013 construction season.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and thirteen 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 as "LICENSOR," and PRECISION PIPELINE SOLUTIONS, a private business organization having an address at 617 Little Britain Road, New Windsor, New York 12553 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor 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 and bearing the following address:

Property identified as lands of the City of Newburgh, 207 Carpenter Avenue,
Section 17, Block 5, Lot 6 on the tax map of the City of Newburgh;

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

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

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property identified as 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary and for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed during the 2013 construction season.

Second: 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.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and/or consultants, Licensee and such agents, contractors and/or consultants shall name and/or treat and hold Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property 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.

Sixth: 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.

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said staging work shall be performed in substantially the location of 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: 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.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Richard F. Herbek, City Manager

PRECISION PIPELINE SOLUTIONS

LICENSEE

By:

Name:

Title:

RESOLUTION NO.: 86 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH KISKA CONSTRUCTION TO
ALLOW ACCESS TO CITY-OWNED PROPERTY AS A STAGING AREA AND FOR
PURPOSES RELATING TO MAINTENANCE AND REPAIR OF THE ROUTE 9W
BRIDGE BY THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION**

WHEREAS, the New York State Department of Transportation has commenced a maintenance and repair project for the Route 9W Bridge; and

WHEREAS, KISKA Construction has requested access to City-owned property in between the north side of Quassaick Creek and south side of the CSX Rail Road line that runs east to west below the above subject bridge identified as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, Block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh for the purpose of temporary storage and management of equipment and materials as a temporary staging area for work to be performed on the Route 9W Bridge and adjacent property; 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 and has determined that entering into the same would be 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 Manager be and he is hereby authorized to enter into the attached license agreement with KISKA Construction to allow access to City-owned property for the purpose of storage and management of equipment and materials as a staging area for work to be performed on the Route 9W Bridge and adjacent property.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and thirteen 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 as "LICENSOR," and KISKA CONSTRUCTION, a private business organization having an address at 110 W. Crooked Hill Road, Pearl River, New York 10965 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor 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 and bearing the following title:

SCHEDULE "A":

Properties identified as lands of the City of Newburgh as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh;

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

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

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties as indicated in Schedule "A", and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform certain tasks on property owned by Licensor, for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed on adjacent and nearby properties for the purposes of and to perform maintenance, repairs and improvements to the Route 9W bridge in accordance with NYSDOT D261778.

Second: 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.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with

and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and/or consultants, Licensee and such agents, contractors and/or consultants shall name and/or treat and hold Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property 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.

Sixth: 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.

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said work shall be performed in substantially the location and position shown in Schedule "A", and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: 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.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Richard F. Herbek, City Manager

KISKA CONSTRUCTION

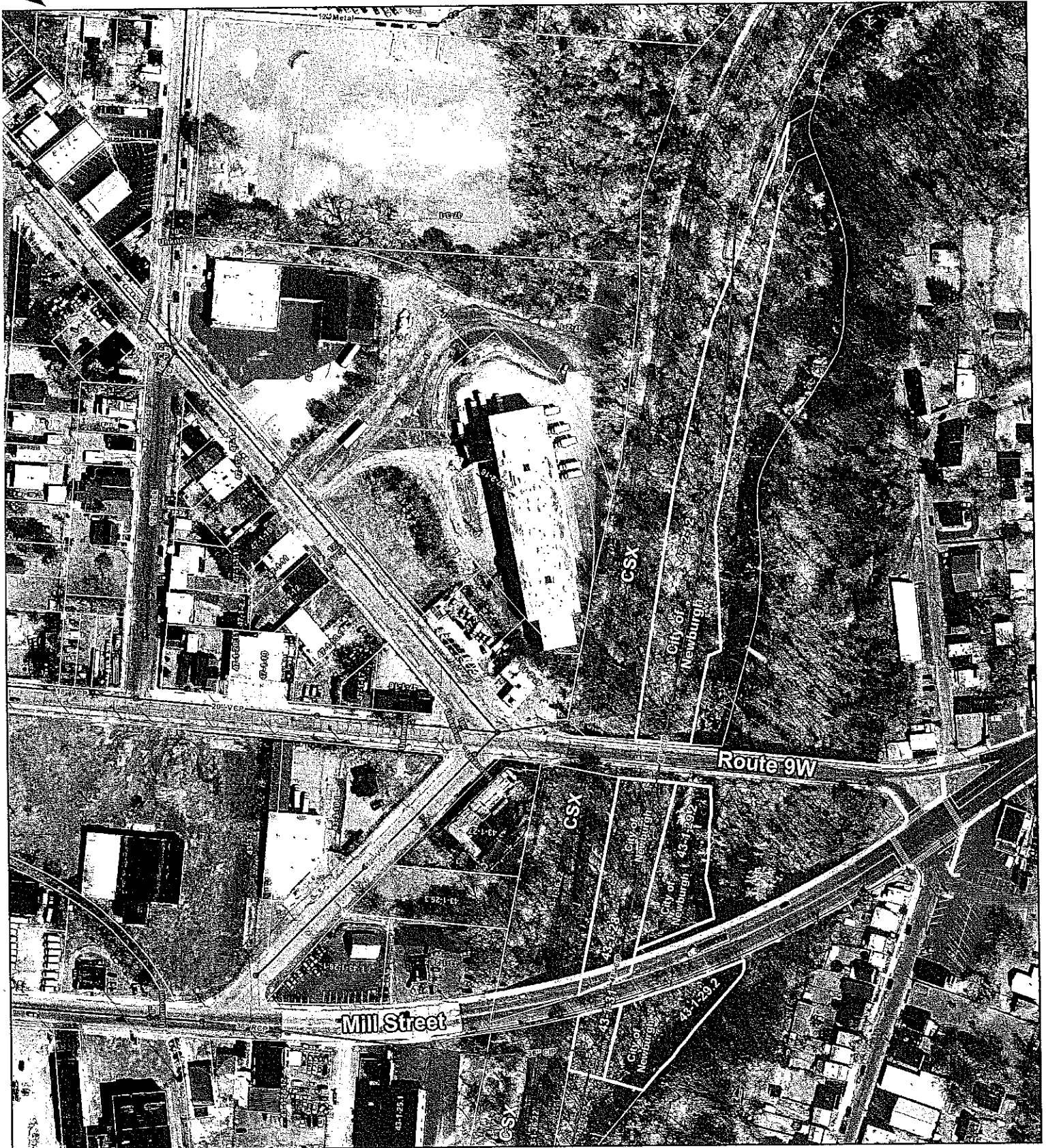
LICENSEE

By:

Name:

Title:

Kiska Construction Access Agreement - Schedule A



GIS Department
LFF

1 Inch = 200 Feet
4/9/13

FOR VISUAL REFERENCE ONLY

DISCLAIMER: City of Newburgh makes no representations and provides no warranties expressed or implied concerning the accuracy, completeness or suitability of this map for any particular purpose and/or for its infringement and assumes no liability for the use or misuse of such data.

RESOLUTION NO.: 87 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES
IN CONNECTION WITH THE NEWBURGH ILLUMINATED FESTIVAL**

WHEREAS, the Newburgh Illuminated Festival will be held in June 2013; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding from donations available in a Trust and Agency Account; and

WHEREAS, such agreements shall not exceed the funds in the Trust and Agency Account;

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 the performing artists and providers of related necessary services in connection with the Newburgh Illuminated Festival, with the net cost to the City of such agreements not to exceed the available funds in the Trust and Agency Account.

RESOLUTION NO. 88 - 2013

OF

APRIL 22, 2013

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH OPPOSING
THE PROPOSED MERGER OF CH ENERGY GROUP, INC. WITH FORTIS, INC.**

WHEREAS, Fortis, Inc. ("Fortis"), a multinational corporation with headquarters in Canada made an offer to purchase CH Energy Group, Inc. ("Central Hudson"), a publicly traded utility located in the Hudson Valley; and

WHEREAS, there are approximately 375,000 Central Hudson customers, representing approximately 680,000 persons, many of whom live in the City of Newburgh; and

WHEREAS, the Public Service Commission (PSC) must approve of this merger and in order to be approved the applicant must prove a net public benefit; and

WHEREAS, the PSC held only two hearings, on the same day, one of which was held at 3:30 in the afternoon, when much of the population was still at work; and

WHEREAS, the PSC staff recommended \$85 million in community benefit funds for areas covered by Central Hudson, to which Fortis initially offered only \$20 million before ultimately settling for less than \$50 million in aid to our area; and

WHEREAS, Fortis has only guaranteed a rate freeze for 12 months; and

WHEREAS, Fortis is not committed to expanding its Alternative Energy portfolio and has publicly said they will continue to rely on natural gas; and

WHEREAS, Fortis has not committed to increase the resilience of the region's electricity system to major storms like Irene, Lee and Sandy, including through investment in a distributed generation network; and

WHEREAS, the public benefits offered by Fortis are not only one-time and short-term, and are outweighed by the future risks to Hudson Valley residents of achieving an affordable, sustainable and reliable supply of power; and

WHEREAS, the possible use of the North American Free Trade Agreement ("NAFTA") to override the PSC and New York State requirements to modernize energy should be of major concern to our State; and

WHEREAS, Assemblyman Kevin Cahill, former chair of the Assembly Energy Committee, has highlighted the possible use of NAFTA as a way to severely restrict the ability of the PSC to fully regulate merged Fortis/Central Hudson; and

WHEREAS, Fortis partner, Abitibi, initiated a NAFTA claim against Canada when Newfoundland expropriated property there, including some belonging to Exploits Hydro Partnership, in which Fortis owns 51% and Abitibi 49%; and

WHEREAS, Central Hudson workers would only be guaranteed jobs for a two year period, after which Fortis can begin to outsource work; and

WHEREAS, IBEW Local 320 is strongly opposed to this merger due to the loss of long term local jobs, which would devastate the Hudson Valley;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, at this time, cannot support the proposed merger of Central Hudson and the multinational corporation Fortis, Inc. as it has been proposed; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh urges the Public Service Commission to extend the period for public comment so that the City Council and other interested parties can have time to assess the full implications and potential impacts of the Central Hudson/Fortis merger; and

BE IT FURTHER RESOLVED, that the City Council urges the PSC to have a Public Recommended Decision, which will provide for a more transparent decision; and

BE IT FURTHER RESOLVED, that the City Clerk of the City of Newburgh be and hereby is directed to forward copies of this resolution to Governor Andrew Cuomo, members of the Public Service Commission c/o Jeffrey C. Cohen, Acting Secretary, Public Service Commission, New York State Senator William Larkin, Jr. and New York State Assemblyman Frank Skartados.

RESOLUTION NO.: 89-2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO WATANABE STUDIO LTD
TO THE PREMISES KNOWN AS 1 EDWARD STREET
(SECTION 46, BLOCK 2, LOT 11)**

WHEREAS, on March 15, 2005, the City of Newburgh conveyed property located at 1 Edward Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 46, Block 2, Lot 11, to Watanabe Studio Ltd.; and

WHEREAS, the owner, by his attorney, 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.

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 1 Edward Street, Section 46, Block 2, Lot 11, 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 March 15, 2005, from the CITY OF NEWBURGH to WATANABE STUDIO LTD., recorded in the Orange County Clerk's Office on March 17, 2005, in Liber 11781 of Deeds at Page 0091 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.

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

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

On the _____ day of April in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, 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.

ORDINANCE NO.: 4 - 2013

OF

April 22, 2013

AN ORDINANCE TO AMEND ARTICLE VII, ENTITLED "SPECIAL USE PERMITS" OF
CHAPTER 300 OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
ENTITLED "ZONING" BY ADDING SECTION 300-38 ENTITLED "LARGE-SCALE
MIXED-USE DEVELOPMENT SPECIAL PERMIT"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 300
of the Code of Ordinances shall be amended as follows:

Article VII. SPECIAL USE PERMITS

§ 300-35. Special uses.

§ 300-36. Procedures.

§ 300-37. Standards for individual special uses.

§ 300-38. Large-Scale Mixed-Use Development Special Use Permit

§ 300-39. (Reserved)

§ 300-35. Special uses.

- A. Power. The Planning Board shall have the power to hear and decide on applications to permit the proper integration into the community of uses which may be suitable only in specific locations in a zone or only if such uses are designed and laid out on the site in a particular manner, provided that this chapter otherwise permits such uses subject to the validation of the Planning Board.
- B. Conditions to be fulfilled. In applying for a special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a special use permit, the Planning Board, with due regard to the nature and condition of all adjacent structures and uses, the zone within which the same is located, the Master Plan,

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the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans, shall find all of the following general conditions to be fulfilled:

- (1) The use requested is listed among the special uses in the zone for which application is made.
- (2) The special use is essential or desirable to the public convenience or welfare.
- (3) The special use will not impair the integrity or character of the zone or adjoining zones nor be detrimental to the health, morals or welfare.
- (4) The special use will be in conformity with the Master Plan.
- (5) Consistency with policies.
 - (a) The special use, if undertaken within the waterfront area, will be consistent with the LWRP policies, standards and conditions, which are derived from and further explained and described in Section III of the City of Newburgh LWRP.
 - [1] To revitalize deteriorated and underutilized waterfront areas (Policies 1, 1A, 1B, 1C, 1D and 1E).
 - [2] To retain and promote commercial and recreational water-dependent uses (Policy 2).
 - [3] To strengthen the economic base of smaller harbor areas by encouraging traditional uses and activities (Policies 4 and 4A).
 - [4] To ensure that development occurs where adequate public infrastructure is available to reduce health and pollution hazards (Policy 5).
 - [5] To protect significant and locally important fish and wildlife habitats from human disruption and chemical contamination (Policies 7, 7A, 8 and 8A).
 - [6] To maintain and expand commercial fishing facilities to promote commercial and recreational fishing opportunities (Policies 9, 9A and 10).
 - [7] To minimize flooding and erosion hazards through nonstructural means, carefully selecting long-term structural measures and appropriate siting of structures (Policies 11, 11A, 12, 13, 14, 16, 17 and 28).
 - [8] To safeguard economic, social and environmental interests in the coastal area when major actions are undertaken (Policies 18 and 18A).

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[9] To maintain and improve public access to the shoreline and to water-related recreational facilities while protecting the environment (Policies 2, 19, 19A, 20, 20A, 21, 21A, 21B, 22 and 22A).

[10] To protect and restore historic and archaeological resources (Policies 23 and 23A).

[11] To protect and upgrade scenic resources (Policy 25).

[12] To site and construct energy facilities in a manner which will be compatible with the environment and contingent upon the need for a waterfront or water location (Policies 27, 29 and 40).

[13] To prevent ice management practices which could damage significant fish and wildlife and their habitat (Policy 28).

[14] To protect surface and groundwater from direct and indirect discharge of pollutants and from overuse (Policies 30, 31, 33, 34, 35, 36, 36A, 37 and 38).

[15] To perform dredging and dredge spoil in a manner protective of natural resources (Policies 15 and 35).

[16] To handle and dispose of solid and hazardous wastes and effluents in a manner which will not adversely affect the environment nor expand existing landfills (Policies 39 and 39A).

[17] To protect air quality (Policies 41, 42 and 43).

[18] To protect freshwater wetlands (Policy 44).

(b) The Planning Board will consider the recommendations of the Waterfront Advisory Committee when determining consistency with the above policies.

C. Factors to be considered. In making such determination, the Planning Board shall give consideration to any or all of the following as they may be appropriate:

(1) The character of the existing uses and the probable development of uses in the district and the peculiar suitability of such district for the location of any of such permissive uses.

(2) The conservation of property values and the encouragement of the most appropriate uses of land.

(3) The effect that the location of the proposed use may have upon the creation of or undue increase of vehicular traffic congestion on public street or highways.

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- (4) The availability of adequate and proper public or private facilities for the treatment, removal or discharge of sewage, refuse or other effluent, whether liquid, solid, gaseous or otherwise, that may be caused or created by or as a result of the use.
- (5) Whether the use or materials incidental thereto or produced thereby may give off obnoxious gases, odors, smoke or soot.
- (6) Whether the use will cause disturbing emission of electrical discharges, dust, light, vibration, noise or radioactivity.
- (7) Whether the operations in pursuance of the use will cause undue interference with the orderly enjoyment by the public of parking or of recreational facilities, if existing, or if proposed by the City or by other competent governmental agency.
- (8) The necessity for bituminous-surfaced space for the purpose of off-street parking of vehicles incidental to the use and whether such space is reasonably adequate and appropriate in area and design and can be furnished by the owner of the plot sought to be used within or adjacent to the plot wherein the use shall be had.
- (9) Whether a hazard to life, limb or property because of fire, flood, erosion or panic may be created by reason of or as a result of the use, by the structures to be used therefor, by the inaccessibility of the property or structure thereon for the convenient entry and operation of fire and other emergency apparatus or by the undue concentration or assemblage of persons upon such plot.
- (10) Whether the use of the structures to be used therefor will cause an overcrowding of land or undue concentration of population.
- (11) Whether the plot area is sufficient, appropriate and adequate for the use and the reasonably anticipated operation and expansion thereof.
- (12) Whether the use to be operated is unreasonably near to a church, school, theater, recreational area or other place of public assembly.

D. Planning Board action. The Board may approve, approve with modifications, or disapprove any application for a special use permit. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and may be necessary in the Board's opinion to meet the objectives herein set forth. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City.

- (1) Such conditions may include a time limitation.

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- (2) Conditions may be imposed which require that one or more improvements be done before the use requested can be initiated; for example, that a solid board fence be erected entirely around the site to a height of six feet before the use requested is initiated.
 - (3) Conditions of a continuing nature may be imposed. For example, exterior loudspeakers shall not be used between the hours of 10:00 p.m. and 9:00 a.m.
 - (4) The Planning Board may establish a schedule of inspection to be conducted by the Building Inspector to determine continued compliance with this chapter and any conditions of the special use permit.
- E. Reversion to permitted use. Whenever all the conditions required are of such type that they can be completely and permanently satisfied, the administrative official, upon request of the applicant, may, if the facts warrant, make a determination that the conditions have been satisfied and enter said determination on the file copy of the special use permit. Thereafter, said special use, provided that it continues to meet the other requirements of the chapter, will be treated as a permitted use.
- F. Compliance with other codes. Granting of a special use permit does not exempt the applicant from complying with all of the requirements of building codes and other ordinances.
- G. Revocation. In any case where the conditions of a special use permit have not been or are not being complied with, the administrative official shall give the permittee notice of intention to revoke such permit at least 10 days prior to a Planning Board review thereon. After conclusion of the review, the Planning Board may authorize the administrative official to revoke such permit.
- H. Expiration. In any case where a special use permit has not been exercised within the time limit set by the Planning Board, or within one year if no specific time limit has been set, then, without further action, the permit shall be null and void. "Exercised," as set forth in this section, shall mean that binding contracts for the construction of the main building have been let or, in the absence of contracts, that the main building is under construction to a substantial degree or that prerequisite conditions involving substantial investment are contracted for, in substantial development, or completed (sewage, drainage, etc.). When construction is not a part of the use, "exercised" shall mean that the use is in operation in compliance with the conditions set forth in the permit.

§ 300-36. Procedures.

The powers and duties of the Planning Board shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

- A. Strict compliance. The Planning Board shall act in strict accordance with the procedures specified by law and by this chapter.

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- B. Fees. All applications made to the Planning Board shall be accompanied by the fee established by the City Council as provided for in § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful. The fees filed in connection with applications under § 300-35 shall not be returnable regardless of the disposition of the case by the Planning Board.
- C. Submission. An application for a special use permit shall be submitted to the Planning Board office on the last business day of the month preceding the month in which the application is to be heard.
- D. Contents of applications. Each application shall fully set forth the circumstances of the case. Every application shall refer to the specific provision of the chapter involved.
- E. Site plan required. Application for a special use permit shall require site plan approval in accordance with the site plan regulations contained in this chapter, except that the Planning Board may waive site plan approval for a special use permit application that will involve no physical alteration or disturbance to a site. At a minimum, the application for a special permit use shall be accompanied by a plan showing the size and location of the lot, and the location of all buildings and proposed facilities, including access drives, parking areas, and all streets within 200 feet of the lot lines.
- F. Public hearings. The Planning Board shall conduct a public hearing within 62 days from the day a complete application is received by the Planning Board. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the application to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the application. At least 10 days prior to such hearing, the Secretary of the Planning Board, at the expense of the applicant, to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal or application. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.
- G. Notice to the applicant and the Orange County Planning Department. At least 10 days prior to the public hearing, the Planning Board shall mail notices thereof to the applicant and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which shall be accompanied by a full statement of the matter under consideration, as defined therein.
- H. Architectural Review Commission advisory opinion. The Planning Board shall, within 10 days of its submission, refer any special use permit application within historic districts or architectural design districts to the Architectural Review Commission for review and

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recommendations. The Planning Board shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.

- I. Waterfront Advisory Committee. Whenever a request for a special use permit involves a use to be located within the City's waterfront districts, the Planning Board shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Planning Board shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.
- J. Decision. The Planning Board shall decide upon an application within 62 days after the public hearing is closed. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
- K. Filing. The decision of the Planning Board shall be filed in the office of the City Clerk within five business days after such decision is rendered and a copy thereof mailed to the applicant.
- L. Existing violations. No special use permit shall be issued for property where the Building Inspector has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such special use permit and site plan approval will result in a correction of said violation.
- M. Area variance. Where a proposed special use permit would require an area variance, an application may be made to the Zoning Board of Appeals without the necessity of a denial of an administrative official charged with enforcement of this chapter.

§ 300-37. Standards for individual special uses.

The following individual standards are hereby established for special uses:

- A. Garages, filling stations, auto repair shops, used car lots, automobile painting, automobile rebuilding or reconditioning, tire retreading or recapping, and taxi and limousine service shall be subject to the following:
 - (1) Notwithstanding any grant of authority contained elsewhere in this chapter, no special permit or variance shall be granted for a use enumerated herein to be located within a designed historic district or architectural design district unless the Architectural Review Commission shall certify to the Planning Board that said use will not be out of keeping with the architectural character of the district and will not be out of harmony with the style, materials, colors, line and details of the buildings in the district and that said use will not detrimentally

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affect the preservation of the beauty and character of the district. Said certification must be reviewed by the Planning Board prior to its acceptance of any application for a special use permit.

- (2) Any special use permit granted shall be granted only for an initial period of six months, after which the Planning Board shall review the compliance with the permit conditions and may vote to permanently grant the permit or to continue the special permit for an additional limited time period, in the absence of which said special permit shall lapse and become null and void.
- (3) Sufficient off-street parking is to be provided for all cars brought for repair; a minimum of five off-street parking spaces are to be provided.
- (4) No repair or storage of vehicles shall be on the public street.
- (5) The property must be maintained in a neat and orderly manner with no accumulation of junk vehicles, tires, auto parts, garbage, refuse or debris on the property.
- (6) Hours of operation are to be established by the Planning Board so as to limit the effect of noise and traffic on the neighborhood.
- (7) All facilities are to conform to the New York State Uniform Fire Prevention and Building Code, environmental regulations and sewer use regulations and ordinances, particularly in regard to prevention of the discharge of oil, grease, or other petroleum products into the public sewers.
- (8) All surfaces for vehicle travel or storage are to be provided with a desirable dustless surface to be approved by the Planning Board and an adequate system of storm drainage.
- (9) All lighting is to be installed in accordance with a plan to be submitted to and approved by the City Engineer and the Building Inspector and so designed as to prevent light from being thrown onto neighboring properties.
- (10) All parking, vehicle storage areas and driveways must be constructed so as to meet the requirements of Article VIII of this chapter.
- (11) The use shall be screened from all abutting residences or residential districts in accordance with § 300-12 of this chapter, except that the Planning Board may permit the substitution of an eight-foot-high wooden fence or masonry wall as a substitute for or in addition to the plantings provided in § 300-12. The screening strips of 10 feet in width must be measured entirely within the property lines of the parcel to be devoted to the use.

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(12) The Planning Board shall have the power to impose such additional conditions as it may deem required in accordance with the standards established by § 300-35 of this chapter. However, the Planning Board shall not have the power to delete or modify any of the conditions required by Subsection A(1) through (11) of this section.

(13) Where the Zoning Board of Appeals has approved a special use permit and said permit is subject to renewal, the Planning Board shall be responsible for renewing said special use permit.

B. Home occupation or professional office. Customary home occupations are deemed to be accessory uses to a single-family detached dwelling subject to the requirements contained herein. A home occupation shall not require full site development plan submission. However, an applicant shall be required to submit a lot survey indicating the location of the home and the area of the home to be used for purposes of the home occupation.

(1) The minimum lot size shall be 7,500 square feet.

(2) Such occupation is carried on in an area not exceeding 25% of the gross floor area of the principal building.

(3) At no time shall any premises be used in such a manner to cause the emanation therefrom of offensive or noxious odors, vapors, fumes, glare, dust, smoke, gas, vibration, noise or radiation or be used in such a manner as to cause injury, annoyance or disturbance to any of the surrounding properties and to their owners and occupants.

(4) Equipment capable of causing interference with radio or television reception in the neighborhood shall be prohibited unless also equipped with means to prevent such interference.

(5) There shall be no outdoor storage of materials, supplies, or equipment associated with the home occupation.

(6) Such occupation is incidental to the residential use of the premises and is carried on in the principal building by a resident therein with not more than two nonresident assistants.

(7) A studio where dancing or music instruction is offered is permitted, provided only up to a maximum of four pupils at any one time are instructed. Concerts or recitals are prohibited.

(8) The Planning Board may restrict the number of deliveries of materials or supplies associated with the home occupation.

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- (9) The Planning Board may approve the operation of a home occupation subject to any condition it deems necessary to ensure that the use does not diminish or impact the peace, security and the overall residential quality of the neighborhood.

C. Day-care center. The standards for a day-care center shall be as follows:

- (1) The application shall describe the anticipated occupancy of the facility by age group, i.e., infant, toddler, and school age, and the hours of operation of the facility.
- (2) A floor plan of the day-care center shall be submitted.
- (3) In addition to the parking space requirements contained in Article VIII, Table 1, *Editor's Note: See § 300-45.* additional parking spaces shall be provided for dropoff and pickup of children at a rate of one parking space per 15 children. Said spaces shall be provided directly in front of the facility along an internal driveway or in an approved parking area. The most appropriate location for dropoff parking shall include a consideration of emergency access and shall be determined by the Planning Board during site plan review. The dropoff location shall be clearly posted with appropriate signage or pavement markings. Fire lanes shall not be used for dropoff areas.
- (4) A minimum outdoor play area of 125 square feet per child under three years of age, or per child three and over, whichever is greater, shall be provided. Said outdoor play area shall be located at a minimum distance of 25 feet from any lot line or from any parking area and 50 feet from any public right-of-way. Outdoor play areas shall be directly accessible from the principal structure and shall not require crossing any street, driveway, or parking area for access. The Planning Board may, as part of site plan review and in consultation with the prospective operator, modify the area requirement to apply only to the largest age group enrollment scheduled to use the outdoor play area at one time.
- (5) A six-foot-high solid fence or opaque fence combined with hedge or tree plantings shall be provided to screen the outdoor play area where it abuts a residential zoning district.
- (6) Said facility shall provide a minimum of two exits.
- (7) Day-care centers shall adhere to the requirements of the New York State Uniform Fire Prevention and Building Code and all other applicable state guidelines that govern said uses.
- (8) If included as part of a professional office building, said day-care center shall occupy the ground floor only.
- (9) Hallways with a length of 20 feet or greater between the building exterior and the day-care center shall be prohibited.

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D. Bed-and-breakfasts shall be subject to the following:

- (1) Applicability. A bed-and-breakfast is permitted as an accessory use to a single-family residence. A single-family residence must be in existence at the date of adoption of these regulations to become eligible to be a bed-and-breakfast. Except as otherwise specified herein, the single-family residence shall be required to meet the bulk requirements for single-family residences within the applicable zoning district.
- (2) Application submission. In addition to the general requirements for special use permit approval, the applicant shall also submit:
 - (a) A sketch showing the floor plan of the home and the location of proposed guest rooms.
 - (b) A site plan delineating the location of the residence on the tax parcel, minimum setback distances, proposed parking areas, proposed screening, and any other information applicable.
 - (c) If a sign is proposed, a sign plan, including type and location of illumination, if proposed.
 - (d) A certification that the owner resides and will continue to reside within the residence while the special use permit is in effect. A change in owner occupancy shall require renewal of the special use permit.
 - (e) Proof of insurance to operate a bed-and-breakfast.
- (3) Requirements and conditions of operation.
 - (a) The bed-and-breakfast shall be the primary residence of the owner.
 - (b) The number of paying guests accommodated per night shall not exceed 10 guests, and no guest shall stay for a period exceeding 15 days. The bed-and-breakfast shall maintain a guest registry identifying the arrival and departure dates of guests.
 - (c) A maximum of two adult guests and accompanying minor children shall be allowed to occupy each guest bedroom, subject to fire safety standards.
 - (d) There shall be no more than five bedrooms occupied by paying guests. Said rooms shall not be equipped with a kitchenette or other cooking devices.
 - (e) As a minimum, one bathroom shall be provided for each two guest rooms. In addition, a separate bathroom shall be maintained for the owners of the single-family residence.
 - (f) Each guest bedroom shall be equipped with a smoke detector alarm installed and maintained in a functional condition on or near the ceiling.

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- (g) A bed-and-breakfast is permitted one sign, not to exceed two square feet, identifying the name of the facility. Illumination may be permitted, subject to Planning Board approval. The Planning Board shall take into consideration the proximity of adjoining residences and potential nighttime disturbance. Said sign shall not be illuminated between 9:00 p.m. and sunrise.
- (h) No parking space shall be located within the front yard. Parking spaces shall be set back a minimum distance of 15 feet from any side or rear lot line. A minimum of two spaces shall be provided for the single-family dwelling, plus a minimum of one off-street parking space shall be provided for each guest bedroom. Each space shall measure not less than nine feet by 18 feet in size. New parking areas required to meet these requirements shall limit the introduction of impervious surfaces.
- (i) The Planning Board shall consider the need for landscaping to screen views from adjoining residences.
- (j) The dwelling shall not be altered in a manner which would cause the premises to differ from its residential character, nor shall any extensions or additions to the dwelling be made for the purpose of renting such space for overnight accommodations. Accessory buildings detached from the principal dwelling shall not be used for the purpose of a bed-and-breakfast.
- (k) There shall be no more than two employees in addition to the owner.
- (l) Each facility shall be operated and maintained so as to preserve the character and integrity of the surrounding residential neighborhood.
- (4) Approval. A special use permit to operate a bed-and-breakfast shall be valid for one year from the date of issuance, subject to continuing compliance with the conditions of the special use permit and subject to continuing compliance with the New York State Uniform Fire Prevention and Building Code.
- (5) Permit renewal. The applicant may renew the permit for additional two-year time periods, subject to approval by the Planning Board and any fees applicable to the review of special use permit applications. The Planning Board shall notify the Building Inspector, 15 days prior to the meeting at which the renewal is being considered, who shall provide a description, in writing, of any changes that have occurred in the floor or site plan since the time the special use permit was approved or last renewed and a list of violations or complaints, if applicable. The Planning Board shall take the Building Inspector's report into consideration when rendering a decision.
- (6) Enforcement. The Building Inspector shall be given access to the premises for the purpose of making inspections as deemed necessary from time to time to ensure compliance with these

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regulations and with the New York State Uniform Fire Prevention and Building Code. Such inspections shall be conducted in accordance with procedures set forth in this chapter. Any facility operated in violation of this chapter shall have its permit suspended on a first violation and revoked for a second violation. No permit shall be reinstated until the owner fully complies with the provisions of this chapter.

- (7) Registry. The Planning Board Secretary shall maintain a record of bed-and-breakfasts, including the name of the owner, the address, the maximum occupancy of the establishment, and the date of special use permit approval.

E. Community parking area. Community parking areas shall be subject to the following:

- (1) A plan shall be submitted detailing the parking lot layout. Parking lots shall be macadam and parking spaces shall be appropriately striped. The City Engineer, in consultation with the Building Inspector, shall be responsible for reviewing and shall favorably recommend the layout prior to Planning Board approval of the special use permit.
- (2) Adequate drainage shall be provided.
- (3) The owner shall be responsible for keeping said parking area clean and debris-free.
- (4) The community parking area shall be screened from abutting residential uses in accordance with § 300-12.
- (5) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The parking layout shall incorporate mature trees into the design of the parking area to the maximum extent practicable.
- (6) No more than one curb cut shall be permitted per each street frontage.

F. Planned residential development shall be subject to the following:

- (1) A planned residential development may consist of a mix of multiple-family dwellings or single-family attached (townhome) dwellings.
- (2) The site plan shall be accompanied by building elevations and a landscape plan.
- (3) The maximum density shall be 12 units per acre for multiple-family dwellings. The maximum density for townhomes shall be eight units per acre. A minimum of 25% of the site shall be maintained as open space.
- (4) No building shall exceed 120 feet in length.

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- (5) Principal buildings shall be separated a minimum distance equal to the height of the taller of adjoining buildings, but in no case shall a building be located closer than 30 feet to any other principal building.
- (6) Accessory buildings, including recreational facilities, shall be located a minimum of 25 feet from principal buildings or from any lot line.
- (7) To the maximum extent practicable, buildings shall be situated in a manner so that the front facade and the main entry point to the dwellings face to the street line.
- (8) Off-street parking is prohibited in the front yard or adjacent to a street bounding the lot when the other side of the street is zoned residential. Parking shall be located to the rear of the principal buildings. The Planning Board may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence of a height of at least three feet. Parking areas shall not be located closer than 10 feet to a principal building or outside deck or recreational space and shall be suitably screened from said buildings and spaces with appropriate landscape materials.
- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.
- (10) All off-street parking areas shall be attractively landscaped. A minimum of 20% of the parking area shall be landscaped.
- (11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate landscape materials.
- (12) Each dwelling unit shall be provided with an outdoor deck or space consisting of a minimum of 25 square feet.
- (13) On-site lighting shall not spill over onto adjoining residential properties.

G. Adaptive reuse of an existing building for residential use in the W-1 District shall be subject to the following:

- (1) The ground floor of said structure shall be used for nonresidential uses permitted or allowed by special use permit in the W-1 District.
- (2) Each dwelling unit shall contain a minimum of 1,000 square feet in area.
- (3) On-site indoor or outdoor accessory recreational facilities are permitted, e.g., swimming pools or tennis or squash courts. The Planning Board may impose restrictions on the type and

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operation of lighting associated with outdoor recreational facilities in order to protect the "night sky" of the Hudson River.

- (4) A landscape plan shall be submitted with the site plan.
- (5) Off-street parking shall be provided in accordance with the standards for multifamily dwellings.
- (6) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the Planning Board and the City Council of the City of Newburgh.

H. Boarding homes shall be subject to the following:

- (1) In the R-4 District, up to three nontransient roomers or boarders may be accommodated for remuneration by the resident owner of the dwelling.
- (2) The owner of the dwelling shall occupy the dwelling and shall constitute the principal use thereof.
- (3) Kitchen and dining facilities shall be limited to use by the resident owner, roomers or boarders and bona fide guests but shall not be open to the general public. There shall be no individual kitchen or dining facilities for any sleeping room.
- (4) There shall be no more than one rented sleeping room for each 2,000 square feet of lot area, with a maximum of three rooms being permitted.
- (5) Each sleeping room for rent to a roomer or boarder shall be at least 100 square feet in area.
- (6) One off-street parking space shall be provided for each rented sleeping room. The Planning Board may require landscaping or screening around the parking area.
- (7) In order to preserve the residential character of the neighborhood, there shall be no exterior alteration or expansion of the structure to allow the use of the dwelling for boarders and roomers, except for parking.

I. Colleges or universities shall be subject to the following:

- (1) All buildings shall be located at least 100 feet from the street lot line and 50 feet from all other property lines. Grandstands, gymnasiums, central heating plants and similar buildings shall be located at least 200 feet from all property lines. The distance between principal buildings shall be at least equal to the height of the taller building. Total building coverage of the site shall be limited to 30%. On-campus housing, dormitory buildings or single-family detached dwellings shall be permitted as accessory buildings, provided that the minimum lot area for

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the entire site shall be increased by at least 1,000 square feet for each dormitory bed and by at least the minimum lot area of the applicable zoning district for each single-family dwelling. Use of such dormitories or dwellings shall be limited exclusively to students, teachers, or other members of the staff of the college or university, and a dormitory or dwelling shall not subsequently be sold or rented as a private residence or for any other legal use unless the building and any required lot surrounding it shall meet all regulations of the district in which it is located.

- (2) Multiple-family dwellings for the exclusive use of teachers and other members of the staff of the school shall be permitted as accessory buildings, provided that, in addition to all other site requirements, there shall be land set aside for each such dwelling of an area at least equal to the minimum residential lot size of the district in which such school site is located times the number of dwelling units in such dwelling and provided that each multifamily dwelling shall be at least 100 feet from any property line and be so located with respect to the required additional land that a lot could be separated from the balance of the school site and meet these area requirements. No such dwellings shall subsequently be rented or sold unless the above-mentioned lot shall be created with frontage on an approved street and unless the Planning Board shall find that the school to which such dwellings are accessory has ceased to operate or that the type of school has changed to one which no longer requires staff housing.
- (3) The minimum area that shall be dedicated to playgrounds and playfields shall be three acres, plus an additional two acres per 100 students.
- (4) Suitable fencing, landscaping and screening shall be provided to prevent any nuisance to surrounding properties and to protect students attending the school.
- (5) The college shall comply with any standards established for schools by the New York State Commissioner of Education.
- (6) The Planning Board may approve the design of a parking area to serve more than one use, provided that such uses will require parking facilities at different times. Parking areas shall be located at least 50 feet from all property lines, except that in the case of a property line adjacent to permanently reserved open space, parking areas may be located no closer than 25 feet therefrom. Access and interior drives shall be located so as to prevent unnecessary traffic on local residential streets and to avoid unsafe conditions and traffic congestion.

J. Used car lots shall be subject to the following:

- (1) All existing used car lots shall have a paved surface constructed in accordance with specifications of the City Engineer, an adequate system of storm drainage, screening in accordance with § 300-12 of this chapter to protect adjacent residential properties or residential-zoned areas and provision for lighting that is satisfactory to the City Building Inspector.

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§ 300-38. Large-Scale Mixed-Use Development Special Use Permit

A. Power. The City Council shall have the power to hear and decide on applications for a large-scale mixed-use development special use permit.

B. Applicability. The Large-Scale Mixed-Use Development Special Use Permit shall apply in the Tourist Commercial (TC-1) zoning district only, and only to parcels with frontage on Broadway. However, said project may extend from Broadway through the length of the block to the next public street, irrespective of the zone, provided that the portion outside of the TC-1 zone is part of a unified development parcel with frontage on Broadway.

C. Conditions to be fulfilled. In applying for a large-scale mixed-use development special use permit, the applicant need not demonstrate hardship, since the basis for the action is general benefit to the City as a whole. In granting a large scale mixed-use development special permit, the City Council, with due regard to the nature and condition of all adjacent structures and uses, shall consider the requirements of the zone within which the same is located, the Master Plan, the Future Land Use Plan, the Local Waterfront Revitalization Program (LWRP) and any relevant urban renewal plans and shall find all of the general conditions set forth in §300-35B.(1) through (5) fulfilled.

D. Factors to be considered. In making a determination that the conditions specified above have been fulfilled, the City Council shall give consideration to any or all of the factors set forth in §300-35C.(1) through (12).

E. City Council action. The City Council may approve, approve with modifications, or disapprove any application for a large-scale mixed-use development special use permit. The Council shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed large-scale mixed-use development special use permit and may be necessary in the Council's opinion to meet the objectives herein set forth. Upon the granting of said large-scale mixed-use development special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the City. Such conditions include those set forth in §300-35D.(1) through (4), or any that the Council determines reasonable and necessary.

F. Other conditions for approval. The application for a large-scale mixed-use development special use permit shall meet the conditions and provisions set forth in §300-35E. through (H).

G. Standards for large-scale mixed-use development special use permits.

The following individual standards are hereby established for large-scale mixed-use development special use permits:

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- (1) Area standards. The proposed development shall meet the minimum lot area, width and depth; yard; and maximum building height requirements for large-scale mixed-use development as set forth in the Schedule of Use and Bulk Regulations for the TC-1 District.
- (2) In the case that the proposed large-scale mixed-use development contains any use which would be individually subject to a special permit from the Planning Board, the standards for such use, as provided in in §300-37., shall apply, unless the City Council determines that the application of said standards is unreasonably or unnecessary or impractical due to the unique characteristics of the site, mix of uses or other factors.
- (3) At a minimum, the special use permit application must be accompanied by a site plan prepared in accordance with §300-52.
- (4) To the maximum extent practicable, buildings shall be situated in a manner so that the front façade and the main entry face to the street line.
- (5) Off-street parking.
 - (a) The City Council may modify the area requirements (length and width) of off-street parking spaces as set forth in §300-44. provided that in no case shall the width be decreased by more than 6 inches and the length by no more than one foot. In granting such reductions, the City Council shall consider such benefits as increased landscaping and screening within and adjacent to off-street parking areas;
 - (b) When based on a Parking Analysis, the City Council may reduce the off-street parking space and loading berth requirements as set forth in §300-45 provided that the parking capacity to be provided will substantially meet the intent of this Article. The Parking Analysis shall be prepared assuming peak-hour utilization and demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
 - (c) The City Council may permit a portion, not to exceed 25%, of the total required spaces, the total number of which shall be determined pursuant to §300-38.G.(5)(b) above, to be located at an off-site location no further than 300 feet from the premises to which they are appurtenant.
- (6) Shared parking. The use or uses proposed for the large-scale mixed-use development shall provide the required number of off-street parking spaces pursuant to §300-45., except that the number of required spaces may be reduced if the City Council finds that the parking capacity to be provided will substantially meet the intent of this Article by reason of

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variation in the probable time of maximum use by patrons, employees or residents of such establishments, provided that:

- (a) The City Council shall base its finding upon a Shared Parking Analysis to be prepared, assuming peak-hour utilization, to demonstrate that sufficient parking spaces will exist so that no overflow parking is likely to occur in any public street; and
 - (b) In the event that any establishment changes use, the applicant seeking approval for the new use or uses shall adequately demonstrate, based upon a Shared Parking Analysis, that the new use configuration will continue to allow for sufficient parking capacity, or alternatively, that additional off-street parking spaces will be provided to ensure such capacity.
- (7) Off-street parking is prohibited in the front yard. Parking shall be located to the rear of the principal buildings. The City Council may allow parking in a side yard, provided that said parking area shall be screened from the street and pedestrian traffic by means of a planted strip or fence. Parking areas shall be located a reasonable distance from principal buildings or outside decks or recreational spaces and shall be suitably screened from said buildings and spaces with appropriate landscape materials-
- (8) When abutting a residential district, off-street parking areas must be appropriately landscaped and screened.
- (9) The applicant shall make provisions for the maintenance of any open space or common areas in a manner that is satisfactory to the City Council.
- (10) Mature trees in excess of eight inches dbh (diameter breast height) shall be identified on the site plan. The proposed development shall incorporate such mature trees into the plan to the maximum extent practicable.
- (11) Where provided, dumpsters shall be located in a fenced enclosure which shall be suitably screened with appropriate fencing and/or landscaping materials.
- (12) On-site lighting shall be designed and situated so that it does not spill over onto adjoining residential properties or create potential driving hazards. The City Council may require a lighting plan to verify that the proposed lighting will not present such adverse impacts.

H. Procedures. The powers and duties of the City Council in considering large-scale mixed-use development special permits shall be exercised in accordance with the procedures set forth in this

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article and in §300-36., except that, where relevant, said procedures shall apply to the City Council and not to the Planning Board.

§ 300-39. (Reserved)

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Zoning

300 Attachment 8

City of Newburgh Schedule of Use and Bulk Regulations TC-1 Tourist Commercial District¹

Use	Use Type	Minimum Lot Area (feet)	Minimum Lot Width (feet)	Minimum Lot Depth (feet)	Minimum Front Yard (feet)	Minimum Side Yard Each (feet)	Minimum Rear Yard (feet)	Maximum Building Height	
								Stories	Feet
One-family detached dwelling	P	7,500	50	100	15	10	20	2.5	35
One-family attached (duplex, town home)	P	2,500**	25	100	15	0/10**	20	3	45
Two-family dwelling	P	10,000	75	100	15	10	20	2.5	35
Mixed use: residential on upper floors only***	P	2,500	25	100	15	0/5**	20	3	45
Professional and business office	P	2,500	25	100	15	0/5**	20	3	45
Government office	P	2,500	25	100	15	0/5**	20	3	45
Tourist-related retail use	P	2,500	25	100	15	0/5**	20	3	45
Art and antique gallery	P	2,500	25	100	15	0/5**	20	3	45
Museum	P	2,500	25	100	15	0/5**	20	3	45
Church and similar place of worship	P	7,500	75	100	15	15	20	3	45
Assembly hall	SP	2,500	25	100	15	0/5**	20	3	45
Craft shop	SP	2,500	25	100	15	0/5**	20	3	45
Restaurant; bar	SP	2,500	25	100	15	0/5**	20	3	45
Fast-food restaurant, without drive-through facility	SP	2,500	25	100	15	0/5**	20	3	45
Laundromat	SP	2,500	25	100	15	0/5**	20	3	45
Conference center	SP	10,000	100	100	25	15	25	3	45
Hotel	SP	10,000	100	100	25	15	25	3	45
Theater	SP	10,000	100	100	25	15	25	3	45
Large-scale mixed use development****	SP	20,000	100	100	15****	0/5****	20	6/4****	65/45****
Swimming pools accessory to one-family detached	A								
Other customary accessory uses and buildings, provided that such use is clearly incidental to the principal use	A								

P = Permitted

SP = Special Permit Use

A = Accessory Use

NOTES:

¹In the TC-1 District, residential uses are not permitted east of Washington Place and Colden Street.

²Where existing buildings share common wall, no side yard is required. All other buildings require five-foot side yard.

³Minimum area is per unit.

⁴One dwelling unit is permitted for each 1,000 square feet of gross floor area per upper story floor.

⁵Only applicable to lots with frontage on Broadway pursuant to Section 300-38.

⁶Front and side yard requirements may be waived, reduced or otherwise modified at the discretion of the City Council as part of the Special Use Permit process.

⁷Six stories (65 feet) are permitted within 200 feet of Broadway; four stories (45 feet) are permitted beyond 200 feet pursuant to Section 300-38.

ORDINANCE NO.: 5 - 2013

OF

APRIL 22, 2013

AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN
CHAPTER 121 ENTITLED "BUILDINGS, VACANT"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH AND
AMENDING CHAPTER 121 ENTITLED "BUILDINGS, VACANT" TO REQUIRE
THE MAINTENANCE OF VACANT PROPERTIES IN THE CITY OF
NEWBURGH, ESTABLISHING REGISTRATION REQUIREMENTS, AND
LEVYING A REGISTRATION FEE ON OWNERS OF VACANT PROPERTIES

BE IT ORDAINED, by the Council of the City of Newburgh, New York that the language contained in Section 121, Buildings, Vacant, be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

§ 121-1 Findings and purpose.

The City of Newburgh contains many structures that are vacant in whole or large part; and in many cases the owners or other responsible parties of these structures are neglectful of them and are failing to maintain them or secure them to adequate standard or restore them to productive use. Many of these structures are in violation of state and local housing and property maintenance codes. It has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulations of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk, and the City of Newburgh incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to police calls, fire calls, and property inspections. It is in the public interest for the City of Newburgh to establish minimum standards of accountability for the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety, and general welfare of the residents of the City of Newburgh, and it is in the public interest for the City of Newburgh to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the City by the presence of these structures.

§ 121-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

EVIDENCE OF VACANCY - Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown or dead vegetation; accumulation of debris or abandoned personal property; and statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

MUNICIPAL OFFICER - The Fire Chief, Director of the Code Compliance Bureau, and the Building Inspector or such official within that department as may be designated by the Director in writing.

OWNER - The title holder, any agent of the title holder having authority to act with respect to a vacant property, and any foreclosing entity that has obtained a judgment of foreclosure and sale (RPAPL S. 1307).

VACANT PROPERTY - Any building or structure that is not at present legally occupied or at which all lawful business or construction operations or residential inhabitation, or other occupancy have substantially ceased and that is in such condition that it cannot legally be re-occupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property; however, any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and [or] which is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

§ 121-3 Registration.

(1) a. Effective on June 1, 2013, the owner of any vacant property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, file a registration statement for such vacant property with the municipal officer on forms provided for that purpose by the municipal officer along with any fee required by Chapter 163. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

 b. Each property having a separate section block and lot number shall be registered separately.

 c. The registration shall include the information required under section (2) of this section, the insurance certificate required under section (5) of this section unless a

bond is provided, as well as any additional information that the municipal officer may reasonably require.

d. The registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Chapter 163 for each vacant property registered.

e. The municipal officer may establish for purposes of efficient administration that all registrations shall be renewed by a single date in each year. The municipal officer shall establish this date in which case the initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.

f. (i.) Any owner of vacant property who plans to restore the property to productive use and occupancy during the twelve month period following the date of the initial registration of the property shall file a detailed statement of the owner's plans for restoration of the property with the registration statement and shall be exempt from payment of the registration fee but shall comply with all other provisions of this ordinance. In the event that the property has not been restored to productive use and occupancy at the end of the twelve month period, the owner shall be liable for any fee waived. The municipal officer may extend the waiver of the registration fee for not more than one additional year in response to a written request by the property owner where the municipal officer finds that compelling conditions outside the owner's control made it impossible for the owner to restore the property within the initial twelve month period.

1. In addition, the statement of the owner's plans, at a minimum, must contain one of the following for the property:

- (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition; or
- (b) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. Implementation of the rehabilitation plan shall not exceed twelve months. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and must be secured during the rehabilitation.

2. The Building Inspector shall provide the owner with a written referral to the Planning Department for information outlining programs available that may be useful in developing the owner's rehabilitation plan.

(ii.) Where the owner is an entity experienced in rehabilitation or redevelopment of vacant properties, and where the property subject to this ordinance is being held for a project of rehabilitation or redevelopment consistent with municipal plans

and ordinances, and where by virtue of financing, market, or other conditions that project may require more than one year for realization, the municipal officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the owner, as long as the municipal officer finds that the owner is making reasonable progress toward completion of the project. The owner shall provide the municipal officer with documentation of such progress, which may include plans, financing applications, applications for land use approval, or other evidence of progress.

g. The owner shall notify the municipal officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the municipal officer for such purpose.

h. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the building.

(2) a. The registration statement shall include:

(i) The name(s), residences and business addresses, e-mail address, telephone numbers, and birth date(s) of the principal officers if the applicant is an individual, partnership, or firm, or the names, residences and business address, e-mail address, telephone numbers, and birth dates of the principal officers if the applicant is an association or corporation.

(ii) The name, street address, e-mail address, and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code. The agent for service of process must maintain offices or reside in the State of New York.

(iii) The name, street address, e-mail address, and telephone numbers of the firm or individual responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property must maintain offices within 45 miles of the City and shall be available by telephone or in person on a 24-hour-per-day, seven-day-per-week basis.

(iv) A description of the premises, including street address, section block and lot, and type of building;

(v) The date the building became vacant and the period of time the building is expected to remain vacant;

(vi) A description of what will be done to secure the structure so that it will not become open to the general public; and

(vii) The status of water, sewer, natural gas, and electric utilities.

b. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding

brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the municipal officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

c. Any owner who fails to register a vacant property under the provisions of this ordinance shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

(3) a. The registration and renewal fee for each building is set forth in Chapter 163.

b. All funds collected from registration and renewal fees under this section shall be deposited in a dedicated trust fund to be used exclusively for municipal activities with respect to vacant and problem properties in the municipality, including but not limited to inspection, nuisance abatement, securing and boarding, maintaining property information systems, and reasonable administrative and legal costs associated with any of the above.

(4) The owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within 30 days of the structure becoming vacant or 30 days of the owner taking title to the property:

(i.) Enclose and secure the structure as provided in the applicable codes of the City of Newburgh and the State of New York or as set forth in rules and regulations adopted by the municipal officer to supplement those codes.

(ii.) Ensure that the grounds of the structure, including yards, fences, sidewalks, walks, and driveways, are well-maintained and kept free from trash or debris.

(iii.) Post a sign affixed to the structure with the name, address, and telephone number of the owner and the owner's authorized agent for the purpose of service of process and the name, address, and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. If the structure is set back from the street, the sign may be posted on a well-secured post or stake in the front yard of the property. The sign shall be at least 18" x 24" in dimension, shall include the words "to report problems with this building, call...", and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer; and

(iv.) Maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

(5) The owner of any vacant property shall acquire or otherwise maintain liability insurance in an amount of not less than \$300,000.00 for buildings designed primarily for one- and two-unit residential use and not less than \$1,000,000.00 for any other building, including but not limited to, buildings designed for multifamily, manufacturing, storage, or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the municipal officer within 30 days of any lapse, cancellation, or change in coverage and the owner shall provide such written notice of any lapse, cancellation or change in coverage to the municipal officer. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration. Alternatively, an owner can choose to provide a cash bond acceptable to the municipal officer, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking, or making such building safe.

(6) a. The City of Newburgh shall establish an on-line registry of all properties registered with the City under this ordinance, which shall include a procedure by which citizens can provide the municipal officer through electronic means with information on unregistered properties that may be subject to this ordinance.

b. The City of Newburgh may enter into agreements with qualified non-profit entities and neighborhood associations to assist the City to enforce this ordinance, including but not limited to identification of unregistered properties that may be subject to this ordinance.

§ 121-4 Rules and Regulations.

The municipal officer may issue rules and regulations for the administration of the provisions of this ordinance.

§ 121-5 Enforcement.

Any person who violates any provision of this ordinance or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

For purposes of this section, failure to file a registration statement within 30 days after a building becomes vacant property or within 30 days after assuming ownership of a vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of § 121-3 (4) or (5) of this ordinance, or such other matters as may be established by the rules and regulations of the municipal officer shall be deemed to be violations of this ordinance.

§ 121-6 Effective Date.

This ordinance shall become effective upon publication as provided by law.

§ 121-7 Severability.

If any of the provisions of this chapter shall be held invalid, the remainder shall remain valid and enforceable as provided by law.

ORDINANCE NO.: 6 - 2013

OF

APRIL 22, 2013

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

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

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

Code Section	Type of Fee	Amount
Chapter 121, Buildings, Vacant		
§ 121-3B (1)	Vacant building annual registration <u>and renewal</u> fee	\$900 <u>250.00 initial fee</u> <u>\$500.00 first renewal</u> <u>\$1,000.00 second renewal</u> <u>\$2,000.00 any subsequent renewal</u>

Section 2. This ordinance shall take effect on June 1, 2013.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

RESOLUTION NO.: 90 - 2013

OF

APRIL 22, 2013

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY
REVIEW ACT (SEQRA) FOR A STORMWATER AND DRAINAGE EASEMENT IN
CONNECTION WITH SETTLEMENT OF LITIGATION IN THE MATTER OF
CITY OF NEWBURGH V. MARK SARNA, SARNA ENTERPRISES, INC., MT.
AIRY/AIRE ESTATES INC., NEW WINDSOR DEVELOPMENT CO., LLC AND
DRAINAGE DISTRICT #6 – MT. AIRY ESTATES (THE RESERVE),
TOWN OF NEW WINDSOR, NEW YORK,
DECLARING THE EASEMENT TO BE AN UNLISTED ACTION,
ADOPTING THE ENVIRONMENTAL ASSESSMENT FORM,
ISSUING A NEGATIVE DECLARATION AND AUTHORIZING THE CITY
MANAGER TO EXECUTE ALL SEQRA DOCUMENTS**

WHEREAS, by Resolution No. 177-2009 of November 16, 2009, the City of Newburgh ratified authorizing sending Notice under the Clean Water Act, commencing litigation under the Clean Water Act for the protection of Brown's Pond, a secondary water supply and reservoir for the City of Newburgh; and

WHEREAS, by Resolution No. 235-2012 of December 10, 2012, the City of Newburgh authorized the City's attorneys to prepare a stipulation of settlement and settle the claim of the City of Newburgh against Mark Sarna, Sarna Enterprises, Inc., Mt. Airy/Aire Estates Inc., New Windsor Development Co., LLC And Drainage District #6 – Mt. Airy Estates (The Reserve), Town of New Windsor, New York under certain terms and conditions and further authorized the City Manager to execute documents as the City's attorney may require, to effectuate the settlement; and

WHEREAS, the City of Newburgh is the present owner in fee of the Newburgh Water Supply, Section 32, Block 2, Lot 53; a portion of which is located on the westerly side of Mt. Airy Road in the Town of New Windsor, County of Orange, State of New York, originally described in the deed recorded in the Orange County Clerk's Office in Liber 682 at Page 170, and more particularly depicted on that certain map entitled "Survey of the Property for City of Newburgh Brown's Pond Town of New Windsor Orange County, New York," dated August 25, 2008, by Roger J. Ferris Engineering and Land Surveying, P.C.; and

WHEREAS, by Indenture, dated May 28, 1975, filed in the Orange County Clerk's Office and recorded on June 2, 1975, in Liber 2008, page 783, the City of Newburgh conveyed to Mt. Airy Estates, Inc. a stormwater and drainage easement ("Easement"); and

WHEREAS, the stipulation of settlement requires an amendment to the Easement by an "Agreement Amending the Stormwater and Drainage Easement" ("Agreement"), a copy of which is attached here to, and review preceding execution of the Easement must comply with New York State Environmental Quality Review Act ("SEQRA") and the regulations contained within 6 NYCRR Part 617 (the "Regulations") with respect to the Easement; and

WHEREAS, pursuant to the SEQRA Regulations, the City has considered the significance of the potential environmental impacts of granting the Easement by (a) using the criteria specified in Section 617.7 of the SEQRA Regulations, and (b) examining the EAF for the Easement, including the facts and conclusions in Parts 1 and 2 of the EAF, together with other available supporting information, to identify the relevant areas of environmental concern and wishes to establish itself as Lead Agency for the granting of the Easement.

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

1. The City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6;
2. the Project constitutes an "Unlisted" action, as that term is defined in the SEQRA Regulations;
3. The Council hereby adopts Part 1 of the Environmental Assessment Form;
4. The Council hereby determines, based upon an examination of the EAF and other available supporting information and considering the magnitude and importance of each area of environmental concern, and based on the City's knowledge of the area surrounding the Easement, that the granting of the Easement will not have a significant adverse environmental impact, will not require the preparation of a Draft Environmental Impact Statement;
5. Having determined that there are no areas of potentially large impact of environmental concern, the Council hereby issues a Negative Declaration pursuant to SEQRA with respect to the impact of the Easement upon the environment;

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to sign and file any/and all other documents that may be necessary to complete the SEQRA process for the Project.

Appendix C

State Environmental Quality Review

SHORT ENVIRONMENTAL ASSESSMENT FORM

For UNLISTED ACTIONS Only

PART I - PROJECT INFORMATION (To be completed by Applicant or Project Sponsor)

1. APPLICANT/SPONSOR Mt Airy Reserve/ City of Newburgh	2. PROJECT NAME Amended Easement
3. PROJECT LOCATION: Municipality <u>Town of New Windsor</u> County <u>Orange</u>	
4. PRECISE LOCATION (Street address and road intersections, prominent landmarks, etc., or provide map) Newburgh Water Supply, Westerly Side of Mt. Airy Road; Section 32, Block 2, Lot 53; a portion of which is located on the Westerly side of Mt. Airy Road in the Town of New Windsor, County of Orange, State of New York.	
5. PROPOSED ACTION IS: ☐ New ☐ Expansion ☒ Modification/alteration	
6. DESCRIBE PROJECT BRIEFLY: Amended Easement for stormwater Management off of the Mt. Airy (the Reserve) Development	
7. AMOUNT OF LAND AFFECTED: Initially <u>8.108</u> acres Ultimately <u>9.43</u> acres	
8. WILL PROPOSED ACTION COMPLY WITH EXISTING ZONING OR OTHER EXISTING LAND USE RESTRICTIONS? ☒ Yes ☐ No If No, describe briefly	
9. WHAT IS PRESENT LAND USE IN VICINITY OF PROJECT? ☒ Residential ☐ Industrial ☐ Commercial ☐ Agriculture ☐ Park/Forest/Open Space ☒ Other Describe: Newburgh Secondary Water Supply	
10. DOES ACTION INVOLVE A PERMIT APPROVAL, OR FUNDING, NOW OR ULTIMATELY FROM ANY OTHER GOVERNMENTAL AGENCY (FEDERAL, STATE OR LOCAL)? ☐ Yes ☒ No If Yes, list agency(s) name and permit/approvals:	
11. DOES ANY ASPECT OF THE ACTION HAVE A CURRENTLY VALID PERMIT OR APPROVAL? ☐ Yes ☒ No If Yes, list agency(s) name and permit/approvals:	

12. AS A RESULT OF PROPOSED ACTION WILL EXISTING PERMIT/APPROVAL REQUIRE MODIFICATION?

☐ Yes ☒ No

I CERTIFY THAT THE INFORMATION PROVIDED ABOVE IS TRUE TO THE BEST OF MY KNOWLEDGE

Applicant/sponsor name: _____ Date: _____

Signature: _____

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with is assessment

OVER
1

PART II - IMPACT ASSESSMENT (To be completed by Lead Agency)

A.DOES ACTION EXCEED ANY TYPE I THRESHOLD IN 6 NYCRR, PART 617.4? If yes, coordinate the review process and use the FULL EAF.

☐ Yes ☒ No

B. WILL ACTION RECEIVE COORDINATED REVIEW AS PROVIDED FOR UNLISTED ACTIONS IN 6 NYCRR, PART 617.6? If No, a negative declaration may be superseded by another involved agency.

☐ Yes ☒ No

C.COULD ACTION RESULT IN **ANY** ADVERSE EFFECTS ASSOCIATED WITH THE FOLLOWING: (Answers may be handwritten, if legible)

C1. Existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic pattern, solid waste production or disposal, potential for erosion, drainage or flooding problems? Explain briefly:

No

C2. Aesthetic, agricultural, archaeological, historic, or other natural or cultural resources; or community or neighborhood character? Explain briefly:

No

C3. Vegetation or fauna, fish, shellfish or wildlife species, significant habitats, or threatened or endangered species? Explain briefly:

No

C4. A community's existing plans or goals as officially adopted, or a change in use or intensity of use of land or other natural resources? Explain briefly:

No

C5. Growth, subsequent development, or related activities likely to be induced by the proposed action? Explain briefly:

No

C6. Long term, short term, cumulative, or other effects not identified in C1-C5? Explain briefly:

No

C7. Other impacts (including changes in use of either quantity or type of energy? Explain briefly:

No

D. WILL THE PROJECT HAVE AN IMPACT ON THE ENVIRONMENTAL CHARACTERISTICS THAT CAUSED THE ESTABLISHMENT OF A CRITICAL ENVIRONMENTAL AREA (CEA)?

☐ Yes ☒ No If Yes, explain briefly:

E.IS THERE, OR IS THERE LIKELY TO BE, CONTROVERSY RELATED TO POTENTIAL ADVERSE ENVIRONMENTAL IMPACTS?

☐ Yes ☒ No If Yes, explain briefly:

PART III - DETERMINATION OF SIGNIFICANCE (To be completed by Agency)

INSTRUCTIONS: For each adverse effect identified above, determine whether it is substantial, large, important or otherwise significant. Each effect should be assessed in connection with its (a) setting (i.e. urban or rural); (b) probability of occurring; (c) duration; (d) irreversibility; (e) geographic scope; and (f) magnitude. If necessary, add attachments or reference supporting materials. Ensure that explanations contain sufficient detail to show that all relevant adverse impacts have been identified and adequately addressed. If question d of part ii was checked yes, the determination of significance must evaluate the potential impact of the proposed action on the environmental characteristics of the CEA.

☐ Check this box if you have identified one or more potentially large or significant adverse impacts which **MAY** occur. Then proceed directly to the FULL EAF and/or prepare a positive declaration.

☒ Check this box if you have determined, based on the information and analysis above and any supporting documentation, that the proposed action WILL NOT result in any significant adverse impacts AND provide, on attachments as necessary, the reasons supporting this determination.

Name of Lead Agency

Date

Print or Type Name of Responsible Officer in Lead Agency

Title of Responsible Officer

Signature of Responsible Officer in Lead Agency

Signature of Preparer (If different from responsible officer)

AGREEMENT AMENDING STORMWATER AND DRAINAGE EASEMENT

THIS AGREEMENT AMENDING STORMWATER AND DRAINAGE EASEMENT ("Agreement") is made and entered into this ____ day of _____ 2013 by and between the City of Newburgh, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 (hereinafter referred to as "Grantor" or "City"), and Mt. Airy Estates, Inc., a New York Corporation with offices at 15 Engle Street, Suite 100, Englewood, New Jersey 07631 (hereinafter referred to as "Grantee" or "Mt. Airy"). Grantor and Grantee may hereinafter be referred to as the "parties" collectively.

WITNESSETH

WHEREAS, Grantor is the present owner in fee of the Newburgh Water Supply, Section 32, Block 2, Lot 53; a portion of which is located on the westerly side of Mt. Airy Road in the Town of New Windsor, County of Orange, State of New York, originally conveyed in the deed recorded in the Orange County Clerk's Office in Liber 682 at Page 170 and more particularly described and depicted on that certain map entitled "Survey of the Property for City of Newburgh Brown's Pond Town of New Windsor Orange County, New York," dated August 25, 2008, by Roger J. Ferris Engineering and Land Surveying, P.C., (the "Premises"), such survey attached hereto as Exhibit A (hereinafter "Survey Map");

WHEREAS, by Indenture, dated May 28, 1975, filed in the Orange County Clerk's Office and recorded on June 2, 1975, in Liber 2008, page 783, Grantor conveyed to Grantee a stormwater and drainage easement ("1975 Easement");

WHEREAS, the land which is subject to the 1975 Easement and this Agreement is that portion of the Premises which is fully depicted on the Survey Map ("Easement Area");

WHEREAS, this Easement Area, as depicted on the Survey Map, is 9.43 acres, as

opposed to the 8.108 acres of the Premises which was affected by the 1975 Easement; and

WHEREAS, the parties desire to clarify and amend the 1975 Easement by this Agreement.

NOW THEREFORE, in consideration of the obligations and covenants set forth in the 1975 Easement and this Agreement, and pursuant to an additional agreement between the parties, and other good and valuable consideration paid by Grantee, the receipt and sufficiency of which are hereby acknowledged, the parties, do hereby covenant and agree as follows:

1. The recitals set forth above are true and correct and are hereby incorporated herein by this reference.
2. The City conveys to Mt. Airy, a perpetual, nonexclusive easement for stormwater management and control; erosion and sediment control; and drainage, collection and settlement; and related objectives; all for the purpose of draining in an environmentally sound manner stormwater and surface water released from the Mt. Airy/Aire Estates (The Reserve) subdivision (the "Mt. Airy Estates") and directed to, on, across and into the Easement Area in the manner as set forth in provisions 3 and 4 of this Agreement.
3. The easement rights and obligations conveyed by the Agreement to Mt. Airy are for the installation and operation of the Stormwater Facilities (as this term is defined below herein), which includes the construction and continued use, ownership, maintenance and repair of those Stormwater Facilities in and outside the Easement Area, which Stormwater Facilities are depicted on the drawing "Mt. Airy Estates AKA The Reserve Proposed SMP Improvements" dated March 19, 2013, last revised April 17, 2013 and included in the April 2013 Modification Draft Modification of Stormwater Pollution Prevention Plan for Mount Airy Estates (the "Storm Drainage Map"), attached hereto as Exhibit B, and including all Stormwater Facilities shown on the Storm Drainage Discharge As-built Survey, prepared by Leo J. Carroll, P.E., L.S. &

Associates, dated 11-11-08 (the "As-Built Survey"), attached hereto as Exhibit C, and such

Stormwater Facilities will be installed and operated in the following manner:

(i) SMP-1:

- a. SMP-1 is currently configured as a sediment basin;
- b. After the permanent stabilization of the contributing drainage area(s) to SMP-1 is complete, SMP-1 will be reconfigured as a micro-pool extended detention pond in accordance with the February 2007 SWPPP;
- c. Approximately 25 feet of 48 inch diameter (25' of 48") HDPE pipe enters the Easement Area north of Revere Run and terminates at the inlet on the south side of SMP-1;
- d. Approximately 15 feet of 15 inch diameter (15' of 15") HDPE pipe enters the Easement Area north of lot 77-3-9 and terminates at the inlet on the south side of SMP-1;
- e. A four (4) inch PVC outlet pipe exits SMP-1 through the emergency spillway, drains into wetlands and then drains to Brown's Pond within the Easement Area;
- f. An Emergency spillway on east side of SMP-1 that drains into wetlands and then to Brown's Pond within the Easement Area;
- g. Approximately 300 feet of 4 inch (300' of 4") underground underdrain pipe that exits SMP-1 at its northeast corner, surfaces in the wetlands, and drains to Brown's Pond within the Easement Area; and

(ii) SMP-2:

- a. SMP-2 is currently configured as a sediment basin;
- b. After the permanent stabilization of the contributing drainage area(s) to SMP-2 is complete, SMP-2 will be reconfigured as a micro-pool extended detention pond in accordance with the February 2007 SWPPP;
- c. Approximately 160 feet of 24 inch diameter (160' of 24") HDPE pipe enters the Easement Area east of Independence Drive and terminates at the inlet in the southwest corner of SMP-2;
- d. Approximately 30 feet of 24 inch diameter (30' of 24") HDPE pipe enters the Easement Area east of the intersection of Liberty Ridge and Independence Drive and terminates at the inlet on western side of SMP-2;
- e. Approximately 75 feet of 36 inch diameter (75' of 36") HDPE pipe enters the Easement Area east of McKinley Court and terminates at the inlet in the northwest corner of SMP-2;
- f. A four (4) inch PVC underground outlet pipe exits through the emergency spillway, drains into wetlands and then drains to Brown's Pond within the Easement Area;
- g. An Emergency spillway on east side of SMP-2 that drains into wetlands and then to Brown's Pond within the Easement Area;

- h. Approximately 35 feet of 4 inch diameter (35' of 4") PVC underground outlet pipe that exits through the emergency spillway, drains into wetlands and then drains to Brown's Pond within the Easement Area;
- i. 180 feet of 12 inch diameter (180' of 12") HDPE underground outlet pipe that, exits the ground through a twelve (12) inch gate valve at the emergency spillway, drains into wetlands and then drains to Brown's Pond within the Easement Area;
- j. Approximately 160 feet of 4 inch diameter (160' of 4") underground underdrain pipe that passes through the east side of SMP-2, exits the ground in the wetlands, and then drains into Brown's Pond within the Easement Area;
- k. Two (2) twenty-five foot (25') trench drains located in the spillway east of SMP2 that drain to the wetlands and then drain to Brown's Pond within the Easement Area; and

(iii) SMP-3:

- a. SMP-3 currently discharges through the existing 36 inch (36") pipe to the inlet of SMP-2;
- b. The discharge to SMP-2 will be removed and replaced by a discharge through the 40' of 36" diameter HDPE underground pipe;
- c. 40' of 36" diameter HDPE underground pipe with a flared end section located south of SMP 3 surfaces and discharges first into rip rap 22 feet long with a maximum width of 25' then into wetlands, and ultimately into the Easement Area at the point as indicated by the Storm Drainage Map and into Brown's Pond within the Easement Area; and

(iv) 24 inch diameter HDPE standpipe located on the west side of Mount Airy Road, in the eastern side of Brown's Pond within the easement area; and

(v) Including all facilities shown on the Storm Drainage Discharge As-built Survey, prepared by Leo J. Carroll, P.E., L.S. & Associates, dated 11-11-08.

4. In addition to the foregoing, said easement rights and obligations conveyed by the

Agreement regarding access to the Easement Area are as follows:

(i) to enter upon the Easement Area, by men and machines, as necessary in order to install and operate the Stormwater Facilities;

(ii) to construct, as necessary, improvements to the Stormwater Facilities, the construction of and access to administer improvements both being subject to prior approval by the City, which approval shall not be unreasonably withheld; and

(iii) access to the Easement Area will only be provided from Revere's Run, through the 10 feet wide drainage easement off of Independence Drive, and through the 10 feet wide drainage easement off of McKinley Court.

5. The term "Stormwater Facilities" means the storm water management pools referred to on the Storm Drainage Map as SMP-1, SMP-2 and SMP-3, which includes but is not limited to swales, pipes, drainage ways and all appurtenances, as those terms are utilized or shown in the Storm Drainage Map and the As-Built Survey, and as they may subsequently be improved as necessary and in accordance with this Agreement and City approval.

6. The City reserves the full right of use and enjoyment of the Premises and the Easement Area, subject to this Agreement and the easement rights granted herein, and provided that no act or omission of the City adversely affects the intents and purposes of this Agreement or Mt. Airy's rights hereto.

7. Mt. Airy shall indemnify, defend and hold harmless the City from any injury, cost or claim for damages made against the City, due to (i) flooding onto adjoining properties or (ii) damage caused by installation or negligent operation of Mt. Airy's Stormwater Facilities.

8. The parties recognize that upon completion of the roads in the subdivision and takeover of the roads and the Stormwater Facilities by the Town of New Windsor, the roads, along with the rights, covenants and obligations passed under this Agreement will be conveyed to the Town of New Windsor.

9. This Agreement shall run with the land, which is referred to herein as the Easement Area, and shall inure to the benefit of Mt. Airy and its heirs or successors and assigns. All rights, remedies, liabilities, covenants and agreements herein given to or imposed upon either of the parties hereto shall inure to and be binding upon the successors and assigns of the City and Mt. Airy.

10. Mt. Airy shall not use or occupy or knowingly permit the Easement Area or any part thereof to be used in a manner or occupied for a purpose contrary to federal, State, or local law.

11. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement, and the application of such term or provision to persons or circumstances other than those as to which it was held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without regard to conflicts of laws principles.

13. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

14. This Agreement contains the entire agreement between the parties with respect to the easement rights and obligations granted, made and conveyed herein, and any prior or contemporaneous agreement, whether written or oral, shall be of no force or effect over the terms herein. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing and signed by each of the parties or their successors and assigns.

[signatures appear on next page]

IN WITNESS WHEREOF, the parties hereto have executed this instrument the day and
year first above written.

MT. AIRY ESTATES, INC.

CITY OF NEWBURGH

By: _____

By: _____

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

On _____, 2013, before me, the undersigned, a Notary Public in and
for said State, 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/she/they executed the same in his/her/their
capacity, and that by his/her/their signature on the instrument, the individual or the person upon
behalf of which the individual acted, executed the instrument.

Notary Public, State of New York

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

On _____, 2013, before me, the undersigned, a Notary Public in and
for said State, 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/she/they executed the same in his/her/their
capacity, and that by his/her/their signature on the instrument, the individual or the person upon
behalf of which the individual acted, executed the instrument.

Notary Public, State of New York

RESOLUTION NO.: 91 - 2013

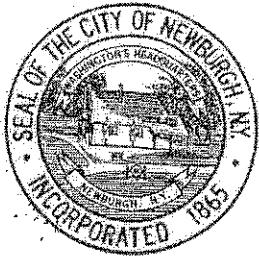
OF

APRIL 22, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$ 40,911.00 FROM CONTINGENCY TO CODE ENFORCEMENT
TO FUND A CODE ENFORCEMENT OFFICER
DEDICATED TO BROADWAY FOR THE REMAINDER OF 2013

BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900 Special Items		
.1990 Contingency	\$ 40,911.00	
A.3620 Code Enforcement Department		
.0101 Salary		\$ 29,532.00
.0107 Longevity		\$ 1,600.00
.0810 Retirement		\$ 6,507.00
.0830 Social Security		\$ 2,382.00
.0835 MTA		\$ 106.00
.0880 CSEA EBF		\$ 784.00



CITY OF NEWBURGH COUNCIL MEETING AGENDA

April 22, 2013

7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call
4. City Clerk's report for March
5. Registrar of Vital Statistics report for March
6. Civil Service Administrator's report for March/April

Presentations:

7. Certificates of Appreciation for the partners involved in the 2013 Gun Buy Back Initiative

Communications:

8. Approval of the minutes of the April 4, 2013 work session and the April 8, 2013 City Council meeting
9. Notice of Claim: Deborah Perez v. City of Newburgh
10. Notice of Claim: Eleonora Yudovich v. City of Newburgh
11. Notice of Claim: Cesa Lujan v. City of Newburgh
12. Notice of Claim: Jessica Olivencia v. City of Newburgh
13. Notice of Claim: Christopher Page v. City of Newburgh
14. Notice of Claim: Maria Vacante v. City of Newburgh

Public Hearing:

15. A public hearing concerning an ordinance to amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances to add a section related to "large-scale mixed use development special use permit".

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

16. Reminder: Newburgh Clean up day is Saturday, April 27
17. Resolution No. 81 - 2013
A resolution authorizing the City Manager to execute a contract with Workforce Development Institute to develop a business advisory council of local employers to provide employment opportunities for qualified City of Newburgh residents at a cost of \$50,000.00
18. Resolution No. 82 - 2013
A resolution authorizing the City Manager to enter into natural gas and electric contracts with Hess Corp. through the Municipal Electric and Gas Alliance for a two-year term at a fixed rate.
19. Resolution No. 83 - 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$1,004,000.00 from fund balance to capital fund for the purpose of purchasing vehicles.
20. Resolution No. 84 - 2013
A resolution authorizing the City Manager to execute an agreement with International Data Base Corp. d/b/a Interactive Procurement Technologies by Bidnet to provide for web-based solicitation and bidding services.
21. Resolution No. 85 - 2013
A resolution authorizing the City Manager to execute a license agreement with Precision Pipeline solutions to allow access to City-owned property as a staging area for pipe, equipment and related materials for various projects during the 2013 construction season.
22. Resolution No. 86 - 2013
A resolution authorizing the City Manager to execute a license agreement with Kiska Construction to allow access to City-owned property as a staging area and for purposes relating to maintenance and repair of the Route 9W Bridge by the New York State Department of Transportation.
23. Resolution No. 87 - 2013
A resolution authorizing the City Manager to enter into agreements with various parties to provide performing artists and related services in connection with the Newburgh Illuminated Festival.

24. Resolution No. 88 - 2013
A resolution of the City Council of the City of Newburgh opposing the proposed merger of CH Energy Group, Inc. with Fortis, Inc.
25. Resolution No. 89 - 2013
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Watanabe Studio Ltd. to the premises known as One Edward Street.
26. Ordinance No. 4 - 2013
An ordinance to amend Article VII, entitled "Special Use Permits" of Chapter 300 of the Code of Ordinances of the City of Newburgh entitled "Zoning" by adding Section 300-38 entitled "Large-Scale Mixed-Use Development Special Permit".
27. Ordinance No. 5 - 2013
An ordinance rescinding the language contained in Chapter 121 entitled "Buildings, Vacant" of the Code of Ordinances of the City of Newburgh and amending Chapter 121 entitled "Buildings, Vacant" to require the maintenance of vacant properties in the City of Newburgh, establishing registration requirements, and levying a registration fee on owners of vacant properties.
28. Ordinance No. 6 - 2013
An ordinance amending Chapter 163 entitled "Fees" of the Code of the City of Newburgh. (relates to Chapter 121, Buildings, Vacant)
29. Resolution No. 90 - 2013
A resolution of the City Council of the City of Newburgh assuming lead agency status under the State Environmental Quality Review Act (SEQRA) for a stormwater and drainage easement in connection with the settlement of litigation in the matter of City of Newburgh v. Mark Sarna, Sarna Enterprises, Inc., Mt. Airy/Airy Estates, Inc., New Windsor Development Co., LLC and Drainage District No. 6, Mount Airy Estates, the Reserve, Town of New Windsor, New York, declaring the easement to be an unlisted action, adopting the Environmental Assessment Form, issuing a negative declaration and authorizing the City Manager to execute all SEQRA documents.
30. Resolution No. 91 - 2013
A resolution amending Resolution No. 223-2012, the 2013 Budget for the City of Newburgh, New York to transfer \$40,911.00 from Contingency to Code Enforcement to fund a code enforcement officer dedicated to Broadway for the remainder of 2013.

Old Business:

31. Audio recording of November 19, 2012 Work Session discussion

Agenda - City Council Meeting
April 22, 2013

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

City of Newburgh, Newburgh New York
Work Session of the City Council

Thursday, April 4, 2013

Members Present: Mayor Judy Kennedy
Councilwoman Regina Angelo
Councilman Cedric Brown
Councilman Curlie Dillard
Councilwoman Gay Lee

Also Present: Richard F. Herbek, City Manager
Michelle Kelson, Corporation Counsel

Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 6:00 pm.

Executive Session: At 8:26 p.m. a motion was made by Councilwoman Angelo and seconded by Councilwoman Lee to enter into executive session regarding matters of pending litigation.

YES: 5
NO: 0
CARRIED

Adjournment: Upon consensus, the Council adjourned at 9:20 p.m.

A regular meeting of the City Council of the City of Newburgh was held on Monday, April 8, 2013 at 7:00 P.M. in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

The Prayer was led by Pastor Donie Murphy with New Beginnings Church followed by the Pledge of Allegiance.

Councilman Brown asked for a Moment of Silence for Sgt. Joe Lee who we lost last week.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee - 5

Councilwoman Angelo moved and Councilwoman Lee seconded that the Minutes of the March 21, 2013 Work Session and the March 25, 2013 City Council Meeting be approved.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notices of Claim be referred to Corporation Counsel with power to act.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

CARRIED



City of Newburgh Proclamation

National Service Day

April 9, 2013

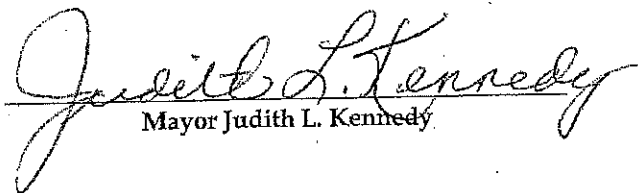
Service to others is a hallmark of the American character, and central to how we meet our challenges, and national service participants such as AmeriCorps and Senior Corps serve in more than 70,000 locations across the country, including the City of Newburgh.

These participants bolster our civic, neighborhood, and faith-based organizations that are so vital to our economic and social well-being.

National service represents a unique public-private partnership that helps create more sustainable and resilient communities while providing education, career skills and leadership opportunities for those who serve.

The Corporation for National and Community Service is joining with mayors across the country to support the Mayors Day of Recognition for National Service on April 9, 2013; therefore

I, Judith L. Kennedy, Mayor of the City of Newburgh, NY, do hereby proclaim April 9, 2013, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our City, to thank those who serve; and to find ways to give back to their communities.


Mayor Judith L. Kennedy

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

There were no comments.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

There were no comments.

CITY MANAGER'S REPORT

City Manager, Richard Herbek, reminded everyone that April 27, 2013 will be Newburgh Clean Up Day. He asked everyone in the community to come out and do whatever they possibly can to help.

RESOLUTION NO.: 69 - 2013

OF

APRIL 8, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$2,400.00 FROM CONTINGENCY TO
CITY COUNCIL AND MAYOR EMPLOYEE BENEFIT
IN CONNECTION WITH DENTAL AND VISION PLANS
WHICH WOULD COVER JULY 1, 2013 THROUGH DECEMBER 31, 2013

BE IT RESOLVED, by the Council of the City of Newburgh, that
Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby
amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900 Special Items	\$2,400.00	
.1990 Contingency - Emergency		
A.1010 City Council		\$1,800.00
.0880 Employee Benefit		
A.1210 Mayor		
.0880 Employee Benefit		\$ 600.00

Councilwoman Angelo moved and Councilwoman Lee seconded that
the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman
Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 70 - 2013

OF

APRIL 8, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$1,200.00 FROM CONTINGENCY TO
FIRE DEPARTMENT OTHER EQUIPMENT IN CONNECTION
WITH THE PURCHASE OF DECIBEL METERS

BE IT RESOLVED, by the Council of the City of Newburgh, that
Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby
amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900 Special Items	\$1,200.00	
.1990 Contingency		
A.3412 Fire Department		\$1,200.00
.0205 Other Equipment		

Councilwoman Angelo moved and Councilwoman Lee seconded that
the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman
Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 71 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO
HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC.
TO THE PREMISES KNOWN AS 45 CHAMBERS STREET
(SECTION 30, BLOCK 4, LOT 12)**

WHEREAS, on June 7, 2012, the City of Newburgh conveyed property located at 45 Chambers Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 4, Lot 12, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, in preparation for the sale of 45 Chambers Street to the homeowner Habitat for Humanity 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 and its further development to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 of the aforementioned deed.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

**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 45 Chambers Street, Section 30, Block 4, Lot 12 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 in a deed dated June 7, 2012, from THE CITY OF NEWBURGH to HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC., recorded in the Orange County Clerk's Office on June 15, 2012 in Liber 13358 of Deeds at Page 1005 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: _____, 2013

THE CITY OF NEWBURGH

By:

RICHARD F. HERBEK
City Manager

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

On the ____ day of _____ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

RESOLUTION NO.: 72 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO
HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC.
TO THE PREMISES KNOWN AS 47 CHAMBERS STREET
(SECTION 30, BLOCK 4, LOT 11)**

WHEREAS, on June 7, 2012, the City of Newburgh conveyed property located at 47 Chambers Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 4, Lot 11, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, in preparation for the sale of 47 Chambers Street to the homeowner Habitat for Humanity 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 and its further development to grant such request;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 of the aforementioned deed.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

**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 47 Chambers Street, Section 30, Block 4, Lot 11 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, 6 and 7 in a deed dated June 7, 2012, from **THE CITY OF NEWBURGH** to **HABITAT FOR HUMANITY OF GREATER NEWBURGH, INC.**, recorded in the Orange County Clerk's Office on June 15, 2012 in Liber 13358 of Deeds at Page 1011 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: _____, 2013

THE CITY OF NEWBURGH

By:

RICHARD F. HERBEK
City Manager

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

On the ____ day of _____ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

RESOLUTION NO.: 73 - 2013

OF

APRIL 8, 2013

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF ARTICLE VII, ENTITLED "SPECIAL USE PERMITS" OF THE ZONING ORDINANCE OF THE CITY OF NEWBURGH, DECLARING THE PROJECT TO BE AN UNLISTED ACTION, CONSIDERING AN ENVIRONMENTAL ASSESSMENT FORM(EAF), REFERRING SAME TO THE ORANGE COUNTY PLANNING DEPARTMENT AS REQUIRED BY SECTION 239 OF THE GENERAL MUNICIPAL LAWS AND SCHEDULING A PUBLIC HEARING

WHEREAS, by Resolution No. 194-2012 of October 22, 2012, the City Council of the City of Newburgh, New York authorized the City Manager to execute the attached Development and Land Disposition Agreement with Mill Street Partners, LLC (the "Development Agreement") for the redevelopment of the Mid-Broadway site; and

WHEREAS, the Development Agreement obligates the City to adopt modifications to the Zoning Code to permit the proposed development; and

WHEREAS, consistent with the City's Future Land Use Plan and Map, adopted by Resolution No. 172-2011 of September 12, 2011, the City is proposing to adopt an amendment to Article VII, entitled "Special Use Permits" of Chapter 300 of the Code of Ordinances, to add Section 300-38 entitled Large-Scale Mixed-Use Development Special Permit, which will permit the proposed development project at the Mid-Broadway site and allow for other mixed-use development to proceed in the future; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the action to be an Unlisted action, proposes to accept as complete an Environmental Assessment Form ("EAF"), refer the proposed ordinance to the Orange County Planning Department pursuant to General Municipal Law Section 239, and schedule a public hearing in connection with the proposed legislation.

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 declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6; and
2. Classifies the action as an Unlisted Action; and
3. Proposes to accept as complete the Environmental Assessment Form ("EAF") attached hereto; Refers the proposed Ordinance to the Orange County Planning Department as required by General Municipal Law Section 239; and
4. Schedules a public hearing to receive comments concerning "An Ordinance to Amend Article VII, entitled "Special Use Permits" of Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to Add Section 300-38 entitled "Large-Scale Mixed-Use Development Special Use Permit"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 22nd day of April, 2013, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 74 - 2013

OF

APRIL 8, 2013

**A RESOLUTION TO AUTHORIZE THE AWARD OF A BID
AND TO EXECUTE AN AGREEMENT FOR VENDOR SERVICES
WITH ECONOMY CLEANERS
TO PROVIDE UNIFORM CLEANING SERVICES
TO THE CITY OF NEWBURGH POLICE DEPARTMENT**

WHEREAS, the City of Newburgh Police Department has implemented a Quartermaster system for issuing police uniforms which requires that the uniforms be cleaned on a regular basis prior to issuance to police officers; and

WHEREAS, the City of Newburgh has duly advertised for bids for the Uniform Cleaning Services for the City of Newburgh Police Department; and

WHEREAS, bids have been duly received and opened and Economy Cleaners is the low bidder; and

WHEREAS, the fees for items to be cleaned weekly are a flat rate price of \$9.95 for 2 pants and 2 shirts, 4 items of combination, and items to be cleaned on occasion are dress blouse \$3.25 each; winter jacket \$8.00 each; and vest cover \$2.25 each; and

WHEREAS, the quoted prices are fixed and guaranteed for the length of the contract for a term of one (1) year with no annual price index increases; and

WHEREAS, such contract is in the best interests of the Police Department and the citizens of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the Uniform Cleaning Services be and it hereby is awarded to Economy Cleaners and that the City Manager is hereby authorized to enter into a contract for such work in the aforesaid amounts, funds to be had from budget line A.3120.0448.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

74-13

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2013, 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 Economy Cleaners, a firm with principal offices at 567 Broadway, Newburgh, New York, 12550, hereinafter referred to as "VENDOR."

ARTICLE 1. SCOPE OF WORK

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning May 1, 2013, and ending April 30, 2014.

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 B, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set

forth in Schedule 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 within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

ARTICLE 6. CONFLICT OF INTEREST

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

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies 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 separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

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

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance

covering personal injury and property damage, and other insurance as may be required by law and as VENDOR may require.

ARTICLE 14. INDEMNIFICATION

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

ARTICLE 16. 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 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

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 17. 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 18. 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 19. 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 20. 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 21. 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.

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

THE CITY OF NEWBURGH

ECONOMY CLEANERS

BY: _____
RICHARD F. HERBEK,
CITY MANAGER

BY: _____
NAME:
TITLE:

DATE: _____

DATE: _____

APPROVED AS TO FORM:

MICHELLE KELSON,
CORPORATION COUNSEL

DATE: _____

KATHRYN NIVINS,
ACTING CITY COMPTROLLER

DATE: _____

SCHEDULE A

SCOPE OF SERVICES

UNIFORM CLEANING SERVICES

3.0 CLEANING:

- A. All uniforms are to be thoroughly cleaned and have all stains removed through laundering procedures in accordance with manufacturer's specifications.
- B. All garments are to be spotted for stains and treated with the proper chemicals to insure their removal.
- C. All cleaning chemicals used must meet or exceed current environmental and safety requirements.
- D. The final rinse water shall be brought to a PH of between 5.5 and 6.0.
- E. Officer pants are to be hung on a 13 gauge hanger with a no slip trouser guard.
- F. Officer shirts are to be hung on a 14 gauge executive shirt hanger.
- G. All garments are to be twist-tied and bagged in plastic cover.
- H. All invoices shall be sent to the Police Department on a monthly basis with a summary of all services attached. Such shall be mailed to: City of Newburgh Police Department, 83 Broadway, Newburgh, NY 12550.

SCHEDULE B

FEES AND EXPENSES

CLEANING PRICE RATE

1. ITEMS TO BE CLEANED WEEKLY - PRICED AT A FLAT RATE:

2 OFFICERS PANTS
2 OFFICERS SHIRTS
4 ITEMS OF COMBINATION \$ 9.95 FLAT RATE PRICE

2. ITEMS TO BE CLEANED ON OCCASION - PRICED PER ITEM:

DRESS BLOUSE \$ 3.25 PRICE EACH
WINTER JACKET \$ 8.00 PRICE EACH
VEST COVER \$ 2.25 PRICE EACH

Quoted prices are fixed and guaranteed for the length of the contract with no annual price index increases.

RESOLUTION NO.: 75 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO A LICENSE AGREEMENT WITH HOUSE OF REFUGE
TO ALLOW USE OF CITY OWNED PROPERTY LOCATED AT
140 BROADWAY FOR THE TUESDAY FARM MARKET**

WHEREAS, the City of Newburgh is the owner of several parcels of real property located at 132, 136, 138, 140, 140A, 144, 146 and 148 Broadway; 6, 10, 12, 16 and 18 Johnston Street; and 6, 8 and 10 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway"; and

WHEREAS, the Tuesday Farm Market has been held on the south side of Broadway between the House of Refuge and the Armory Building; and

WHEREAS, House of Refuge, the Tuesday Farm Market Manager and Orange County propose moving the Tuesday Farm Market to 140 Broadway, the City-owned land on the north side of Broadway, commonly referred to as the "Mid-Broadway site"; and

WHEREAS, the benefits of moving the Tuesday Farm Market include:

1. To provide greater visibility to attract more buyers and vendors;
2. To promote positive activity on Broadway; and
3. To provide more space for Orange County agencies to provide information and conduct demonstrations for the community; and

WHEREAS, moving the Tuesday Farm Market to 140 Broadway the requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be 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 Manager be and he is hereby authorized to enter into the attached license agreement with House of Refuge to allow access to and use of several City-owned properties for the purpose of holding the Tuesday Farm Market.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5
ADOPTED

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and thirteen, by and between the HOUSE OF REFUGE, with offices at _____ as "LICENSEE; and 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 as "LICENSOR";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor and in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following address:

132, 136, 138, 140, 140A, 144, 146 and 148 Broadway; 6, 10, 12, 16 and 18 Johnston Street; and 6, 8 and 10 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway".

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

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

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at 140 Broadway, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, tables, chairs and other materials as may be necessary; for the purposes of hosting a farmer's market, including but not limited to the sale of farm products, produce and other general information and demonstrations by Orange County agencies on property owned by Licensor. No permanent improvements may be erected on the premises.

Second: Licensee agrees to use and maintain said facilities 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.

Third: Licenser acknowledges that the use of the subject property shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licenser harmless against any claims, actions and proceedings brought against Licenser arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licenser as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fifth: This Agreement and the license or privilege term is from July 1, 2013 to September 30, 2013.

Seventh: 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 hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

Richard F. Herbek, City Manager

HOUSE OF REFUGE

LICENSEE

By:

Bishop Jeffrey Woody

RESOLUTION NO.: 76 - 2013

OF

APRIL 8, 2013

**A RESOLUTION REAPPOINTING KATHY PARISI
TO THE BOARD OF ASSESSMENT REVIEW**

WHEREAS, it is necessary to appoint members to vacancies on the Board of Assessment Review; and

WHEREAS, each member of such Board serve a five-year term; and

WHEREAS, it is necessary to re-appoint one member whose term of office expired and who is willing to serve a new term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Assessment Review for the term indicated:

Kathy Parisi, to serve a new five-year term commencing retroactively on October 1, 2012 and expiring on September 30, 2017.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 77 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A DONATION OF A VEHICLE FROM THE
CITY OF PORT JERVIS TO BE USED
BY THE CITY OF NEWBURGH POLICE DEPARTMENT K-9 UNIT**

WHEREAS, the City of Port Jervis has offered to donate a 2005 Ford Crown Victoria to the City of Newburgh; and

WHEREAS, this contribution will be used by the City of Newburgh Police Department K-9 Unit; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to accept a 2005 Ford Crown Victoria from the City of Port Jervis, New York, with the appreciation and thanks of the City of Newburgh.

Councilwoman Lee asked if this is going to cost us anything.

City Manager, Richard Herbek, responded with a "no".

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 78 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
25th ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh will hold its annual International Festival from Friday, August 30, 2013 through Monday, September 2, 2013, dates inclusive; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding from proceeds from previous festivals available in a Trust and Agency Account and the 2013 City budget; and

WHEREAS, such agreements shall not exceed and the funds in the Trust and Agency Account and the 2013 Festival Budget;

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 the performing artists and providers of related necessary services in connection with the 25th Annual International Festival, with the net cost to the City of such agreements not to exceed the Trust and Agency Account proceeds and 2013 Festival Budget.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.: 79 - 2013

OF

APRIL 8, 2013

**A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF
ROSEANN DEGEORGE AGAINST THE CITY OF NEWBURGH IN THE
AMOUNT OF THREE THOUSAND FOUR HUNDRED NINETY-FIVE
DOLLARS**

WHEREAS, Roseann DeGeorge brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the settlement of the claim in the amount of Three Thousand Four Hundred Ninety-Five (\$3,495.00) Dollars in exchange for a release to resolve all claims among them; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorney is hereby authorized to settle the claim of Roseann DeGeorge in the total amount of Three Thousand Four Hundred Ninety-Five (\$3,495.00) Dollars, and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Brown, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 5

ADOPTED

RESOLUTION NO.:80 - 2013

OF

APRIL 8, 2013

**A RESOLUTION AUTHORIZING THE
EXTENSION OF TIME TO CLOSE TITLE ON THE PROPERTY
LOCATED AT 34 CARTER STREET (SECTION 22, BLOCK 2, LOT 26)
SOLD AT PRIVATE SALE TO STACEY BURKS**

WHEREAS, the Council of the City of Newburgh, New York, by Resolution No. 16-2013 of January 14, 2013, authorized the sale of 34 Carter Street (Section 22, Block 2, Lot 26) to Stacey Burks; and

WHEREAS, Mr. Burks resides at said premises; and

WHEREAS, he is requesting an additional of time to close due to unforeseen circumstances in obtaining the necessary funds for the purchase price; and

WHEREAS, this Council has determined that granting the requested extension would be in the best interests of the City of Newburgh and the future homeowner;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 34 Carter Street is hereby authorized and that the closing shall take place on or before June 13, 2013, that date being sixty (60) days from the date set forth in Resolution No. 16-1013 of January 14, 2013.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy - 4

Nays - Councilman Brown - 1

ADOPTED

OLD BUSINESS

There was no old business

NEW BUSINESS

Councilman Brown said that several months ago they spoke with the City Manager about raises and told him that he was not to issue any raises until the Budget. That didn't happen because the City Manager actually issued raises to two employees of the City of Newburgh and he believes that was insubordination. He said that he left it alone primarily because the Budget was coming up in a few months and when they had their last meeting prior to the approval of the Budget the Council discussed what should and shouldn't be in the Budget and part of that discussion was the raises. The Mayor specifically said that all salaries are to return to 2012 salaries and that our City Engineer was to keep half of his salary. That is what he heard and that is what he voted on. Unfortunately they didn't get the Payroll Book prior to voting on the Budget which is essentially a problem because if he had had the Payroll Book prior to voting on the Budget he never would have voted on it because in his opinion there were errors in the Payroll Book. The Fire Chief maintained his salary with about an additional \$7,000.00 and Craig received an increase of about \$13,000.00 which is not what he agreed on. The Fire Chief was supposed to go back to his 2012 salary which was about \$103,000.00 and Craig was to get half of his raise which was only supposed to be about \$7,000.00. That didn't happen and it shows in the Payroll Book. When he got his Payroll Book he immediately e-mailed Councilman Dillard and Mayor Kennedy and asked them what they wanted to do about this problem. The response from the Mayor was that she didn't feel they should tackle it at this time and he didn't hear back from Councilman Dillard. This has been bothering him up until this point. He said that he was elected to this seat for a vote and when he votes on financial matters he is voting for the taxpayers of this City because they are the ones who hold the bill. His vote was not to give anybody in the Non-Bargaining any raise increases except for Craig who was to keep half of his raise and that was it. That is all he voted on. The Council members at this table all heard the same thing that he heard and if they want to dispute that they can. Anyone who was in that room that night heard exactly that. He said that he wants to be fair to all of the employees of this City including the Non-Bargaining employees. We were not in a position to give any raises to anybody last year. Craig came to the Council and asked for a raise and they told him directly that it would be considered in the next Budget but again that didn't happen. This year we have a little bit of money but if

anyone in the room thinks that three million dollars is a lot for a city of this size then he is here to tell them that they are wrong. Three million can be eaten up in minutes or a day because all it takes is a bad weather event or something like that to take that money right out of the Budget. They have to be concerned because the Police and CSEA are now in negotiations but more importantly they need to think forward to the Non-Bargaining who have not had a raise in about five years. How is it fair that two people are allowed to get raises and the other Non-Bargaining employees get none? On top of that they take his vote away. That is not what he was elected for. His vote is supposed to count whether it is a yes or a no. He said that he is going to draft a letter to the New York State Attorney General asking them to launch an investigation to a possible conspiracy between the former City Comptroller and the City Manager. Those people sat in this room and heard exactly what he heard so if they got something different then it is between those two people. If there was a question about who should have gotten what, both had ample amount of time to contact the City Council to get clarification on what should have been done. He added that he will be drafting that letter and he will copy it to all of the Council members, the City Manager, the Governor of New York State and the State Comptroller and we will go from there.

City Manager, Richard Herbek wished to speak.

Councilman Brown said that Mr. Herbek is not allowed to speak unless the Mayor allows him to speak.

City Manager, Richard Herbek said that is not accurate

Councilman Brown said that it is accurate. He has done his part and he is not allowed to speak.

City Manager, Richard Herbek told Councilman Brown that he would read the rules and procedures of the Council.

Councilman Brown told City Manager, Richard Herbek that he is not allowed to speak.

Mayor Kennedy said that they need to bring order back into the room. In order to process through this in a reasonable fashion, according to the Robert's Rules of Order they have to put a topic on the table, agree that they are going to discuss it and then discuss it. She said that on this topic they need to have order with it so everyone has to speak one at a time and they will move forward in that way.

Councilman Dillard said that this is a matter concerning employees so he asked Michelle Kelson, Corporation Counsel, if it should be discussed in Executive Session.

Michelle Kelson, Corporation Counsel, said that if they are talking about the appointment, removal or discipline of a particular person then they have a proper subject for Executive Session. If they are talking about information that is in the adopted Budget, then that may not be a subject for Executive Session.

Councilwoman Lee pointed out that she is really happy that Councilman Brown said that he contacted by e-mail Mayor Kennedy and Councilman Dillard to discuss what should happen at this City Council meeting and he specifically did not say that he e-mailed or contacted her or Councilwoman Angelo.

Councilman Brown said, *"Because I didn't"*.

Councilwoman Lee added that they had a discussion in Executive Session about these salaries and not one of them said anything. It happened to be a day that Councilman Brown wasn't there. They discussed these salaries and they did give the City Manager permission to move forward by virtue of their silence.

Councilman Brown said, *"That's not true"*.

Councilwoman Lee told Councilman Brown not to interrupt her. She said, *"This is not an extension of your kitchen. If you want to bully someone, go home and do it"*.

Mayor Kennedy told Councilwoman Lee to stick to the topic and continue what she was saying.

Councilwoman Lee continued that the City Manager makes the decision. We have staff here who were given increases and those increases were pulled back so there was never a question about what was fair. This has come to the table several times and she wanted to point out that Mayor Kennedy and Councilman Dillard still haven't commented. It is back at the table now with Councilman Brown taking the lead as if he can call for an investigation on his own. She thinks that it is unfair and inappropriate and she is not in any way going to support such an investigation. She thinks that the increases that were given were due. Craig Marti does more than his fair share with an increased work load and they didn't give him another staff person. She thinks the same about Chief Vatter. It is time to stop with the

anger, the hatred and the bullying and give these men the increases they deserve and give the rest of the staff the increases that they deserve. It is not their fault that the funds were so poorly mismanaged that nobody could get an increase. It wasn't an extensive increase for the Non-Bargaining staff and they should have gotten something but the other three Council members said no.

Councilman Dillard said that he had no comment because this may end up in litigation and he may have to testify in Court.

City Manager, Richard Herbek said that he would like to say something and according to Rule five he told Mayor Kennedy that it says very clearly that the City Manager shall be permitted to address the Council and participate in discussions.

Mayor Kennedy said that she does know that.

City Manager, Richard Herbek said that since this has been brought up he not only has a right but a duty to clarify this so there are just a couple of points he wants to make. He said that he gave the Council a Memorandum dated September 27, 2012 which talked about the Non-Bargaining Unit employees, the Fire chief and the City Engineer and he has the authority and the right to give Grade increases. Last summer he did give a Grade increase to the Fire Chief to raise his salary to \$110,483.00. That is the exact same number that is in the Budget so it has not changed since last summer when he was given that Grade increase. With respect to Craig Marti, he was given a Grade increase to increase his salary to \$102,812.00. All of this was very clearly spelled out and clarified back in September, 2012.

Councilman Brown told the City Manager that he may have in fact done that but he was given a direction in Executive Session that there would be no raises until the Budget. All Council members were present and his words were exactly this, *"There will be no raises and all raises will be considered during the 2013 Budget"*, which meant that there would be no raises. Those were the last words so those words carry and that is a direction from this Council that stops the City Manager from doing what he rightfully has the right to do. He told The City Manager that he didn't have the right after he stated what he stated. Before then, "yes" but after that, "no". Those raises came after what was said in Executive Session so they were given illegally under his insubordination.

City Manager, Richard Herbek told Councilman Brown that he doesn't consider it insubordination at all. He feels that he had the right, the power, the duty and the authority to do what he did at that point in time. The only

way that the Council can act is by Resolution, Local Law or Ordinance. Those are the ways that this Council or any Council acts.

Mayor Kennedy said that what we have here is a major difference of what is legally permissible. She said that she does recall the discussion of this Council when they said that they would not give raises this year. She knows that Councilman Brown is talking about a situation where from his perspective it is a matter of fairness when two people received raises when we said that none of the Non-Bargaining would get raises this year. She also knows from the City Manager's perspective that in his definition that is called a step raise which is within his right to do. She said that they have before them a difference of opinion of what is legally possible to do so they may need to have some legal help to figure what that is and what is legally right. She does know that three of the Council said, "*no raises*" because of the situation with the Budget last year.

Councilwoman Lee asked to see the Resolution.

Mayor Kennedy said that it was not in a Resolution it was when they were talking about raises in discussion. It was not passed by a Resolution so what they have to do is look and see what they have agreed to. They could probably look back at the minutes and what they have documented and they need to do this in a step wise reasonable fashion. She said that this Council operates by rule of law and rule of order and they will do it that way. They will get to the bottom of this and do it properly in the way they need to do it. She suggested that they step back through the minutes and their agreements and come to some decision about what they have done here and where this needs to go.

City Manager, Richard Herbek said that that will have to be done by a member of the Council not by him.

Councilwoman Angelo noted that both of these salaries were included in the 2013 Budget and they had a five to nothing vote on that Budget. They all agreed to the 2013 Budget and their salaries were included.

Councilman Brown said that those salaries were not included in the 2013 Budget and they did not receive that Budget until after they voted on it. Had they received that Budget prior to voting on it they would not have been included. That is what the point is. He said that he did not agree on that and he is not going to accept it. They will launch whatever investigations that need to be launched but he will be writing a letter to the Attorney General asking him to step in and see what he may find.

Mayor Kennedy said that they will have to figure out what they are going to do from here.

Councilman Brown added that he doesn't need the support of the Council and he is not asking for their support on this. He doesn't need the support of the Council to send a letter to the Attorney General. He will prepare it with his own signature on it and he will copy it to each Council member and the City Manager.

Mayor Kennedy said that is anybody's right to write to the Attorney General. She wanted to bring up another topic under Old Business about the proposed merger of Central Hudson and Fortis. This is a Canadian company that is looking at buying out Central Hudson and she has been doing some research on that. She is coming to the conclusion that this is not in the best interest of the citizens in our community because we are going to lose a lot of local control over our gas and electric. She handed out a template for a Resolution and asked the Council if that is something that they would like to talk about next week.

City Manager, Richard Herbek said that it is already on for the next Work Session.

Councilwoman Angelo announced that the Memorial Day Parade Committee appointed David McTamaney to be the Grand Marshall.

There being no further old business to discuss, this portion of the meeting was closed.

COMMENTS FROM THE PUBLIC

Kippy Boyle, Grand Street, said to all the Grand Street residents out there that they are having their annual Grand Street yard sale and they would like to expand it. If anyone lives on Grand Street or is a member of one of the Churches it would be great to have everyone participate. They advertised on Craigslist and they get visitors from New Jersey and Connecticut. It will be on Saturday, May 4th from 9:00 to 4:00 and hopefully the trees will be in bloom by then. They always want to talk about positive things for the City and this is one of them. In regard to the Shade Tree Commission, April 26th is Arbor Day and the Commission would like with the support of the Council to plant one tree at the Heritage Center for many reasons. First is the symmetry of the parking lot because four years ago they planted one on the other side and now they would like to finish it up. Also now that the Heritage Center has the Congressional Office there it would be a great opportunity to draw attention to that building. She added that residents on Maple Avenue approached them and they would like to plant three or four trees on their street so they are really excited about getting into some neighborhoods that want to improve their block. They wish they had money to do others but that's going to be it and they will keep the Council and DPW informed of how everything is going to be arranged.

Janet Gianopolous, City of Newburgh, said that on behalf of the homeowners of the City of Newburgh there is a projected three million dollar fund balance and in addition she believes the results of the Auditors report at the Work Session were deemed by the Council to be pretty positive. On behalf of the home owning taxpayers she moved that the Council return a reasonable amount, say one third, of the projected fund balance which would be approximately one million dollars to the taxpayers so that they don't have to worry as they argue over the money that was taken from them.

Sheila Monk, City of Newburgh, said as she came in she heard Councilman Brown talking about the raises. The community was also talking about the raises the City Manager gave so she asked for some clarification on the raises. She knows that the Council said that there would be no raises and that they were not in the Budget. Also in regard to the Police Advisory Committee, some people put in applications. Her sister applied and no one knows where her application is.

Ms. Bell, Town of Newburgh, was wondering about the status of the request for a place to skateboard.

There being no further comments, this portion of the meeting was closed.

COUNCIL COMMENTS

Councilwoman Angelo said that she rode over by the Kenney Apartments the other day and there were a few skateboarders over by the Rite Aid building but they weren't doing any harm. She was shocked to see that someone put graffiti on the front of that beautiful building and there are five windows that are broken and boarded up. When she got out of the car and went around the side of the building there were about twenty garbage bags full of leaves that someone had tossed there. She feels that there has to be a way that they can save that building. Maybe Ian can try to get this building marketed to save it because they went through Hell to get that building over there. We helped Eckard's get over there and then Rite Aid bought it and we have had trouble ever since. It is such a beautiful building although she doesn't know if anything is wrong inside.

City Manager, Richard Herbek, asked Councilwoman Angelo what does she think needs to be looked at.

Councilwoman Angelo said that she keeps saying it would be a great place for a Jo-Ann Fabrics Shop which we lost. That was her hangout for arts and crafts and material. There is no place close by and she thinks that people would really support that. She added that she thinks the City looks much cleaner and there are two artists doing the murals over down at the Waterfront so she encouraged everyone to go take a look. She hopes that they can do the fourth mural but there is a lot of money involved because this time they are using a stain instead of paint but the artist are doing a wonderful job. She thanked everyone for coming tonight.

Councilman Brown said that he already spoke about his feelings on the raises and he is going to move forward with what he said he was going to do. He noted that he takes his position here as a Council member very seriously and he understands that this is a City Council form of government. From his understanding even with a City Council form of government the City Manger works at the direction of the Council so when he is given direction he should follow that direction to the law which he did not. He said that he has just one vote but when he votes he votes for the residents, and more importantly the taxpayers, of the City of Newburgh because the taxpayer holds the bill every time. Now we have a little money in the reserve and he would love to give that money back to the taxpayers of this City but we are not ready for that because we have to tread cautiously with that money. The finances of this City are so important to him that he works hard to make sure that they stay on track so when he votes on a Budget that he believes is supposed to be passed in the manner which he thought it should and he get's something different

and everyone else in the room except two people don't get it the way that the rest of the people in the room did it only says that maybe they did sit around and conspire to defraud this Council. That is a serious, serious charge. Conspiracy is serious and anyone who wants to be tied up in that might want to think twice. He said that he has a responsibility to the taxpayers and he will hold that responsibility until he decides to leave office or his term is up. We have a long way to go and he asked the taxpayers of the City to bear with this Council and bear with him. If they can do it the way it is supposed to be done with the City Manager following the direction of the Council, then they can certainly look to maybe give some taxes back at the end of this year. *"We can only do that if the City Manager follows our direction"*.

Councilman Dillard said that he would like to thank those people who fought so diligently these past two weeks in terms of the redistricting. It was very intense and he will be presenting a full report to the Council, the City and County Democratic Committee and all of the organizations who participated; Hudson Valley Advocates, Community Voices Heard, NAACP and others. All of the information will be coming forth in the next week or two. He said that this shows the resilience of the people here in the City of Newburgh. We can get things done and we got this done. Again he said, *"Thank you"*.

Councilwoman Lee wanted to first apologize because she arrived at the Work Session last week at 6:30 p.m. She started a new job and she is working in the City so she leaves home about 6:30 in the morning and she gets back around 6:30 in the evening so she missed a half hour of the Work Session. She said that she takes issue with Councilman Brown suggesting any kind of fraud. She also takes issue with his stated love for the Council given that he has been out about nine times. She doesn't care if he is gainfully employed because there are other people who travel and work during the day and they do everything that they can to get to this City Council meeting. To say that he made a decision and he so loves the taxpayers that he is making sure that \$15,000.00 is saved she thinks is nothing but nickels and dimes. She said that when they started this and they came to the Council they all agreed to bring some revenue into this City but beating the staff down and not giving them their increases was never part of it. Whether it is two staff members or forty-two, she said in the past when they pulled the increases back that it is very different if your salary is \$100,000.00 than if you are a single parent and your salary is \$42,000.00. They had already agreed and this needs to stop. We need to move forward and no amount of finger shaking or running through the streets screaming or telling people in this community to run to the City Council meetings and scream and beat Mr. Herbek is going to make her look at things differently. This is a municipality. *"It is not my job or their job; it is our job and believe it or not it does not pay that much. Mr. Herbek is responsible for running this City and we need to let him do it"*. The Council is

disturbed now. Give everyone else their increase because it is time. The projection is that we have three million dollars so spend \$500,000.00 and give some of the staff an increase. The people who work for us work hard and they do everything that we ask them to do. It is time that we stop beating on them and pointing our fingers and saying I love you but we are going to work you like the last slave because that is not fair. She told Mr. Herbek that she doesn't get involved in his business because she has enough to do with the legislation. She trusts that things are working out fine because when he came here the City had nothing. There was no payroll in the bank. The taxes were through the roof and right now we have a tax cap which we are managing to live within. Councilman Brown says that we should go beyond the tax cap so all of this sitting out in public and talking about what you love and what your going to do doesn't mean a hill of beans to her if you don't stand in the public and say, "Sorry, your taxes are going to go up 7%". She said if she thinks it and she has a reason for it then she will say it. It doesn't get said behind closed doors. You get a chance to tell her if you don't agree with her but she never does it behind closed doors. When she talked about a city payroll tax, she talked about it in public and she still feels that it is not a bad idea. She still says that we have the water and for our residents it should be free. If people who don't live here are paying a small tax, then our city services can be free and there is nothing wrong with that. She didn't get behind a closed door and whisper that into someone's ear or try to get two other votes. Everyone knows that she said it. It is time for us to just run this City and stop acting like the pay increase for Mr. Marti and Chief Vatter tipped the scale and we are all going to sink to the center of the earth. This is a matter of I told you what to do and you didn't do it. Not I asked you, not we discussed, not you gave us the frame work, not that he said, "Hey, we need to do something for the other staff". If he had then we could have said, "Well you know we can't do much for them but let's give everybody \$300.00." We could have said something. So nothing was said, three votes were had and again it was done over the Internet. This subject is not an Executive Session item. She said that she doesn't have to listen to it in Executive Session and she frankly doesn't remember it happening in Executive Session and Councilman Brown has missed so many session that she doesn't know whether he was here or not. She thanked everyone for coming out tonight.

Mayor Kennedy said that she wants the citizens of this community to understand that in spite of disagreements at this Council that progress is being made here. There are disagreements and different ways that people see things which is not always a bad thing but we have to work our way through. This City is moving forward and things are happening. She said that they will work through this wage issue and she agrees with Councilman Brown in regard to three million dollars not being very much. She is not sure of the

exact percentage of the Budget that we should have as a reserve fund but she believes it should be somewhere around the twelve million dollar mark.

City Manager, Richard Herbek, said that there is no exact percentage but most municipalities strive for a fifteen percent fund balance.

Mayor Kennedy continued that our three million dollars is just a drop in the bucket when it comes to something happening like another blowout of the sewer or something happening on the streets. Money can disappear very fast in the face of a big storm or an emergency of some sort so she wants to encourage all of the citizens of this community not to think that anybody is rolling in dough around here because it's not happening. We are climbing and inching out of the hole and we are on the positive side thank goodness. She would like us to be able to hold the tax line completely this year with no increase at all which would almost be considered a tax give back because if you don't raise it at all it's a pretty monumental day. With this business of wage increases, everybody needs to understand that there are people without work. People who have been without work for several years looking for work and struggling to keep ends together and their bellies fed. When she looks at our employees who want more in the face of people losing their properties and struggling, yes, they are working hard but there are a lot of other people who are working hard that make less; much less. Fair gets to be kind of a funny discussion and they have to be very careful with what they are doing. She knows that the discussion they had last year was how to make it fair between the taxpayers, citizens and the employees. This is like walking on a razors edge because there is no right or wrong. This is a tough hard place that they have been in and she asked for everyone's consideration and patience while they work their way through this. She added that another topic she wants on the table for increasing revenue is the enforcement of our traffic laws. We have a city out of control with traffic laws and if we just managed that then we could change not only the safety of the City but we would put more money into our coffers as well. She noted that the opening of Congressman Maloney's Office was great on Saturday and about one hundred people attended. They are so grateful for his decision to be here to support the City and to help move us forward. They also had a great opening of the Film Office at Motorcyclepedia with about fifty to sixty people in attendance. She gave kudos to Courtney because she did a fabulous job of putting that together. There are about four or five film projects lining up so we will be talking to our people about how to support the films coming here because that means business in our City. She wants everyone to know that there are good things happening here. She encouraged everyone to come out to support the clean-up on the 27th and help get this City cleaned up and then work to help keep it clean so that we can all have pride in this City that we live in which is so beautiful.

There being no further business to come before the Council, the meeting adjourned at 8:10 p.m.

LORENE VITEK
CITY CLERK