



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
March 24, 2016
6:00 PM

Engineering/Ingeniería

1. NYSEFC/Engineering Planning Grant Agreement

A Resolution Authorizing The City Manager to execute a grant agreement with the New York State Environmental Facilities Corporation and all other documents necessary to fulfill the City Of Newburgh's obligations under the Engineering Planning Grant Agreement. (Jason Morris)

Una Resolución Autorizado al Gerente de la Ciudad a ejecutar un acuerdo de beca con la Corporación de Servicios Ambientales del Estado de Nueva York y todos los demás documentos necesarios para cumplir las obligaciones de la Ciudad de Newburgh bajo el Acuerdo de Beca de Planificación Ingeniería. (Jason Morris)

Council Request for Action

2. Resolution Authorizing a Proposal from B&L for Phase-II of the SSO Investigation

Resolution Authorizing the City Manager to Execute a Contract with Barton & LoGuidice, D.P.C. for Professional Engineering Services for Phase II of the Sanitary Sewer Overflow Investigation within the City of Newburgh at a cost not to Exceed \$100,000.00. (Jason Morris)

Una Resolución Autorizando al Gerente de la Ciudad a Ejecutar un Contrato con Barton & LoGuidice, D.P.C. para Servicios Profesionales de Ingeniería para la Fase II de la Investigación del Desbordamiento de Alcantarillado de Sanidad dentro de la Ciudad de Newburgh a un costo que no Exceda \$100,000.00. (Jason Morris)

Council Request for Action

3. Sanitary Sewer Illicit Discharge Identification Study Type II Action

A resolution of the City Council of the City of Newburgh determining that the

proposed City Sanitary Sewer Illicit Discharge Identification Study is a Type II Action under the State Environmental Quality Review Act (SEQRA) and will not have a significant adverse impact on the environment. (Jason Morris)

Una Resolución del Consejo Municipal de la Ciudad de Newburgh determinando que la propuesta de Estudio de Identificación de Descarga Ilícita de Alcantarillado Sanitario de la Ciudad es una acción Tipo II bajo el Acta de Revisión de Calidad Ambiental del Estado (SEQRA) y no tendrá un impacto adverso significativo sobre el medio ambiente. (Jason Morris)

Council Request for Action

4. Local Match EFC Engineering Planning Grant Program

A resolution authorizing and appropriating the local match required by the New York State Environmental Facilities Corporation the Engineering Planning Grant Program. (Jason Morris)

Una Resolución Autorizando y apropiando que localmente se igualen los fondos requeridos por el Programa de Becas de Planificación Ingeniería de la Corporación de Servicios Ambientales del Estado de Nueva York. (Jason Morris)

Council Request for Action

5. Resolution Declaring Lead Agency and Issuing a Negative Declaration on Historic Property Demolition Project

A Resolution of the City Council of the City of Newburgh Declaring Itself to be Lead Agency under State Environmental Quality Review Act (SEQRA) for the Vacant Historic Building Demolition Project, Adopting an Environmental Assessment Form and Issuing a Negative Declaration. (Jason Morris)

Una Resolución del Consejo Municipal de la Ciudad de Newburgh Declarándose como la Agencia Principal bajo el Acta de Revisión de Calidad Ambiental del Estado (SEQRA) para el Proyecto de Demolición del Edificio Histórico Vacante, Adoptando una Evaluación de Impacto Ambiental y Emitiendo una Declaración Negativa. (Jason Morris)

Council Request for Action

Planning and Economic Development/Planificación y Desarrollo Económico

6. The Preservation League of NYS and the DRC

Resolution Authorizing the City Manager to enter into an Agreement with the Preservation League of New York State in connection with Professional Engineering Services for the Dutch Reformed Church. (Deirdre Glenn)

Una Resolución Autorizando al Gerente de la Ciudad a concretar un Acuerdo con la Liga de Preservación del Estado de Nueva York en conexión con los Servicios Profesionales de Ingeniería para la Iglesia Reformada Holandesa (Deirdre Glenn)

Council Request for Action

7. Resolution & release of covenants for 58 Henry Avenue

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 58 Henry Avenue (Section 48, Block 11, Lot 23) (Michelle Kelson)

Una Resolución Autorizando la Ejecución de la Absolución de Clausulas Restrictivas y el Derecho de Reingreso de una Escritura Emitida a Hábitat para la Humanidad de Greater Newburgh, Inc. Al local conocido como la 58 de la Avenida Henry (Sección 48, Bloque 11, Lote 23) (Michelle Kelson)

Council Request for Action

8. Purchase of 159 Lander Street

Resolution to Authorize the Conveyance of Real Property Known as 159 Lander Street(Section 18, Block 4, Lot 47) at Private Sale to Robert and Erika Urie for the Amount of \$1,000.00. (Deirdre Glenn)

Una Resolución que Autorice el Traspaso de Bienes Raíces Conocido como la 159 de la Calle Lander (Sección 18, Bloque 4, Lote 47) en una Venta Privada a Robert y Erika Urie por la Cantidad de \$1,000.00 (Deirdre Glenn)

Council Request for Action

Recreation/Recreacion

9. \$250 Donation by Delano Hitch Restoration Fund, Inc.

Resolution Authorizing the City Manager to Accept a Donation from the Delano Hitch Restoration Fund, Inc. in the amount of \$250.00 to Provide Funding for Baseball Field Improvements. (Derrick Stanton)

Una Resolución Autorizando al Gerente de la Ciudad a aceptar una donación de los Fondos de Restauración Incorporados de Delano Hitch por la cantidad de \$250.00 para proporcionar fondos para el mejoramiento del Campo de Béisbol. (Derrick Stanton)

Council Request for Action

Police Department

10. Ratification of 2015-2021 CBA with the PBA

Resolution Ratifying a Memorandum of Agreement and Approving a Collective Bargaining Agreement with the Patrolmen's Benevolent Association of Newburgh, New York. (Michelle Kelson & Chief Daniel Cameron)

Una Resolución Ratificando un Memorando de Acuerdo y Aprobando un Acuerdo de Negociación Colectiva con la Asociación de Patrulleros Benevolentes de Newburgh, Nueva York. (Michelle Kelson y Chief Daniel Cameron)

Council Request for Action

Fire Department / Departamento de Bomberos

11. Fire Alarm Superintendent

A resolution amending the 2016 Personnel Analysis book to restore \$1,000.00 stipend to the Fire Alarm Superintendent in the City of Newburgh Fire Department. (Acting Chief Ahlers)

Una Resolución Enmendando el libro de Análisis del Personal del 2016 para restaurar \$1,000.00 de estipendio al Superintendente de Alarmas de Incendio en el Departamento de Bomberos de la Ciudad de Newburgh. (Acting Chief Ahlers)

Council Request for Action

Ordinances/ Decretos

12. New Code Chapter 168 Filming & Associated Fees

An Ordinance amending Chapter 163 entitled “Fees” of the Code of the City of Newburgh to add fees for filming. (Deirdre Glenn)

Una Ordenanza enmendando el Capítulo 163 titulado “Honorarios” del Código de la Ciudad de Newburgh para agregar honorarios para filmaciones.(Deirdre Glenn)

Council Request for Action

Discussion Items/Temas de Discusión

13. Second Amendment to Development Agreement with Mill Street Partners

Segunda Enmienda al Acuerdo de Desarrollo con Mill Street Partners

Council Request for Action

14. Outside Counsel & Investigation Costs 2014-2015

Asesoría Legal Externa y Costos de Investigación 2014-2015

Council Request for Action

Executive Session/ Sesión Ejecutiva

15. Executive Session

Pending Litigation

Litigación Pendiente

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
GRANT AGREEMENT WITH THE NEW YORK STATE ENVIRONMENTAL FACILITIES
CORPORATION AND ALL OTHER DOCUMENTS NECESSARY TO FULFILL
THE CITY OF NEWBURGH'S OBLIGATIONS UNDER
THE ENGINEERING PLANNING GRANT AGREEMENT**

WHEREAS, by Resolution No. 170-2015 of July 13, 2015, the City Council of the City of Newburgh authorized Barton & Loguidice, D.P.C. to apply for a planning grant from the New York State Environmental Facilities Corporation through the Consolidated Funding Application process in an amount not to exceed \$125,000.00 and further authorized the City Manager to accept, if awarded, said planning grant; and

WHEREAS, the City of Newburgh was awarded an Engineering Planning Grant in the amount of \$100,000.00 administered through the New York Clean Water State Revolving Fund for the continued identification of point source sewage along the City's Hudson River waterfront; and

WHEREAS, the City of Newburgh wishes to accept the Award in the amount of \$100,000.00 as being in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to execute a Grant Agreement with the New York State Environmental Facilities Corporation and any and all other contract, documents and instruments necessary to bring about the Project and fulfill the City of Newburgh's obligations under the Engineering Planning Grant Agreement; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Engineer is hereby authorized as the Minority Business Officer as defined in the New York State Environmental Facilities Corporation M/WBE Program for activities associated with the Requirements and is authorized to sign any and all documents and instruments necessary to bring about the Project and fulfill the City of Newburgh's obligations under the Minority and Women Owned Business Program Requirements in compliance with Executive Law Article 15-A as it pertains to the Engineering Planning Grant Program.

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
CONTRACT WITH BARTON & LOGUIDICE, D.P.C. FOR PROFESSIONAL
ENGINEERING SERVICES FOR PHASE II OF THE SANITARY SEWER
OVERFLOW INVESTIGATION WITHIN THE CITY OF NEWBURGH AT A COST
NOT TO EXCEED \$100,000.00**

WHEREAS, by Resolution No. 170-2015 of July 13, 2015, the City Council of the City of Newburgh authorized Barton & Loguidice, D.P.C. to apply for a planning grant through the Consolidated Funding Application process in an amount not to exceed \$125,000.00 and further authorized the City Manager to accept, if awarded, said planning grant; and

WHEREAS, the City of Newburgh was awarded an Engineering Planning Grant in the amount of \$100,000.00 administered through the New York Clean Water State Revolving Fund for the identification of point source sewage along the City's Hudson River waterfront; and

WHEREAS, Barton & Loguidice, D.P.C. has prepared a proposal for the scope of professional engineering services necessary to complete the work outlined in grant proposal at a cost not to exceed \$100,000.00; and

WHEREAS, said grant requires a twenty (20%) percent local match in the amount of \$25,000.00, which will be derived from the in-kind services of the City's staff, for a total project cost of \$125,000.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that City Manager is hereby authorized to execute an agreement for professional engineering services with Barton & Loguidice, D.P.C. for the scope of work outlined in the proposal dated March 19, 2016 in an amount not to exceed \$100,000.00, with other provisions as Corporation Counsel may require, for the Phase II inspection of the City's combined sewer overflows and the identification of point source sewage along the City's Hudson River waterfront.

March 16, 2016

Mr. Jason Morris
City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550

Re: Proposal for Phase II Sanitary Sewer Overflow Investigation Project
NYSEFC/NYSDEC Wastewater Engineering Planning Study
File: P702.2712

Dear Mr. Morris:

Barton & Loguidice, D.P.C. (B&L) is pleased the City of Newburgh requests our assistance to continue working with the City to investigate sanitary sewer overflows. The following proposal is for the completion of Phase II Sanitary Sewer Overflow Investigation. As you are aware, the City of Newburgh was successful with its grant request (prepared and submitted on behalf of the City by B&L) through the Consolidated Funding Application (CFA) process in December 2015. On behalf of everyone at B&L, congratulations!

This award consists of an Engineering Planning Grant of \$100,000, administered by the Clean Water State Revolving Fund (CWSRF) for identification of point source sewage pollution along the City's Hudson River Waterfront. This grant requires that the City provide a 20% minimum local share of the total project cost (i.e., \$25,000 minimum local match and \$125,000 total project cost required to maximize the grant). The grant also requires 30% participation by Minority and/or Women Owned Business Enterprises (M/WBE) for contracted services exceeding \$25,000.

Background:

A sample taken on May 14, 2014 by the Riverkeeper identified elevated levels of enterococcus, a more prominent indicator organism than E-coli; near the Newburgh Boat Launch. Over the years 58% of the samples taken in the vicinity of the Boat Launch have exceeded the EPA guidelines for safe swimming. The latest round of sampling conducted on July 9, 2014 indicate a count of 2420 which is in far excess of the EPA safe swimming guidelines of 60 counts. Upon investigation using dye testing, the City identified several properties along the two blocks bounded by Washington Street, Colden Street, Water Street and Renwick to have sanitary sewer laterals connected directly to the CSO #004 overflow pipe. These direct connections were previously not known to exist. The City has an active project to install a new gravity sanitary sewer and pump station to direct these flows to the Wastewater Treatment Plant and away from CSO #004. Through additional investigations and field testing with dye by the City Engineer and the Building Inspector, additional sanitary sewer overflow (SSO) connections similar to the one described above are suspected to exist.





In 2015, the City received an Engineering Planning Grant of \$27,840 (with local match of \$6,960) administered by the Clean Water Revolving Fund (CWSRF) to complete the Phase I SSO Investigation. Prior to starting this investigation, eleven (11) CSO pipes required inspection. The project included approximately 6,700 feet of closed circuit televised (CCTV) of CSO pipes that discharge to CSO #001, CSO #007, CSO #008, CSO #009, CSO #013, and the Carpenter Street drainage outfall (DO). Large debris and broken pipes impeded CCTV investigation in some pipe segments. Eleven (11) illicit connections were disconnected from CSO #013 and four (4) additional suspect connections were identified throughout the investigation areas.

For Phase II, B&L will continue to work with the City to prioritize the CCTV Inspections and outfalls with the available funds. These CCTV inspections of the overflow pipes would serve to identify any additional direct connections such as those found on Water Street and during the Phase I investigation.

We understand that the City desires to conduct inspections of the combined sewer system overflows and identify any direct sanitary connections causing sanitary sewer overflows downstream of Combined Sewer Overflow Regulators. The City desires to conduct prioritized CCTV inspections of overflow pipes from combined sewer regulators to their point of discharge into the Hudson River that the City has yet to investigate.

It is assumed that the 20% City local share requirement of the Grant Funding of \$25,000 will be met through in-kind services to be performed by City staff. In-kind services will include data collection, GIS mapping, cleaning of sewers, traffic control, CCTV observation, and public notification to residents and regulatory agencies. It is to be noted that the CCTV services will be subcontracted to a qualified Minority Business Enterprise (MBE) contractor, if possible, as our contract is subject to a 30% M/WBE participation goal, which we intend to meet. The project will be completed in accordance with the enclosed "Non-Construction Bid Packet" for the New York State Revolving Fund.

SCOPE OF SERVICES:

1. **Kick off Meeting & Data Review:**

Work under this task will include a meeting with the City Engineer and City Department of Public Works (DPW) to determine the prioritized locations for CCTV investigation. Determination will be based on knowledge of any ongoing concerns of the aging sewer infrastructure, past work performed, suspected areas of continually contributing sanitary sewer overflows, and records of documented SSO sources and maintenance problem areas.





B&L will review the City's collection system mapping with the City Engineer and DPW to confirm pipe sizes, materials, manhole numbering system, and flow directions to the greatest extent possible.

2. Project Mapping:

B&L will coordinate with the City GIS Department and City Engineer to generate project base maps illustrating the GIS mapping and sewer records for the project areas. The creation of these maps is anticipated to be included as part of the City's 20% in-kind services match.

B&L will use the project base maps to generate CCTV maps to illustrate to the CCTV Subcontractor the proposed locations for CCTV.

3. Closed Circuit Television (CCTV) Inspections of Regulator Overflow Pipes:

Based on our understanding of the project, the City desires to determine the presence of sanitary sewer connections to the combined sewer overflow pipes downstream of a regulator. In order to make the most of the grant funds, the City may consider utilizing its own staff to label, uncover and provide light cleaning prior to CCTV work. Note that this effort is anticipated to be part of the City's 20% in-kind services match.

The following table summarizes each known CSO and DO and status of work completed to date. CCTV inspections will be completed starting with highest priority CSO outfalls and working towards lower priority CSOs.

From Regulator/ Diversion Chamber	To CSO/DO	Location	CCTV Investigation Status	Priority
	CSO #01	S. Interceptor along S. Water St.	At WWTP, CCTV not necessary	High
Reg #01	CSO #02	Along Water St. from CSX crossing	Started under Phase I, requires additional heavy cleaning to CCTV	High – Complete Heavy Cleaning
Reg #02	Reg #02	West trunk sewer overflow	Completed under West Trunk Sewer Project	No Action Required
Reg #03	CSO #03	Along Renwick St. north of Colden St.	Completed by City	No Action Required
Reg #04	CSO #04	Along S. William St. just south of Edward St.	Not Completed	Moderate
Reg #05	CSO #06	First St. at intersection with	Not Completed	Moderate





		Montgomery St.		
Reg #06	CSO #07/ DO #03	Along Second St. south of Grand St.	Started under Phase I, requires additional heavy cleaning to CCTV	High, Requires heavy cleaning
Div Ch. C	CSO #08	Fourth St. at intersection with Front St.	Completed	No Action Required
Reg #07	CSO #10	South St. from Smith St.	Started under Phase I, requires removal of trash rack to CCTV	High, City to Remove Trash Rack
Div Ch. D	City investigated and discovered no Chamber in this location		Completed by City	No Action Required
Reg #08	CSO #11	Along Clinton St. north of Water St.	To be completed under Liberty & Grand project	No Action Required
Reg #09	CSO #09	Broad St. at intersection with Water St.	Started under Phase I, requires additional heavy cleaning to CCTV	High, heavy cleaning required
Reg #10	CSO #12	Along Nicoll St. just north of Hudson St.	Not Completed	High
Reg #11/ Div Ch. E	CSO #13	Park Place at intersection with Montgomery St.	Completed	No Action Required
Div Ch. A	CSO #05/ DO #01	Along Washington St. at intersection with Colden St.	Not Completed	Moderate
N/A	DO #02	Carpenter Ave. from Water St.	Started under Phase I, requires repair collapsed pipe to CCTV	Pipe Repair Required
N/A	DO #04	Third St. from Front St.	Not Completed	Low
Div Ch. B	DO #05	Fourth St. from Front St.	Not Completed	Moderate
N/A	DO #06	Fifth St. from Front St.	Not Completed	Moderate
N/A	DO #07	South St. from Carpenter Ave.	Not Completed	Moderate

B&L staff will be available during the CCTV activities, but it is assumed the City staff will be onsite to identify direct connections of sanitary laterals to these outfalls. Direct connections will be flagged and the City Engineer & Contracted Operator to complete the two (2) hour notification sheet and Report of Non Compliance for submission to the NYSDEC within two (2) hours of discovery of a Direct Connection or Sanitary Sewer





Overflow (SSO). Note that this effort is anticipated to be part of the City's 20% in-kind services match.

These inspections should not only indicate the presence of direct connections, but should also indicate pipe sags, displaced joints and debris, root ball intrusions or other obstacles that would prevent the pipe from flowing freely. It is assumed that no bypass pumping will be necessary to facilitate the CCTV as the work will occur when it is not raining. B&L will subcontract CCTV services with a qualified subcontractor. It is preferred that the contractor use the GRANITETM software so that these can be directly uploaded into the City's electronic database. All data files will be submitted to the City on a thumb drive.

B&L intends to subcontract the CCTV Services with a certified M/WBE firm to fulfill 30% MWBE requirement of the grant. The amount of CCTV completed will depend upon the amount of heavy cleaning required and the budget available. Remaining CCTV work required will be prioritized using the available funds.

The City will be responsible for maintaining traffic control during the CCTV work. Acceptable protection from traffic must be provided to the CCTV subcontractor. Note that this effort is anticipated to be part of the City's 20% in-kind services match.

4. Draft Sewer Investigative Report:

Combining the information gathered during the tasks above, the B&L team will prepare a draft version of the Sewer Investigative Report for review with the key stakeholders. The report will document the results of the sanitary sewer evaluation activities summarized above. The report will include sewer GIS Maps prepared by the City and updates showing the identified SSO's within the existing sanitary sewer system. Note that this effort can be part of the City's 20% in-kind services match. B&L and the City of Newburgh representatives will then meet to discuss the draft report. Three (3) hard copies and one (1) electronic copy of the Draft Report will be submitted to the City for review.

5. Final Sewer Investigative Report:

Once the Draft Sewer Investigative Report is reviewed and revised based on input from project stakeholders, B&L will develop a presentation that summarizes the results. This information will then be presented during a City Council meeting.

A Final Report will be prepared for presentation to the project stakeholders and the public. It is assumed that attendance at one (1) City Council Meeting or Workshop will be necessary to present the findings of the Final Report. Five (5) hard copies and one (1) electronic copy of the Final Report will be submitted to the City upon completion. Additional copies can be provided at cost.



6. Regulatory Coordination:

The City will need to coordinate with regulatory agencies and identify applicable regulations pertaining to the work proposed including the April 24, 2009 Guidelines for Sanitary Sewer Overflow Abatement Analysis. Continued correspondence with regulatory staff may be required throughout the duration of the project.

TECHNICAL ASSUMPTIONS

SEQR –The proposed action is defined as a Type II Action in compliance with State Environmental Quality Review (SEQR; 6 NYCRR Part 617). Specifically, Subdivision 6.15(c)(1): maintenance or repair involving no substantial changes in an existing structure or facility.

Wetland Delineation – It is assumed that the sewers are located along public rights-of-way used for travel and no wetlands exist. Should a Wetland Delineation be necessary B&L would complete these as an additional service, under a separate authorization.

Archeological and Threatened/Endangered Species –Similar to other work within public right of ways it is anticipated that no impacts to archeological and/or threatened or endangered species will occur. Should screening or mitigation be is determined necessary B&L would complete these services as an additional service under separate authorization.

Topographic & Boundary Surveying Services are not included. Should these be determined to be necessary to achieve the project goals, B&L would complete these as an additional service under a separate authorization.

Easements Maps and Descriptions –It is assumed that all sewers are within existing sewer easements or right-of-ways. Therefore additional easement procurement has not been included in this proposal.

Subsurface Investigations – It is assumed that no excavation will be required; therefore costs for subsurface investigations have not been included.

SPDES NOI and SWPPP Preparation – It is assumed that no excavation or construction will be required; therefore preparation of a SWPPP or SPDES NOI has not been included.

Sewer Cleaning - It is assumed that all light cleaning will be provided by the City and heavy cleaning is to be provided by the CCTV subcontractor. If additional hours are required or additional finds to complete additional heavy cleaning, B&L will request the City's authorization under a separate authorization to proceed forward. We will not bill beyond this amount without a change in scope and approval of the City Council.





Municipal Advisor Services - The services Barton & Loguidice proposes to provide DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice is understood by the parties to be strictly engineering opinions, advice, information or recommendations. Barton & Loguidice is not a “municipal advisor” as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The parties to whom this proposal is being provided should determine independently whether they require the services of an municipal advisor.

CWSRF Planning Grant – M/WBE Utilization Compliance

B&L shall comply with provisions of the NYS Environmental Facilities Corporation (EFC) “Required Terms for Contracts and Subcontracts Receiving SRF Financial Assistance”, included in the attached “NYSEFC Required Terms” and incorporated into and made a part of this Agreement and all other terms and conditions reasonably required by EFC, as of the date of this agreement.

SCHEDULE

The final Preliminary Engineering Report will be completed within nine (9) months of execution of the grant agreement in accordance with program guidelines.

SERVICES NOT INCLUDED

Additional services will be required to complete a capital improvement project (should the City elect to do so), which are not included as part of this proposal. Tasks specifically not included are as follows:

- Topographic, Boundary & Bathometric Surveys
- SEQR, environmental impact statement or environmental studies
- Supplemental environmental field work or studies as required by agencies
- Subsurface investigations
- Excavation
- Design, bid, permitting or construction related services



Mr. Jason Morris, City Engineer
City of Newburgh
March 16, 2016
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FEE FOR SERVICES

For the Scope of Services presented above, Barton & Loguidice, D.P.C (B&L) proposes to be compensated on a Lump Sum basis. The fee for services would be a lump sum fee of One Hundred Thousand Dollars (\$100,000). Billing is proposed to be monthly in proportion to the services completed through the date of the invoice. Barton & Loguidice, D.P.C. proposes to provide the Scope of Services described herein for the following fees:

Kickoff Meeting, Data Review Mapping & Grant Administration	\$ 6,000 Lump Sum
Closed Circuit Television (CCTV) & Cleaning	\$74,000 Lump Sum
Sewer Investigative Report	<u>\$20,000 Lump Sum</u>
Total:	\$100,000 Lump Sum

This project will be in accordance with our Standard Terms and Conditions for Professional Engineering Services (copy attached). Authorization of these services may be done by signature below. Please retain one (1) copy for City files and return one (1) to B&L.

We appreciate this opportunity to provide further professional services to the City and look forward to expanding our working relationships with City officials and staff. Should you have any questions or if you would like to discuss the project, please do not hesitate to contact Anthony Eagan or me.

Very truly yours,

BARTON & LOGUIDICE, D.P.C.

A handwritten signature in dark ink, appearing to read 'Richard A. Straut', is written over the company name.

Richard A. Straut
Executive Vice President

ATE/BLS/ojf
Encl.





Authorization

Barton & Loguidice, D.P.C. is hereby authorized by the City of Newburgh to proceed with the services described herein in accordance with the Terms and Conditions proposed herein and the attached terms and conditions.

RECOMMENDED BY:

Jason Morris P.E.
City Engineer

Date

APPROVED AS TO FINANCES:

John Aber
City Comptroller

Date

APPROVED AS TO FORM:

Michelle Kelson
Corporation Council

Date

AUTHORIZED:

Michael Ciaravino
City Manager

Date



Mr. Jason Morris, City Engineer
City of Newburgh
March 16, 2016
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NYSEFC Required Terms



NEW YORK
STATE OF
OPPORTUNITY

**Environmental
Facilities Corporation**

NY State Revolving Fund Program Requirements Bid Packet

Construction Contracts

For Contractors

Treatment Works Projects

(including CWA Section 212)

Drinking Water SRF

NYS Water Grants Program

(also receiving SRF Loan)

Effective October 1, 2015

**New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924 F: (518) 402-7456
www.efc.ny.gov**

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Summary of EFC Contractor Requirements

Forms can be found in [Part 3](#) of this document or online at www.efc.ny.gov/MWBE

Forms should be submitted electronically via email or through EFC's [dropbox](#)

* Beginning 10/1/2015 starred forms may be required for disbursement of state revolving loan funds

To be submitted with this bid:

- ☐ *EEO Policy Statement
- ☐ Documented Proof that EPA Form 6100-2 "DBE Subcontractor Participation Form" was given to MWBE Subcontractors
- ☐ *EPA Form 6100-3 "DBE Subcontractor Performance Form"
- ☐ *EPA Form 6100-4 "DBE Subcontractor Utilization Form"
- ☐ *Lobbying Certification
(Certification for Contracts, Grants, Loans, and Cooperative Agreements)
- ☐ *AIS Contractor's Certification

Refer to [Part 2](#):

Guidance Section

[Section 1.B](#)

[Section 2.D](#)

[Section 2.D](#)

[Section 2.D](#)

[Section 3](#)

[Section 4.C](#)

To be submitted after contract award:

- ☐ Executed contracts, subcontracts, agreements, and purchase orders
- ☐ MWBE Utilization Plan and/or Waiver Request
- ☐ EEO Workforce Utilization Report (part of MWBE Monthly Report Form)

[Section 2.D.3](#)

[Section 2.D.1](#)

[Section 1.C](#)

Tasks for construction start:

- ☐ Ensure that all subcontracts contain [Part 1: Required Language](#)
- ☐ Post EEO Poster
- ☐ *Pay the higher of prevailing federal, state, or local wages including benefits (applies to Primes and Subcontractors)
- ☐ Post Davis Bacon Wage Poster AND Wage Rates
- ☐ Use Federal Payroll Form (WH-347)
- ☐ Obtain apprentice and trainee certifications
- ☐ Obtain AIS Manufacturer's Certifications for all iron & steel products

[Section 5.D.7](#)

[Section 1.D](#)

[Section 5.D.4](#)

[Section 5.D.1](#)

[Section 5.D.3](#)

[Section 5.D.8](#)

[Section 4.B](#)

Ongoing documentation & tasks:

- ☐ Submit Monthly MWBE Reports to MBO
- ☐ Maintain weekly certified payrolls for all Prime & Subcontractors
- ☐ Maintain proof of payments for MWBE Subcontractors
- ☐ Maintain AIS Manufacturer's Certifications

[Section 2.D.4](#)

[Section 5.D.3](#)

[Section 2.D.4](#)

[Section 4.B](#)

Other documents to be submitted by SRF recipient:

- ☐ *Certified Bid Advertisement
- ☐ *Bid Tabulation
- ☐ *Notice of Award
- ☐ *Notice to Proceed
- ☐ *Conformed Set of Contract Documents

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BID PACKET FOR CONSTRUCTION CONTRACTS

NEW YORK CLEAN WATER and DRINKING WATER STATE REVOLVING FUNDS

Administered by the New York State Environmental Facilities Corporation (EFC)

Contents of Bid Packet

Part 1: REQUIRED CONTRACT LANGUAGE

The required contract language to be inserted into all contracts and subcontracts to satisfy State Revolving Fund (SRF) Program requirements.

Part 2: GUIDANCE MATERIALS

A description of the program requirements as they relate to contracts and subcontracts funded in whole or in part by the New York State Revolving Funds.

Part 3: REQUIRED FORMS

Copies of required forms are included at the end of this packet for the Contractor's use. All forms can be found on the EFC website (www.efc.ny.gov/MWBE).

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PART 1:

REQUIRED CONTRACT LANGUAGE

This Part 1 is to be inserted in its entirety for ALL project contracts and subcontracts being funded in whole or in part with SRF funds.

Check EFC's website (www.efc.ny.gov/MWBE) for updates.

****Please note that the contractual language in its entirety is not necessarily applicable to all projects. Information is provided in parentheses below each program section within to identify circumstances when certain language is not applicable.****

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REQUIRED TERMS FOR PROJECT CONTRACTS AND SUBCONTRACTS

***** (This section applies to all contracts and subcontracts) *****

In accordance with the terms and conditions set forth in Section 5.1 of the Project Finance Agreement, Recipient agrees that the following language will be included in all contracts and subcontracts regarding the Project including but not limited to those relating to construction, engineering, architectural, legal and fiscal services, as required by federal and state laws, regulations, and executive orders applicable to this Project:

Defined Terms:

The term "Bid Packets" means the New York State Revolving Fund (SRF) Bid Packet for Construction Contracts and Bid Packet for Non-Construction Contracts and Service Providers, available at www.efc.ny.gov/MWBE.

The term "Contractor", as used in this contract or subcontract, means, and applies to, all Prime Contractors, consultants and Service Providers as hereinafter defined, unless specifically referred to otherwise.

The term "Service Providers" means those who provide the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, and travel.

The term "Subcontractor", as used in this contract or subcontract, means, and applies to, any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

The term "EEO policy statement" means a statement of the Contractor and Subcontractor setting forth at least the following:

- (i) A statement that the Contractor will provide for and promote equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of Contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be provided with equal employment opportunity free of discrimination and harassment against any person on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate or harass on the basis of race, color, national origin, age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

The term "EFC" means the New York State Environmental Facilities Corporation.

The term "EPA" means the United States Environmental Protection Agency.

The term "ESD" means the Empire State Development Corporation - Division of Minority and Women's Business Development.

The term "Recipient" means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due hereunder are being paid in whole or in part.

The term "Service Providers" means professional services, such as legal, engineering, financial advisory or other professional services, supplies, commodities, equipment, materials, and travel.

The term "State" means the State of New York.

The term "Treatment Works" is defined in Clean Water Act (CWA) Section 212. Examples include new, expanded or rehabilitated wastewater; sludge treatment and disposal facilities including biosolids reuse; collector, trunk and interceptor sewers; sewer rehabilitation and infiltration/inflow correction; municipally-owned sewers and treatment capacity for industrial wastewater; combined sewer overflow (CSO) abatement; stormwater resiliency and pollution abatement; energy initiatives, including energy efficiency and on-site power generation for treatment plants and sewer systems; water treatment plant filter backwash and sludge treatment; water efficiency projects, including conservation and reuse of water; septage hauling and marine vessel pump out/treatment facilities; publically-owned water conservation/reuse devices or systems; and security measures for wastewater treatment plants and sewer systems. Stormwater management facilities that are specifically required by a Long Term Control Plan, administrative/judicial order, or a SPDES permit for an MS4 or combined sewer system are considered to be Section 212 projects.

The terms "Nonpoint Source Projects" and "Green Infrastructure Project" are defined in CWA Section 319. Examples include green infrastructure projects that manage stormwater, such as constructed wetlands, biofilters, porous pavement and green roofs; waterbody restoration including stream bank stabilization and drainage erosion and sediment control; restoration of riparian vegetation, wetlands and other water bodies; land acquisition or conservation easements for water quality protection; stormwater management facilities, such as street sweepers and catch basin vacuum vehicles, sediment traps and basins; and capping and closure of municipal solid waste landfills, landfill reclamation, landfill leachate collection, storage and treatment of landfill gas collection and control systems.

The term "Estuary Management Program Project" means a CWA Section 320 Project. Examples include projects necessary to implement the EPA-approved Estuary Conservation and Management Plans for the New York-New Jersey Harbor; Peconic Bay; and Long Island Sound Estuaries.

EEO AND MWBE LANGUAGE, GOALS AND OTHER PROGRAM REQUIREMENTS

*****(Applies to all contracts)*****

Interpretation:

This contract is subject to Article 15-A of the Executive Law (Article 15-A) and 5 NYCRR 140-145 (the Regulations) and shall be considered a State Contract as defined therein. If any of the terms herein conflict with Article 15-A or the Regulations, such law and regulations shall supersede these requirements.

Representations and Acknowledgements of Contractor and Subcontractor:

The Contractor acknowledges that funds for the payment of amounts due under this contract are being provided in whole or in part subject to the terms and conditions of a grant agreement or a project finance agreement with EFC.

The Contractor represents that it has submitted an EEO policy statement and an MWBE Utilization Plan (Prime Contractors only) to the Recipient, prior to the execution of this contract.

Suspension/Debarment - The Contractor is not a debarred or suspended party under 2 CFR Part 180, 2 CFR Part 1532 and 40 CFR Part 32. Further, neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations or with any party that has been determined to be ineligible to bid under Section 316 of the Executive Law.

Equal Employment Opportunity (EEO), Affirmative Action, MWBE and Other Covenants:

Contractor and Subcontractor shall comply with all federal and state laws, regulations, and executive orders applicable to this Project, and shall provide such documentation, including periodic reports, as may be requested from time to time and as set forth in guidance documentation available at www.efc.ny.gov/MWBE, including but not limited to the Bid Packets.

With respect to this contract, the Contractor and Subcontractor shall undertake or continue existing programs of affirmative action and equal employment opportunity to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, color, national origin (including limited English proficiency), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

MWBE PROGRAM

NEW Goals as of 10/1/2015

****Applies to all:** (1) Construction contracts greater than \$100,000

(2) Contracts that are initially under this threshold but subsequent change orders or contract amendments increase the contract value above \$100,000

(3) Change orders greater than \$25,000)**

MWBE Goals - The Contractor agrees to pursue MWBE goals in effect at the time of execution of this contract. The MWBE goals shall be applied to the total amount being funded pursuant to the grant agreement or project finance agreement with EFC. Please contact EFC if you have any questions about the applicable goals for your contract.

Program	MWBE Combined Goal*
CWSRF, DWSRF, & GIGP	20%
NYS Water Grants (also receiving SRF loan)	CWSRF 23% DWSRF 26%
Engineering Planning Grant	CFA Round 2012-2014 20% CFA Round 2015-2016 30%

*May be any combination of MBE and/or WBE participation

Contractors shall solicit participation of MWBE Contractors (including Subcontractors, consultants and Service Providers) for SRF-funded projects in accordance with the aforementioned goals. The Contractor must submit sufficient documentation to demonstrate good faith efforts to provide opportunities for MWBE participation for work related to the SRF-funded project in the event respective goals are not achieved. Guidance pertaining to documentation of good faith efforts is set forth in the Bid Packet.

The Contractor agrees that for purposes of providing meaningful participation by MWBEs on the contract and achieving the goals, Contractor will reference the directory of New York State Certified MWBEs found at the following internet address: ny.newnycontracts.com.

Subcontractors who in turn subcontract work shall also comply with MWBE requirements for that contract.

MWBE Utilization Plan (MWBE Utilization Plan requirements apply to Contractors. MWBE Utilization Plans are submitted to the SRF Recipient's minority business officer (MBO) prior to execution of a contract.) Each Contractor shall prepare an MWBE Utilization Plan, and any subsequent revisions or amendments thereto, that provides information describing MBEs and WBEs to be utilized at various times during the performance of

this contract. The MWBE Utilization Plan shall identify the Contractor's proposed MBE and WBE utilization for this contract and the MWBE participation goals established for this contract by EFC. The MBEs and WBEs identified in the MWBE Utilization Plan must be certified by, or have applied for, certification from ESD.

In the event that the Contractor's approved MWBE Utilization Plan does not propose achievement of the MWBE participation goals for this contract, the Contractor shall complete a waiver request as hereinafter referenced.

Submission – Within 30 days of execution of this contract, the Contractor shall submit to the Recipient copies of all signed subcontracts, agreements, and/or purchase orders referred to in the MWBE Utilization Plan.

Compliance – The Contractor agrees to adhere to its approved MWBE Utilization Plan for the participation of MWBEs on this contract pursuant to their respective MWBE goals.

Waivers – If the Contractor's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals then, prior to execution of a contract, the Contractor shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the Recipient. The Contractor is entitled to receive a written notice of acceptance or denial within 20 days of receipt. Upon receipt of a notice of deficiency from the Recipient, the Contractor shall respond with a written remedy to such notice within 7 days. Such response may include a request for a total or partial waiver of the aforementioned goals.

The Contractor shall comply with the requirements set forth in the Bid Packets regarding waivers.

Required Reports – MWBE Monthly Report – The Contractor agrees to submit a report to the Recipient by the 3rd business day following the end of each month over the term of this contract documenting the payments made and the progress towards achievement of the MWBE goals of this contract.

EEO PROGRAM

***** (Applies to all contracts and subcontracts greater than \$10,000) *****

Required Reports - EEO Workforce Utilization Reports

During the term of this contract, the Contractor and Subcontractor shall submit to the Recipient EEO Workforce Utilization Reports. Contractor and Subcontractor shall submit this information on a monthly basis to report the actual labor hours utilized in the performance of this contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The EEO Workforce Utilization Report must be submitted to report this information.

All EEO Workforce Utilization Reports submitted by the Contractor and Subcontractor shall reflect a separation of the workforce utilized in the performance of this contract from Contractor or Subcontractor's total workforce. The Contractor shall submit the EEO Workforce Utilization Report and indicate that the information provided relates to the actual workforce utilized on this contract. If the Contractor or Subcontractor fails to separate the workforce to be utilized on this contract from the total workforce, as determined by Recipient, the Contractor shall submit the EEO Workforce Utilization Report and indicate that the information provided is the Contractor or Subcontractor's total workforce during the subject time frame, not limited to work specifically under this contract.

DISADVANTAGED BUSINESS ENTERPRISES

***** (Applies to all contracts and subcontracts) *****

The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The Contractor and Subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor and Subcontractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.

The SRF Bid Packet – Treatment Works (including CWA 212), Drinking Water, NYS Water Grants

SRF Construction Contracts

Part 1: Required Contract Language

Revision Date: 10/1/2015

Contractors and Subcontractors shall comply with the requirements set forth in the Bid Packets regarding Disadvantaged Business Enterprises.

REMEDIES

***** (Applies to all contracts) *****

Upon a determination by the Recipient of the Contractor's non-responsiveness, non-responsibility or breach as a result of a failure to comply with the requirements of Article 15-A and the Regulations, the Recipient may withhold funds under this contract or take such other actions, impose liquidated damages or commence enforcement proceedings as set forth herein or as otherwise allowed by law or in equity.

If the Contractor or Subcontractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth in clauses (i), (ii), (iii) and (iv) of the definition thereof and within the timeframe required therefor, Recipient may declare this contract to be null and void.

The Contractor and Subcontractor agree that a failure to submit and/or adhere to its EEO policy statement, EEO Workforce Staffing Plan for Service Provider (Non-construction) Contracts (if applicable), and an MWBE Utilization Plan (Contractors only), and any other required periodic reports, shall constitute a material breach of the terms of this contract, entitling Recipient to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

Liquidated or Other Damages - If it has been determined by the Recipient or NYSEFC that the Contractor is not in compliance with the requirements herein or refuses to comply with such requirements, or if the Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as determined by the Recipient or EFC, in accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13.

Liquidated damages shall be calculated as an amount not to exceed the difference between:

1. All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
2. All sums actually paid to MWBEs for work performed or materials supplied under this contract.

In the event a determination has been made by the Recipient or EFC which requires the payment of liquidated damages and such identified sums have not been withheld, Contractor shall pay such liquidated damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with ESD pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

RESTRICTIONS ON LOBBYING

***** (Applies to all contracts and subcontracts greater than \$100,000) *****

The Contractor and Subcontractor executing a contract in excess of \$100,000 agree to provide to the Recipient an executed Certification For contracts, Grants, Loans, and Cooperative Agreements 40 CFR 34, in the form attached hereto, consistent with the requirements of 40 CFR Part 34.

DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

****Applies to all: (1) Construction contracts and subcontracts greater than \$2,000
(2) CWSRF Treatment Works Projects – see Defined Terms
(3) DWSRF projects)****

The Recipient acknowledges and hereby agrees to comply with the Wage Rate Requirements under the Davis-Bacon Act, which are hereby restated in pertinent part as follows:

Preamble

The Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) require that all laborers and mechanics employed by Contractors and Subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the SRF shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR Parts 1, 3, and 5 to implement the Davis-Bacon (DB) and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard DB contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the SRF shall ensure that the standard DB contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

With respect to the Clean Water and Safe Drinking Water State revolving Funds, EPA provides capitalization grants to the State which in turn, through EFC, provides subgrants or loans to eligible entities within the State (Recipient(s)). Typically, the Recipients are municipal or other local governmental entities. For these types of Recipients, the provisions set forth under Roman Numeral I, below, shall apply. Although EPA and the State remain responsible for ensuring Recipients' compliance with the wage rate requirements set forth herein, those Recipients shall have the primary responsibility to maintain payroll records as described in Section 3(ii)(A), below and for compliance as described in Section I-5.

Requirements under the Davis-Bacon Act for Recipients

The following terms and conditions specify how the New York State Environmental Facilities Corporation (EFC) and governmental Recipients will meet the DB requirements. If a Recipient has questions regarding when DB applies, obtaining the correct DB wage determinations, DB provisions, or compliance monitoring, it may contact EFC. EFC or Recipient may also obtain additional guidance from the web site of the Department of Labor (DOL) at <http://www.dol.gov/whd/programs/dbra/>.

1. Applicability of the Davis-Bacon (DB) prevailing wage requirements.

Davis-Bacon prevailing wage requirements apply to the construction, alteration, and repair activity of infrastructure, including all construction, alteration and repair activity involving waste water or drinking water treatment plants as subject to DB. If a Recipient encounters a unique situation at a site that presents uncertainties regarding DB applicability, the Recipient must discuss the situation with EFC before authorizing work on that site.

2. Obtaining Wage Determinations.

(a) Recipients shall obtain the wage determination for the locality in which a covered activity subject to DB will take place prior to issuing requests for bids, proposals, quotes or other methods for soliciting contracts (solicitation) for activities subject to DB. These wage determinations shall be incorporated into solicitations and any subsequent contracts. Prime contracts must contain a provision requiring that Subcontractors follow the wage determination incorporated into the Prime contract.

(i) While the solicitation remains open, the Recipient shall monitor www.wdol.gov on a weekly basis

to ensure that the wage determination contained in the solicitation remains current. The Recipients shall amend the solicitation if DOL issues a modification more than 10 days prior to the closing date (i.e. bid opening) for the solicitation. If DOL modifies or supersedes the applicable wage determination less than 10 days prior to the closing date, the Recipients may request a finding from EFC that there is not a reasonable time to notify interested Contractors of the modification of the wage determination. EFC will provide a report of its findings to the Recipient.

- (ii) If the Recipient does not award the contract within 90 days of the closure of the solicitation, any modifications or supersedes DOL makes to the wage determination contained in the solicitation shall be effective unless EFC, at the request of the Recipient, obtains an extension of the 90 day period from DOL pursuant to 29 CFR 1.6(c)(3)(iv). The Recipient shall monitor www.wdol.gov/ on a weekly basis if it does not award the contract within 90 days of closure of the solicitation to ensure that wage determinations contained in the solicitation remain current.
- (b) If the Recipient carries out activity subject to DB by issuing a task order, work assignment or similar instrument to an existing Contractor (ordering instrument) rather than by publishing a solicitation, the Recipient shall insert the appropriate DOL wage determination from www.wdol.gov/ into the ordering instrument.
- (c) Recipient shall review all subcontracts subject to DB entered into by Prime Contractors to verify that the Prime Contractor has required its Subcontractors to include the applicable wage determinations.
- (d) As provided in 29 CFR 1.6(f), DOL may issue a revised wage determination applicable to a Recipient's contract after the award of a contract or the issuance of an ordering instrument if DOL determines that the Recipient has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the Recipient shall either terminate the contract or ordering instrument and issue a revised solicitation or ordering instrument or incorporate DOL's wage determination retroactive to the beginning of the contract or ordering instrument by change order. The Recipient's Contractor must be compensated for any increases in wages resulting from the use of DOL's revised wage determination.

3. Contract and Subcontract provisions.

- (a) The Recipient(s) shall insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses:

(1) Minimum wages

- (i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly

period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

Recipients may obtain wage determinations from the U.S. Department of Labor's web site, www.wdol.gov.

- (ii)(A) The Recipient(s), on behalf of EPA, shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The EPA award official shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Recipient(s) agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Recipient(s) to the State award official. The State award official will transmit the report, to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the State award official or will notify the State award official within the 30-day period that additional time is necessary.
- (C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the and the Recipient(s) do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the award official shall refer the questions, including the views of all interested parties and the recommendation of the State award official, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor

shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

- (iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding

The Recipient(s), shall upon written request of the EPA Award Official or an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any Subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the (Agency) may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records

- (i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii)(A) The Contractor shall submit weekly, for each week in which any contract work is performed, a copy of all payrolls to the Recipient, that is, the entity that receives the sub-grant or loan from EFC. Such documentation shall be available on request of EFC or EPA. As to each payroll copy received, the Recipient shall provide written confirmation in a form satisfactory to the State indicating whether or not the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The payrolls shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on the weekly payrolls. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of

the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at www.dol.gov/whd/programs/dbra/wh347.htm or its successor site. The Prime Contractor is responsible for the submission of copies of payrolls by all Subcontractors. Contractors and Subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Recipient(s) for transmission to the State or EPA if requested by EPA, the State, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a Subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the Recipient(s).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

- (iii) The Contractor or Subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the State, EPA or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or Subcontractor fails to submit the required records or to make them available, the Federal agency or State may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees

- (i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and

Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or Subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements

of Executive Order 11246, as amended, and 29 CFR part 30.

- (5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- (6) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the EPA determines may be appropriate, and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for the compliance by any Subcontractor or lower tier Subcontractor with all the contract clauses in 29 CFR 5.5.
- (7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Contractor and a Subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its Subcontractors) and Recipient(s), State, EPA, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility.
 - (i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Provision for Contracts in Excess of \$100,000.

(a) Contract Work Hours and Safety Standards Act. The Recipient shall insert the following clauses set forth in paragraphs (a)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by Item 3, above or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

- (1) Overtime requirements. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a)(1) of this section the Contractor and any Subcontractor responsible

therefore shall be liable for the unpaid wages. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a)(1) of this section.

- (3) Withholding for unpaid wages and liquidated damages. The Recipient, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or Subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or Subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
 - (4) Subcontracts. The Contractor or Subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a)(1) through (4) of this section and also a clause requiring the Subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any Subcontractor or lower tier Subcontractor with the clauses set forth in paragraphs (a)(1) through (4) of this section.
- (b) In addition to the clauses contained in Item 3, above, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, the Recipient shall insert a clause requiring that the Contractor or Subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Recipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the Contractor or Subcontractor will permit such representatives to interview employees during working hours on the job.

5. Compliance Verification

- (a) The Recipient shall periodically interview a sufficient number of employees entitled to DB prevailing wages (covered employees) to verify that Contractors or Subcontractors are paying the appropriate wage rates. As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Recipient must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 are available from EPA on request.
- (b) The Recipient shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with DB posed by Contractors or Subcontractors and the duration of the contract or subcontract. Recipients must increase the frequency of the interviews if the initial interviews or other information indicates that there is a risk that the Contractor or Subcontractor is not complying with DB. Recipients shall immediately conduct necessary interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
- (c) The Recipient shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that Contractors or Subcontractors are paying the appropriate wage rates. The Recipient shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with DB posed by Contractors or Subcontractors and the duration of the contract or subcontract. At a minimum, the Recipient must spot check payroll data within two weeks of each Contractor or

Subcontractor's submission of its initial payroll data and two weeks prior to the completion date the contract or subcontract. Recipients must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the Contractor or Subcontractor is not complying with DB. In addition, during the examinations the Recipient shall verify evidence of fringe benefit plans and payments thereunder by Contractors and Subcontractors who claim credit for fringe benefit contributions.

- (d) The Recipient shall periodically review Contractors' and Subcontractors' use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the U.S Department of Labor or a state, as appropriate, and that contractors and Subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Item 5(b) and (c) above.
- (e) Recipients must immediately report potential violations of the DB prevailing wage requirements to the EPA DB contact listed above and to the appropriate DOL Wage and Hour District Office listed at www.wdol.gov.

AMERICAN IRON AND STEEL (AIS) REQUIREMENT

*****Applies to all contracts and subcontracts for:***

- (1) CWSRF Treatment Works Projects – see Defined Terms***
- (2) all DWSRF projects)*****

The Contractor acknowledges to and for the benefit of the Recipient of the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF) financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation (EFC) through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

- (a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
- (b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
- (c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph (nor any other provision of this Agreement necessary to give this paragraph force or effect) shall be amended or waived without the prior written consent of the EFC.

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PART 2:

GUIDANCE MATERIALS

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INTRODUCTION

A description of requirements as they relate to contracts funded in whole or in part by the New York State Revolving Funds:

Applicability:

This guidance applies to construction contracts entered into between an SRF recipient (Recipient) and a contractor (or between a Contractor and Subcontractor) when SRF funds are expended for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereof.

Purpose of Documents:

This guidance is designed to complement the required contract language as set forth in Part 1, by providing additional information intended to assist SRF Recipients and bidders in complying with EEO, MWBE and other requirements of the SRF programs, as appropriate, including:

- New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development)
- 40 Code of Federal Regulations (CFR) Part 33 – “Participation by Disadvantaged Business Enterprises in US EPA Programs”
- Restrictions on Lobbying
- P.L. 113-76, Consolidated Appropriates Act, 2014; WRRDA Section 608 of the Federal Water Pollution Control Act, as revised – “American Iron and Steel” (AIS)
- Davis Bacon Related Acts (DBRA) consisting of the following:
The Davis Bacon Act; Copeland Act 40 U.S.C. 3145; Reorganization Plan No. 14;
Department of Labor 29 CFR Parts 1, 3, and 5; Contract Work Hours and Safety Standards Act

Contractors are required to engage in oversight practices that ensure that the wages paid to employees and Subcontractors are consistent with DBRA requirements including payment of the higher of the state or federal wages.

Contractors are required to engage in procurement practices that will provide opportunities for meaningful participation of minority and women-owned business enterprises (MWBE) in providing construction, labor, travel, equipment, materials, supplies, services (including legal, financial, engineering or other professional services), or any combination of the above, and practices to encourage the employment of minorities and women in the workforce.

Failure to report on EEO participation or to meet any of the program requirements and regulations described within this packet in a timely manner may result in withholding of disbursements of SRF funds or other remedies as reflected in the SRF financial assistance agreement. This may affect the Contractor's payments.

Contractor are required to use iron and steel products made in the United States for the construction, alteration, maintenance, or repair of a public water system or treatment works.

Reference the EFC website to ensure the most recent forms and language. (www.efc.ny.gov/MWBE)

The New York State Environmental Facilities Corporation (EFC) implements the New York State Revolving Fund (SRF) for both Clean Water and Drinking Water projects. This guidance outlines the activities that must be performed by each Contractor and Subcontractor on an SRF funded project in order to comply with federal and New York State laws and regulations.

SECTION 1 EQUAL EMPLOYMENT OPPORTUNITY

**** (Applies to all contracts and subcontracts greater than \$10,000) ****

A. WORKFORCE DIVERSITY

Contractors are required to document their efforts to meet EEO goals for the employment of minorities and women on all SRF funded projects on the EEO Workforce Utilization Report. The United States Department of Labor (DOL) has established EEO goals for employment of minority and women. The goals are available on EFC's website in the Prime Contractor folder.

B. EEO POLICY STATEMENT

The EEO Policy Statement is documentation of a Contractor's or Subcontractor's policy of non-discrimination in accordance with federal and state laws. EEO Policy Statements must: be submitted to the Recipient's minority business officer (MBO) as part of any bid proposal or upon execution of a subcontract; include language as defined above (see Required Terms for Project Contracts and Subcontracts – EEO Policy Statement definition); and be signed by the Contractor or Subcontractor, as applicable.

The EEO Policy Statement can be found in the Required Forms section of this document and on EFC's website in both the Prime Contractor and MWBE Subcontractor sections.

C. EEO WORKFORCE UTILIZATION REPORTS

Upon the execution of the contract and monthly thereafter, the Contractor shall submit to the Recipient's MBO an EEO Workforce Utilization Report that documents the actual labor hours worked by ALL Contractor AND Subcontractor employees during the prior month period, on activities related to the contract, broken down by specific ethnic background, gender, and Federal occupational categories or other appropriate categories specified by the Recipient.

The *EEO Workforce Utilization Report* is part of the MWBE Monthly Report form. Both the EEO Workforce Utilization Report and MWBE Monthly Report are found on the EFC website in the Prime Contractor folder.

All EEO Workforce Utilization Reports submitted by the Contractor and Subcontractor must reflect a separation of the workforce utilized in the performance of this contract from Contractor or Subcontractor's total workforce. The EEO Workforce Utilization Report must indicate that the information provided relates to the actual workforce utilized. If the Contractor or Subcontractor fails to separate the workforce to be utilized on this contract from the total workforce as determined by Recipient, Contractor shall submit the EEO Workforce Utilization Report and indicate that the information provided is Contractor or Subcontractor's total workforce during the subject time frame, not limited to work specifically under a particular contract.

D. OTHER CONSTRUCTION CONTRACTOR RESPONSIBILITIES

1. Display the EEO poster at the project site in a visible location. The EEO poster is found at <http://www.dol.gov/oasam/programs/osdbu/sbrefa/poster/matrix.htm>.
2. Make all EEO documents and records available upon request to EFC staff, MBO, or their authorized representatives.
3. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English proficiency), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.

SECTION 2 MWBE and DBE

**** (DBE Applies to all contracts**

MWBE Applies to all: (1) Construction contracts greater than \$100,000
 (2) Projects that are initially under these thresholds but have subsequent change orders that increase the contract value above \$100,000
 (3) Change orders greater than \$25,000)**

A. MWBE REQUIREMENTS

Recipients, Contractors and Subcontractors must comply with New York State Executive Law, Article 15-A and New York Code of Rules and Regulations, Title 5 (5 NYCRR) Parts 140-145 (Regulations of the Commissioner of Economic Development).

Construction contracts, for the purposes of SRF MWBE compliance, are written agreements between an SRF Recipient and a Contractor (or Subcontractor) whereby the SRF Recipient commits to expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereof in support of an SRF financed project.

Amendments or change orders for such construction contracts with a value greater than \$25,000 may be subject to MWBE requirements as well. The Prime Contractor is to seek additional MWBE participation for the additional value of the contract unless EFC determines otherwise.

If contracts with a value of \$100,000 or less have subsequent change orders or amendments that bring the total contract value to greater than \$100,000, the full value of the contract will then be subject to MWBE requirements.

B. MWBE PARTICIPATION GOALS (FAIR SHARE OBJECTIVES)

NEW GOALS AS OF 10/1/2015

Based on the report, "The State of Minority and Women-Owned Business Enterprise: Evidence of New York, April 29, 2010" (NYS Disparity Study), there is a demonstrated availability of MWBEs throughout New York State. Contractors are required to solicit participation of MWBE firms (including Subcontractors, consultants, and Service Providers) for SRF funded projects.

MWBE participation goals will be based on the goals in place at the time of the execution date of each respective contract, unless MWBE participation goals have been otherwise specified in an executed SRF grant agreement or project finance agreement. The current goals for this program are listed below. If your contract was executed prior to October 1, 2012 please speak to an EFC Representative to determine what goals apply.

Program	MWBE Combined Goal*
CWSRF, DWSRF, & GIGP	20%
NYS Water Grants (also receiving SRF loan)	CWSRF 23% DWSRF 26%
Engineering Planning Grant	CFA Round 2012-2014 20% CFA Round 2015-2016 30%

*May be any combination of MBE and/or WBE participation

C. RECEIVING CREDIT UNDER THE EFC MWBE PROGRAM

To receive MWBE participation credit, Contractors or Subcontractors performing work that have been identified in an approved MWBE Utilization Plan (See Subsection D1 below for more information) must be certified as an MBE or WBE by the Division of Minority and Women's Business Development, Empire State Development Corporation (ESDC). Conditional credit will be given for firms that have applications pending with ESDC.

Prime Contractors that are certified MWBE will receive credit for MWBE participation. Primes may include second tier Subcontractors (Subcontractors hired by Subcontractors) on their MWBE Utilization Plan.

A list of firms certified in New York State can be found on the ESD website at <https://ny.newnycontracts.com>. Searches can be performed by the business name, commodity code or business description.

D. CONTRACTOR'S MWBE RESPONSIBILITIES

At the Time of Bid:

The completed forms listed below shall be part of the official bid submission (including proposals) by each competing Contractor:

- **EPA Form 6100-3 "DBE Subcontractor Performance Form"**
This form shall be completed by all potential Subcontractors and collected by the bidder to be included as part of the bid submission.
- **EPA Form 6100-4 "DBE Subcontractor Utilization Form"**
This form shall be completed by each potential bidder and submitted as part of the bid submission. On this form, each bidder offers their estimated plan for MBE and WBE utilization for their contract.

NOTE: The Prime Contractor's EEO Policy Statement should be completed and included as part of the bid submission.

Prior to Award of the Contract:

- **EPA Form 6100-2 "DBE Subcontractor Participation Form"**
Distribute the form to MWBE Subcontractors who are listed on the 6100-4 form. Submit to the MBO documented proof (e.g. email, letter, certified mail receipt) to the MBO that the 6100-2 form was made available to the MWBE Subcontractors. (See [Part 3: Required Forms](#))

After Award of the Contract:

Each Prime Contractor is obligated to seek MWBE participation and document their good faith efforts to meet MWBE goals.

1. MWBE Utilization Plan (UP)

- a. **Due Date:** MWBE UPs are required to be submitted to the MBO no later than the date of execution of the contract.
- b. **Preparation:** Each Contractor shall prepare an MWBE UP that provides information describing MBEs and WBEs to be utilized during the term of the contract. The MWBE UP will reflect the EFC MWBE goals that apply to the contract as well as the Contractor's anticipated MWBE participation. The Prime Contractor may take credit for certified firms obtained by their Subcontractors. The Contractor will transmit the completed MWBE UP form, with all pages filled out, to the MBO. Blank MWBE UP forms are available on EFC's MWBE website.

MWBE UP revisions should be submitted to the MBO, with the next monthly report. When an MWBE UP is revised due to execution of a change order, the change order should be submitted to the MBO with the revised MWBE UP.

- c. **NYS Certified:** The MBEs and WBEs identified in the MWBE UP must be certified by, or have applied for certification from:

Empire State Development Corporation
 Division of Minority and Women's Business Development
 625 Broadway
 Albany, New York 12245
 Phone: 1-800-782-8639
www.esd.ny.gov/MWBE.html

- d. **Supplier Credit:** Credit for MBE/WBE participation shall be granted for MWBE firms performing a commercially useful business function according to custom and practice in the industry.

"Commercially useful functions" normally include:

- i. Providing technical assistance to a purchaser prior to a purchase, during installation, and after the supplies or equipment are placed in service;
- ii. Manufacturing or being the first tier below the manufacturer of supplies or equipment; or
- iii. Providing functions other than merely accepting and referring requests for supplies or equipment to another party for direct shipment to a Contractor.
- iv. Being responsible for ordering, negotiating price, and determining quality and quantity of materials and supplies.

MBE/WBE goal crediting:

- i. For MWBE suppliers who are manufacturers, fabricators, or official manufacturer's representatives who are warehousing such goods, up to 100% of the MBE/WBE objective may be credited.
 - ii. No credit will be granted for MBEs and/or WBEs that do not provide a commercially useful function.
- e. **Waiver Request:** If the Contractor's application of good faith efforts does not result in the utilization of MBE and/or WBE firms to achieve the aforementioned goals or a specialty equipment/service waiver is requested, the Contractor shall complete the waiver request portion of the MWBE UP, attach appropriate documentation, and submit it to the MBO. **See Section F for more information.**
- f. **MWBE Utilization Plan Acceptance vs. Notice of Deficiency:** The MBO will evaluate a completed MWBE UP. If the MBO finds the UP sufficient, after review and application of the requirements set forth in this guidance, they will forward to EFC for review. If the MBO finds the UP insufficient, they will work with the Contractor to address deficiencies before submitting to EFC for review. A written notice of acceptance or denial will be issued by EFC within 20 business days of receipt of the UP. Upon notice of deficiency to the Contractor from either the MBO or EFC, the Contractor shall respond with a written remedy to such notice within seven (7) business days.

In coordination with the MBO, EFC will accept an MWBE UP upon consideration of many factors, including the following:

- i. The MWBE UP indicates that the proposed goals for the project will be achieved;
- ii. A Prime Contractor, who is a certified MBE or WBE, will be credited for up to 100% of the category of their certification. However, good faith efforts to seek participation in the other category are required; and

iii. Adequate documentation to demonstrate good faith effort and/or support a specialty equipment/services waiver as described in Section D2.

- g. **UP Acceptance:** Within 10 days of the final acceptance of a MWBE UP or Waiver Request, EFC will post the approved MWBE UP or Waiver Request on the EFC website.
- h. **Conditional Utilization Plan:** In coordination with the MBO, EFC may issue conditional acceptance of UPs pending submission of additional documentation that demonstrates there will be an increase in MWBE participation.
- i. **Revisions of the MWBE Utilization Plans:** If project conditions change such that the information submitted in the approved MWBE UP is no longer valid, the Contractor shall indicate the changes to the MBO in the next monthly report. At EFC's discretion, an updated MWBE UP form and good faith effort documentation may be required to be submitted.
- j. **Projects Co-Funded with other state/federal agencies:** In the event EFC is providing financial assistance to a project that is also financially supported by other state/federal agencies, EFC may defer to the MBE and WBE participation goals and program established by those agencies.

2. Good Faith Effort Documentation

The Prime Contractor shall maintain documentation of their efforts to solicit participation of MWBE firms for SRF-funded projects in an effort to meet the appropriate goals. In the event respective goals are not achieved, the Contractor must submit sufficient documentation to demonstrate good faith efforts have been made to provide opportunities to certified MWBE firms to participate in SRF-funded projects.

Examples of documentation of good faith efforts are set forth below:

- Information on the scope of work related to the contract and specific steps taken to reasonably structure the scope of work to break out tasks or equipment needs for the purpose of providing opportunities for subcontracting with, or obtaining supplies or services from, MBEs or WBEs.
- Printed screenshots of the directory of Certified Minority and Women Owned Businesses (MWBE directory) on ESD's website on a statewide basis, if appropriate, for both MBEs and WBEs that provide the services or equipment necessary for the contract. Contact the MBO for assistance in performing a proper search including identifying a sufficient number of solicitations to show that good faith effort was made.
- Copies of timely solicitations and documentation that the Contractor offered relevant plans, specifications, or other related materials to MBE and WBE firms on ESD's MWBE directory to participate in the work, with the responses.

The Contractor is to offer sufficient advance notice proportional to the size and complexity of the contract to enable MBEs and WBEs to prepare an informed response to the solicitations for participation as a Subcontractor or supplier. The solicitations and responses are required to be documented in a log to be submitted in the case where the goal is not met. The log should consist of the list of MBE and WBE firms solicited, their contact information, the type of work they were solicited to perform (or equipment to provide), how the solicitation was made (fax, phone, email) and the contact information, the contacts name and the outcome. If a bid was received, the bid price should also be included in the log. See a sample log entry below:

Date	M/WBE Type	Company	Scope of work	Contact Name	Phone/ Email	Solicitation Format	MWBE Response	Negotiation Required?	Selected? If not, Explain

If no response was received to an initial solicitation, at least one follow-up solicitation should be made in a different format than the first, e.g. fax followed by phone call. Any bids received from non-MWBE firms should also be tracked on the log.

Submit the EPA 6100-3 and 6100-4 forms that are required as part of all bids or proposals. A properly completed EPA 6100-3 form is good indication of a contact to an MWBE and their response to the contact. If solicitations do not result in obtaining sufficient participation of MWBE firms due to non-responsiveness, please contact the MBO or EFC MWBE representative for support.

- Copies of any advertisements of sufficient duration to effectively seek participation of certified MBE and WBEs timely published in appropriate general circulation, trade and MWBE oriented publications, together with listing and dates of publication of such advertisements. EFC recommends the use of the Contract Reporter that is free to all Contractors - <https://www.nyscr.ny.gov/>. A log should be kept of the responses to the ads, similar to the log for MWBE firm solicitation and should include the non-MWBE firms that responded and the bid prices. Any negotiations should be documented in the log.
- Documents demonstrating that insufficient MBEs or WBEs are reasonably available to perform the work. Based on the NYS Disparity Study, there is a presumption of MBE and WBE statewide availability, unless information is submitted indicating otherwise.
- A written demonstration that the Contractor offered to make up any inability to meet the project MWBE participation goals in other contracts and/or agreements performed by the Contractor on another SRF funded project.
- The date of pre-bid, pre-award, or other meetings scheduled by the Recipient, if any, and the contact information of any MBEs and WBEs who attended and are capable of performing work on the project.
- Any other information or documentation that demonstrates the Contractor conducted good faith efforts to provide opportunities for MWBE participation in their work. For instance, Prime Contractors and MBOs should develop a list of MWBE firms that have expressed interest in working on SRF funded projects
- The use of certified Disadvantaged Business Enterprises (DBE), Small Business Administration (SBA), and Veteran-Owned Small Businesses (VOSB) may be considered as a demonstration of Good Faith Efforts.

3. Subcontract Agreements

The Contractor shall submit copies of all legally signed subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution. These subcontracts and/or purchase orders must include the following information:

- Actual dollar amount of the subcontract;
- A job description of the work to be performed by the Subcontractor;
- Signatures of both parties;
- Date of execution;
- MWBE language (included in this bid packet); and

- f. A signed EEO Policy Statement Agreement (See Required Forms).

NOTE: Purchase orders must be sent with copies of both sides of cancelled checks.

4. Monthly Reports

The Contractor must submit monthly MWBE payment reports supplemented with proof of payment to the MBO. Blank monthly report forms are available on EFC's website or from the MBO. Monthly reports should be submitted to the MBO within 3 business days after the end of each month being reported.

As part of the Monthly Report, the Contractor must provide documentation to the MBO that Subcontractors have been paid within 30 days of receipt of payment from the Recipient.

The final monthly payment report must reflect all Utilization Plan revisions and all change orders.

5. Other Contractor Responsibilities

- a. Continue good faith efforts to seek opportunities for MBE and WBE participation even if proposed goals have been achieved. In addition, any revisions to an MWBE Utilization Plan must be documented in the next monthly report to the MBO for approval.
- b. Provide written notification to the MBO and EFC of any termination of an MBE or WBE Subcontractor. This should be reported as part of the revised MWBE Utilization Plan or in a monthly report.
- c. Provide timely and complete responses to inquiries from either the MBO or EFC staff as requested.
- d. Make all MWBE documents and records available upon request to EFC staff, the MBO, or their authorized representatives.
- e. Manage the project in a manner that creates meaningful opportunities for participation by MBEs and WBEs.
- f. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law.

Additional guidance and requirements pertaining to the preparation and submission of the MWBE Utilization Plans can be found in the [Part 1: Required Contract Language](#).

NOTE: Failure by the Contractor to receive acceptance of the MWBE Utilization Plan by the Recipient or EFC may result in withholding of progress payments. Such withholding of progress payments shall not relieve the Contractor of any contract requirements including the completion of the project within the specified contract time.

E. SUBCONTRACTOR'S MWBE RESPONSIBILITIES

Subcontractors are those individuals or business enterprises that contract directly with Contractors. Subcontractors should:

1. Maintain their MWBE certifications, and notify the Contractor and MBO of any change in their certification status.
2. Notify the Prime Contractor of any MWBE Subcontractors they hire so they may be included on the Prime's UP.
3. Respond promptly to solicitation requests by completing and submitting bid information in a timely manner.
4. Maintain business records that should include, but not be limited to, contracts/agreements, records of receipts, correspondence, purchase orders, and canceled checks.
5. Complete and submit the EPA Form 6100-3 "DBE Subcontractor Performance Form" to the Contractor prior to submission of the bid. Provide a receipt of EPA Form 6100-2 "DBE Subcontractor Participation Form" to the Contractor prior to award of contract.
6. Ensure that a required EEO Policy Statement and a copy of this Bid Packet is included in each subcontract. Additionally, signed versions of each subcontract should be sent to the MBO within 30 days of execution.
7. Provide programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination on the basis of race, color, national origin (including limited English provision), age, disability, sex, gender, sexual orientation, religion, genetic characteristics or information, status as a victim of domestic violence, veteran or military status, marital or family status, or any other discrimination prohibited by law. Share EEO utilization information with the Prime Contractor.
8. Notify the MBO and EFC when contract problems arise, such as non-payment for services or when the Subcontractor is not employed as described in the MWBE Utilization Plan.
9. Perform the subcontracted scope of work in a professional and timely manner.

F. MWBE WAIVER REQUESTS

Each Contractor is required to create meaningful opportunities for certified MWBE participation and to offer the MWBE certified firms a fair share of their work. After making good faith efforts to create meaningful opportunities, a Contractor may find that it is not possible to meet the MWBE goals. In that case, the Contractor shall request a waiver from the goals.

Even if an MWBE waiver is granted, EEO information must still be submitted. The EEO utilization information is submitted as part of the Monthly Report.

1. **Preparation:** The Contractor shall complete the waiver request portion of the MWBE Utilization Plan and submit it to the MBO along with adequate good faith effort documentation and a letter explaining why the waiver is necessary.
2. **Waiver Review:** The MBO and EFC will review each waiver request based on the good faith effort criteria presented above and the documentation submitted with the waiver request. EFC will not issue any automatic waivers from MWBE responsibilities. A full or partial waiver from the MWBE goals can be requested.
3. **Specialty Equipment/Service Waiver:** A specialty equipment/service waiver may be granted in cases where:
 - a. equipment is made by only one non-MWBE manufacturer,
 - b. the technical specifications call for equipment that is not available through an MWBE supplier;
 - c. the equipment is constructed on site by specially trained non-MWBE labor;
 - d. the service is not available through an MWBE (such as work done by National Grid);

- e. the service is proprietary in nature (such as use of certain computer software necessary for control systems); or
- f. the service cannot be subcontracted (such as litigation services).

If the contract includes specialty equipment or services, and documentation is submitted demonstrating that there are no MBE/WBE firms capable of completing this portion of the contract, the specialty amount of the contract may be deducted from the total contract amount to determine the MWBE Eligible Amount and the goals would be applied to the MWBE Eligible Amount. This determination is made at the discretion of the MBO and EFC.

Example:

$$\begin{array}{rcl} \$200,000 & - & \$50,000 & = & \$150,000 \\ \text{(Contract)} & & \text{(Specialty equipment/service)} & & \text{(MWBE Eligible Amount)} \end{array}$$

The MWBE goal is applied to the remaining balance.

A request for this specialty equipment/service deduction can be completed by filling out section two of the MWBE Utilization Plan and submitting it to the MBO. The request must include a copy of the page from the contract where the equipment/ service is described and the cost of each item. For construction contracts, the schedule of values or bid tabulation sheet should also be submitted. Additional documentation may be requested by the MBO or EFC.

G. PROTESTS/COMPLAINTS

Subcontractors or Contractors who have any concerns, issues, or complaints regarding the implementation of the SRF MWBE/EEO Program, or wish to protest should do so in writing to the project MBO and EFC. The MBO, in consultation with EFC, will review the circumstances described in the submission, investigate to develop additional information, if warranted, and determine whether action is required. If the Subcontractor believes the issue has not been resolved to their satisfaction, they may appeal in writing to EFC for consideration.

H. WASTE, FRAUD AND ABUSE

Subcontractors, Contractors, Service Providers, or Recipients who know of or suspect any instances of waste, fraud, or abuse within the MWBE & EEO Program should notify the project MBO and EFC immediately. Additionally, suspected fraud activity should be reported to the USEPA – Office of Inspector General Hotline at (888) 546-8740, the New York State Office of Inspector General at (800) 367-4448, or the ESD Compliance Office at (212) 803-3268.

I. REMEDIES

If a Recipient makes a determination that a Contractor has been non-responsive, is non-responsive, or is in breach as a result of a failure to comply with the program requirements discussed in [Part 1: Required Contract Language](#), Recipient may withhold funds under the contract or take such other actions, impose liquidated damages or commence enforcement proceedings.

If a Contractor or Subcontractor fails to submit to Recipient an EEO policy statement within the required timeframe, Recipient may declare the contract to be null and void.

A failure to submit and/or adhere to an EEO policy statement and an MWBE Utilization Plan, and any other required reports, shall constitute a material breach of the terms of the contract between Contractor and Recipient, and justify a finding of Contractor non-responsiveness.

SECTION 3 RESTRICTIONS ON LOBBYING

***** (Applies to all contracts and subcontracts greater than \$100,000) *****

Each Contractor and Subcontractor which has a contract with Recipient exceeding \$100,000 shall provide to the Recipient a completed Certification for Contracts, Grants, Loans, and Cooperative Agreements, 40CFR Part 34 (Lobbying Certification) form. The form provides a certification that the Contractor or Subcontractor will not expend appropriated federal funds to pay any person for influencing or attempting to influence an officer or employee of any agency, Member of Congress, officer or employee of Congress or any employee of any Member of Congress in accordance with the provisions of 40 CFR Part 34, and to maintain such certification for their own records.

SECTION 4 AIS REQUIREMENTS

***** (Applies to all Construction contracts and subcontracts for:***

- (1) CWSRF Treatment Works Projects – see Defined Terms*
- (2) all DWSRF projects) ***

American Iron and Steel (AIS) requirements apply to any federally funded construction project:

- That is for the construction, alteration, maintenance, or repair of public water system or treatment works;
- Where an SRF-eligible entity executes a financial assistance agreement with the NYS Environmental Facilities Corporation (EFC) after January 17, 2014 for assistance through either the Clean Water State Revolving Fund (CWSRF) or the Drinking Water State Revolving Fund (DWSRF), and
- That did not have the project plans and specifications submitted for review by a NYS agency on or before January 17, 2014 and approved by a NYS agency before April 15, 2014.

AIS requirements apply to the whole of the project, even if the project is only partially funded by SRF funds.

The following activities must be implemented by each Contractor on an SRF funded project in order to maintain compliance with the AIS program. These contractual obligations are included in the contract language in [Part 1: Required Contract Language](#) and expanded upon below.

Note that the following information serves as a general summary of the AIS program. The Contractor should refer to the EPA website and review the [State Revolving Fund American Iron and Steel Requirement](#) for further information on specific AIS requirements.

A. DEFINITIONS

It is required that all of the iron and steel products used in the project are produced in the United States. The term “iron and steel products” means the following products made primarily of iron or steel that is permanently incorporated into the public water system or treatment works:

- Lined or unlined pipes or fittings
- Manhole Covers
- Municipal Castings (defined below);
- Hydrants
- Tanks
- Flanges
- Pipe clamps and restraints
- Valves
- Structural steel
- Reinforced precast concrete
- Construction materials (defined below)

For one of the listed products to be considered subject to the AIS requirement, it must be made of greater than 50% iron and steel, measured by material cost (with the exception of reinforced precast concrete products).

Municipal castings – cast iron or steel infrastructure products that are melted and cast. They typically provide access, protection, or housing for components incorporated into utility owned drinking water, storm water, wastewater, and surface infrastructure. They are typically made of grey or ductile iron, or steel. Examples of municipal castings are:

Access Hatches	Inlets
Ballast Screen	Junction Boxes
Benches (Iron or Steel)	Lampposts
Bollards	Manhole Covers, Rings and
Cast Bases	Frames, Risers
Cast Iron Hinged Hatches	Meter Boxes
Cast Iron Riser Rings	Service Boxes
Catch Basin Inlet	Steel Hinged Hatches
Cleanout/Monument Boxes	Square and Rectangular
Construction Covers and Frames	Steel Riser Rings
Curb and Corner Guards	Trash receptacles
Curb Openings	Tree Grates
Detectable Warning Plates	Tree Guards
Downspout Shoes (Boot, Inlet)	Trench Grates
Drainage Grates, Frames and Curb	Valve Boxes, Covers and Risers
Inlets	

Construction Materials – articles, materials, or supplies made primarily of iron and steel that are permanently incorporated into the project, not including mechanical and/or electrical components, equipment and systems. Some of these products may overlap with what is also considered “structural steel”. This includes, but is not limited to, the following products:

Wire rod
 Bar
 Angle
 Concrete Reinforcing bar
 Wire
 Wire cloth
 Wire rope and Cables
 Tubing
 Framing
 Joists
 Trusses
 Fasteners (i.e., nuts and bolts)
 Welding rods
 Decking
 Grating
 Railings
 Stairs
 Access ramps
 Fire escapes
 Ladders
 Wall panels
 Dome structures
 Roofing
 Ductwork
 Surface drains
 Cable hanging systems
 Manhole steps
 Fencing and fence tubing
 Guardrails
 Doors
 Stationary screens

NOT Considered Construction Materials: Mechanical and electrical components, equipment and systems are not considered construction materials. Mechanical equipment is typically that which has motorized parts and/or is powered by a motor. Electrical equipment is typically any machine powered by electricity and includes components that are part of the electrical distribution system.

The following examples (including their appurtenances necessary for their intended use and operation) are NOT considered construction materials:

- Pumps
- Motors
- Gear reducers
- Drives (including variable frequency drives (VFDs))
- Electric/pneumatic/manual accessories used to operate valves (such as electric valve actuators),
- Mixers
- Gates
- Motorized screens (such as traveling screens)
- Blowers/aeration equipment
- Compressors
- Meters
- Sensors
- Controls and switches
- SCADA
- Membrane bioreactor systems
- Membrane filtration systems
- Filters
- Clarifiers and clarifier mechanisms
- Rakes
- Grinders
- Disinfection systems
- Presses (including belt presses)
- Conveyors, cranes
- HVAC (excluding ductwork)
- Water heaters
- Heat exchangers
- Generators
- Cabinetry and housings (such as electrical boxes/enclosures)
- Lighting fixtures
- Electrical conduit
- Emergency life systems
- Metal office furniture
- Shelving
- Laboratory equipment
- Analytical instrumentation
- Dewatering equipment

B. MANUFACTURER'S AIS CERTIFICATION

Each Contractor shall provide to the Recipient an executed certification from the manufacturer of the product on the form provided in the forms section of this document, that the iron and steel products and/or materials used on this project are in full compliance with the American Iron and Steel requirements in accordance with the provisions of the Consolidated Appropriations Act, and to maintain such certification for their own records.

It is recommended that a step certification process is used, in which each handler (supplier, fabricator, manufacturer, processor, etc) of the iron and steel products certifies that their step in the process was domestically performed. Each time a step in the manufacturing process takes place, the manufacturer delivers its work along with a certification of its origin.

A certification typically includes:

- a. the name of the manufacturer
- b. the location of the manufacturing facility where the product or process took place (not its headquarters)
- c. a description of the product or item being delivered
- d. a signature by a manufacturer's responsible party

These certifications should be collected and maintained by Recipients.

Alternatively, the final manufacturer that delivers the iron or steel product to the worksite, vendor, or Contractor, may provide a certification asserting that all manufacturing processes occurred in the US. While this type of certification may be acceptable, it may not provide the same degree of assurance. Additional documentation may be needed if the certification is lacking important information.

C. CONTRACTOR'S AIS CERTIFICATION

Each Prime Construction Contractor, or material and equipment supplier, must complete a Contractor AIS Certification form and submit to the SRF Recipient as part of the conformed bid set. The certification states that all permanent iron and steel products used on the contract will be made in the United States and that documentation will be maintained at the project locations.

D. AIS WAIVER REQUESTS

The EPA is allowed to issue waivers from the AIS requirements when:

- The application of the AIS requirements would be inconsistent with the public interest;
- Iron and steel products are not produced in the US in sufficient and reasonably available quantities and of a satisfactory quality; or
- Inclusion of iron and steel products produced in the US will increase the cost of the overall project by more than 25 percent.

AIS waivers can be product-specific, project-specific, regional, or nationwide. Waiver requests can only be submitted by either EFC or DOH to EPA, and only EPA can approve an AIS waiver. If the Contractor is considering requesting an AIS waiver, documentation as described in the EPA guidance should be developed and submitted to the EFC or DOH Project Engineer. See EFC's website for EPA guidance.

1. Waiver Documentation:

The Contractor shall complete the waiver request to the Recipient along with adequate good faith effort documentation. Waiver requests should include the following information:

- a. Description of the foreign and domestic construction materials
- b. Unit of measure
- c. Quantity
- d. Price
- e. Time of delivery or availability
- f. Location of the construction project
- g. Name and address of the proposed supplier
- h. A detailed justification for the use of foreign construction materials

For **Cost Waiver Requests**, the Contractor should compare the overall cost of the project with domestic iron and steel products to overall cost of the project with foreign iron and steel products. Relevant excerpts from the bid documents used by the Contractors to complete the comparison, as well as supporting documentation indicating that the Contractors made a

reasonable survey of the market, such as a description of the process for identifying suppliers and a list of contacted suppliers may be used.

For Availability Waiver Requests, the request must include the following supporting documentation necessary to demonstrate the availability, quantity and/or quality of the materials for which the waiver is requested:

- a. Supplier information or pricing information from a reasonable number of domestic suppliers indicating availability/delivery date for construction materials
- b. Documentation of the assistance recipient's efforts to find available domestic sources, such as a description of the process for identifying suppliers and a list of contacted suppliers
- c. Project schedule
- d. Relevant excerpts from project plans, specifications, and permits indicating the required quantity and quality of construction materials

Availability Waiver Requests should include a statement from the prime Contractor and/or supplier confirming the non-availability of the domestic construction materials for which the waiver is sought.

2. Waiver Review:

The Recipient and EFC will review each waiver request based on the criteria presented above and the documentation submitted with the waiver request. EFC will submit waiver request directly to EPA for final approval of submission. Granting a waiver is a three-step process:

- a. Posting – After receiving an application for waiver of the AIS requirements, EPA will publish the request on its website for 15 days and receive informal comment.
- b. Evaluation – EPA will review the application to determine whether the application properly and adequately documents and justifies the statutory basis cited for the waiver to make a determination.
- c. Determination – In the event that EPA finds that adequate documentation and justification has been submitted, the EPA may grant a waiver to the Recipient. The Recipient should keep a copy of the signed waiver in its project files.

E. DE MINIMIS WAIVER

The AIS de minimis waiver allows that incidental iron and steel components that are tracked in a certain manner are exempt from the AIS requirements. Items that can be subject to the de minimis waiver must be:

1. Essential, but incidental to the construction
2. Incorporated into the physical structure of the project. and
3. Often are low cost and procured in bulk.

Examples of items eligible for de minimis tracking include: washers, screws, nuts, bolts, fasteners, miscellaneous wire, corner bead, ancillary tubing, etc.

Examples of items that are NOT incidental and cannot be considered for de minimis tracking include: process fittings, tees, elbows, flanges, brackets, valves, sewer or water pipes for distribution, treatment or storage tanks, large structural support systems, etc.

To comply with the de minimis waiver, all items that are waived must meet the above criteria and must be 5% or less of the total cost of materials incorporated into the project. This can be measured on a project basis, or on a contract-by-contract basis, as long as the cost of the tracked de minimis iron and steel items is 5% or less of the total material cost of materials incorporated into the project.

Contractors should prepare a record, in spreadsheet form, which tracks the cost of all materials incorporated into the project. This spreadsheet can be either project specific or contract specific. If contract specific, a material tracking record for each construction contract should be prepared and items that are subject to the AIS de minimis waiver highlighted. There should be a clear calculation available to indicate that the cost of the de minimis iron and steel items is 5% or less of the total cost of all materials.

F. INSPECTIONS

EFC or DOH can be expected to conduct occasional site inspections that will include a review of AIS documentation for the project. Items that will be reviewed during these inspections include:

1. AIS certifications from vendors, suppliers, or manufacturers;
2. Contract and subcontracts to verify that the AIS contractual language has been included; and
3. The lists of the incidental iron and steel project components that are claimed under the AIS de minimis waiver.

G. BEST PRACTICES

The following Best Practices are suggestions and recommendations for the Contractor to remain in compliance with the AIS program. The EFC can be contacted directly with any questions regarding compliance.

1. The Contractor should carefully review the plans and specifications prepared to identify iron and steel products (as defined previously in Section 5.A) used in each project and incorporate American-made iron and steel at the time of bid.
2. The Contractor should acquire product certifications from all suppliers and manufacturers for iron and steel products verifying that the products used in the project are American-made. These certifications should be kept on file for the duration of the project and provided to the SRF Recipient.
3. The product/manufacture certifications should be submitted with each equipment/material submittal to the Recipient and/or Engineer. The Contractor should retain all delivery slips, certifications and approved submittals in their file for the duration of the project.

SECTION 5 DBRA REQUIREMENTS

***Applies to all Construction contracts and subcontracts greater than \$2,000 for:*

- (1) CWSRF Treatment Works Projects – see Defined Terms*
- (2) all DWSRF Projects)***

Construction Contractors and Subcontractors must comply with the Davis Bacon Related Act (DBRA) program if “yes” is answered for the following questions:

- ☐ This project involves the construction, alteration, maintenance, or repair of a public water system (DWSRF) or treatment works (CWSRF). Examples: collection systems, pump stations, and wastewater treatment plants (see definitions)
- ☐ The construction contract or subcontract is greater than \$2,000
- ☐ Any construction after October 30, 2009

DBRA requirements do not apply to non-construction contracts or for construction work categorized by EPA

as non-point source projects or estuary management program projects, unless the project involves treatment plant work. Contact EFC or DOH Project Engineer prior to bid if you have these types of projects.

The contractual obligations necessary to maintain compliance with the DBRA are included in the contract language in [Part 1: Required Contract Language](#) and expanded upon below.

Prior to bid and execution of any SRF eligible contracts, complete the following activities:

A. FEDERAL AND STATE WAGE RATES

When preparing the bid for SRF project, the Contractor must use the higher of the prevailing federal, state, or applicable local wage rates paid to each trade. These rates apply to Subcontractors working on the project as well. Federal wage rates can be found at <http://www.wdol.gov/>.

B. DEBARRED OR SUSPENDED CONTRACTORS

The Contractor should ensure that the Subcontractors bidding on the work are not included on either the state or federal debarred or suspended Contractor's list, located within the state wage rate packet and available on the US Department of Labor website <https://www.sam.gov/portal/public/SAM/>.

C. CONTRACT LANGUAGE AND WAGE RATES

The Contractor must ensure that the most recent DBRA contract language and federal wage rates are included in the contract before execution.

Davis Bacon regulations require that Recipients must amend the solicitation if the Department of Labor issues a modification to the wage rates more than 10 days prior to the closing date (i.e. bid opening) for the solicitation.

Also, if the contract has not been awarded within 90 days after bid opening, the Recipient must modify the solicitation or contract to include the most recent federal wage rates, if they have been modified. The federal wage website includes a list of wage determinations that are due for revision.

After execution of any contracts, complete the following activities:

D. WAGE RATE COMPLIANCE VERIFICATION

Contractor/Subcontractor Responsibilities:

1. Post Davis Bacon Wage Poster and federal, state, and applicable local wages in a visible area at the construction site. This poster may be found on the EFC website under the Resource Library. (Refer to [Part 3: Required Forms](#))
2. Make your employees and Subcontractors' employees available for wage interviews if necessary. Wage interviews must be conducted confidentially and using Labor Standard Interview Form (SF-1445). (Refer to [Part 3: Required Forms](#))
3. Use federal payroll form WH-347 and complete the certifications on the back. If another form is being used, inform the Recipient and obtain a determination that the form is equivalent to the federal form. (Refer to [Part 3: Required Forms](#))
4. Pay the higher of prevailing federal, state, or applicable local wages, including benefits (fringe & holidays), to each trade and overtime not less than one and one-half times the basic rate of pay for hours in excess of forty hours on contracts in excess of \$100,000. The wage rates apply to Subcontractor trades as well.
5. Maintain proof of apprentice and trainee ratios for both Contractor and Subcontractor and certifications onsite.

6. Pay wages to your employees and your Subcontractors on a weekly basis. Ensure that your Subcontractors are paying their employees weekly.
7. Ensure that the subcontracts contain the Davis Bacon contract language, the federal, state, or applicable local wage determinations and equal employment opportunity language. This language is provided in the [Part 1: Required Contract Language](#). Federal wage determinations are available at www.wdol.gov.
8. Provide payroll forms and apprentice and trainee certifications to the Recipient for their records.
9. Report potential waste, fraud and abuse violations to the EPA Davis Bacon Contact and DOL Wages and Hours District Office found on their website. www.wdol.gov/.
10. Any violations in payroll reporting or unpaid wages are subject to a daily monetary penalty.

Note that EFC expects to perform interim and final construction inspections. The EFC inspector can be expected to verify that the steps above are being followed and also check to ensure the proper signs and wage rates are posted in a visible area.

PROGRAM DECISION TREE



PART 3:

REQUIRED FORMS

FOR CONSTRUCTION CONTRACTS

All required forms can be found on the EFC website (www.efc.ny.gov/MWBE)

To be submitted with this bid:

- ☐ *EEO Policy Statement
- ☐ Documented Proof that EPA Form 6100-2 "DBE Subcontractor Participation Form" was given to MWBE Subcontractors
- ☐ *EPA Form 6100-3 "DBE Subcontractor Performance Form"
- ☐ *EPA Form 6100-4 "DBE Subcontractor Utilization Form"
- ☐ *Lobbying Certification
(Certification for Contracts, Grants, Loans, and Cooperative Agreements)
- ☐ *AIS Contractor's Certification

Refer to **Part 2:**

Guidance Section

[Section 1.B](#)

[Section 2.D](#)

[Section 2.D](#)

[Section 2.D](#)

[Section 3](#)

[Section 4.C](#)

To be submitted after contract award:

- ☐ MWBE Utilization Plan and/or Waiver Request
- ☐ EEO Workforce Utilization Report (part of MWBE Monthly Report Form)

[Section 2.D.1](#)

[Section 1.C](#)

Tasks for construction start:

- ☐ Post EEO Poster
- ☐ Post Davis Bacon Wage Poster AND Wage Rates
- ☐ Use Federal Payroll Form (WH-347)
- ☐ Obtain AIS Manufacturer's Certifications for all iron & steel products

[Section 1.D](#)

[Section 5.D.1](#)

[Section 5.D.3](#)

[Section 4.B](#)

Ongoing documentation & tasks:

- ☐ Submit Monthly MWBE Reports to MBO

[Section 2.D.4](#)

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**AGREEMENT TO ABIDE BY EQUAL EMPLOYMENT OPPORTUNITY
POLICY STATEMENT REQUIREMENTS
NEW YORK STATE REVOLVING FUND (SRF)**

I, _____, am the authorized representative of _____.

Name of Representative

Name of Contractor/Service Provider

I hereby certify that _____ will abide by the equal employment
Name of Contractor/Service Provider
opportunity (EEO) policy statement provisions outlined below.

- (i) A statement that the contractor will not discriminate on the basis of race, creed, color, national origin, sex, age, disability, or marital status against any employee or applicant for employment, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination and will make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on contracts relating to the Project.
- (ii) An agreement that all of contractor's solicitations or advertisements for employees will state that, in the performance of the contract relating to this Project, all qualified applicants will be afforded equal employment opportunities without discrimination on the basis of race, creed, color, national origin, sex, age, disability or marital status.
- (iii) An agreement to request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- (iv) An agreement to comply with the provisions of the Human Rights Law (Article 15 of the Executive Law), including those relating to non-discrimination on the basis of prior criminal conviction and prior arrest, and with all other State and federal statutory constitutional non-discrimination provisions.

Blank EEO Policy Statements are available at www.efc.ny.gov/mwbe, if needed.

If contractor fails to submit to Recipient an EEO policy statement consistent with the provisions set forth above in clauses (i), (ii), (iii) and (iv) and within the timeframe required thereof, Recipient may declare this contract to be null and void.

X

Contractor/Service Provider Representative

Once completed, please provide to the Prime Contractor and/or the community MBO

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Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Participation Form

An EPA Financial Assistance Agreement Recipient must require its prime contractors to provide this form to its DBE subcontractors. This form gives a DBE¹ subcontractor² the opportunity to describe work received and/or report any concerns regarding the EPA-funded project (e.g., in areas such as termination by prime contractor, late payments, etc.). The DBE subcontractor can, as an option, complete and submit this form to the EPA DBE Coordinator at any time during the project period of performance.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Received from the Prime Contractor Involving Construction, Services , Equipment or Supplies	Amount Received by Prime Contractor

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Participation Form**

Please use the space below to report any concerns regarding the above EPA-funded project:

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Performance Form

This form is intended to capture the DBE¹ subcontractor's² description of work to be performed and the price of the work submitted to the prime contractor. An EPA Financial Assistance Agreement Recipient must require its prime contractor to have its DBE subcontractors complete this form and include all completed forms in the prime contractors bid or proposal package.

Subcontractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Prime Contractor Name		Issuing/Funding Entity:	

Contract Item Number	Description of Work Submitted to the Prime Contractor Involving Construction, Services , Equipment or Supplies	Price of Work Submitted to the Prime Contractor

DBE Certified By: ☒ DOT ☒ SBA ☒ Other: _____	Meets/ exceeds EPA certification standards? ☒ YES ☒ NO ☒ Unknown
--	--

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Performance Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

Subcontractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

Disadvantaged Business Enterprise (DBE) Program DBE Subcontractor Utilization Form

This form is intended to capture the prime contractor's actual and/or anticipated use of identified certified DBE¹ subcontractors² and the estimated dollar amount of each subcontract. An EPA Financial Assistance Agreement Recipient must require its prime contractors to complete this form and include it in the bid or proposal package. Prime contractors should also maintain a copy of this form on file.

Prime Contractor Name		Project Name	
Bid/ Proposal No.	Assistance Agreement ID No. (if known)	Point of Contact	
Address			
Telephone No.		Email Address	
Issuing/Funding Entity:			

I have identified potential DBE certified subcontractors	☒ YES	☐ NO	
If yes, please complete the table below. If no, please explain:			
Subcontractor Name/ Company Name	Company Address/ Phone/ Email	Est. Dollar Amt	Currently DBE Certified?

Continue on back if needed

¹ A DBE is a Disadvantaged, Minority, or Woman Business Enterprise that has been certified by an entity from which EPA accepts certifications as described in 40 CFR 33.204-33.205 or certified by EPA. EPA accepts certifications from entities that meet or exceed EPA certification standards as described in 40 CFR 33.202.

² Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services pursuant to an EPA award of financial assistance.

**Disadvantaged Business Enterprise (DBE) Program
DBE Subcontractor Utilization Form**

I certify under penalty of perjury that the forgoing statements are true and correct. Signing this form does not signify a commitment to utilize the subcontractors above. I am aware of that in the event of a replacement of a subcontractor, I will adhere to the replacement requirements set forth in 40 CFR Part 33 Section 33.302 (c).

Prime Contractor Signature	Print Name
Title	Date

The public reporting and recordkeeping burden for this collection of information is estimated to average three (3) hours per response. Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822T), 1200 Pennsylvania Ave., NW, Washington, D.C. 20460. Include the OMB control number in any correspondence. Do not send the completed form to this address.

**CERTIFICATION
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR 34**

SRF Project No.: _____

The undersigned each certify, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By: _____

Name:

Title:

Date: _____

Contract ID: _____

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To be completed by prime contractors for all construction contracts

AMERICAN IRON AND STEEL (AIS) CONTRACTOR CERTIFICATION
FOR
CONSTRUCTION CONTRACTS PAID FOR WITH FUNDS FROM
THE NYS CLEAN WATER STATE REVOLVING FUND OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor Name: _____

Contract ID: _____

SRF Project #: _____

SRF Recipient Name: _____

I certify that the iron and steel products that will be permanently incorporated into the public water system or wastewater treatment works project under this construction contract will have been produced in the United States, in accordance with the requirements of the US Environmental Protection Agency. I will also develop and maintain at the project location the necessary documentation to demonstrate that the iron and steel products incorporated into the project were produced in the United States, and make such documentation available to The NYS Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

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Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form (Revised 09/2014)

The following instructions will help you complete the Utilization Plan / Waiver Request and EEO Staffing Plan Forms for the New York State Environmental Facilities Corporation (EFC) Clean & Drinking Water State Revolving Fund (CWSRF/DWSRF) program.

Instructions for Contractors & Service Providers:

You are responsible for completing sections 2, 3, & 4. **Submit the completed form to the SRF Recipient's designated Minority Business Officer (MBO) no later than the date of contract execution.** Incomplete forms will be found deficient. Copies of all forms & guidance documents are found on the MWBE webpage at <http://www.efc.ny.gov/mwbe>. All requirements described in EFC's Bid Packet must be followed. If the contract is performed under an MWBE Joint Venture or Teaming Arrangement, please fill out the additional form Joint Venture & Teaming Arrangement Form. If more than 10 subcontractors are used, additional pages for Section 3 can be found in the form Additional Utilization Plan Section 3. After signing, please send the **Word version** by email to the MBO.

The appropriate EEO goals specific to each County can be found on EFC's website. MWBE firms must be certified by the NYS Empire State Development (ESD) to be used for goal crediting purposes. Please refer to the Good Faith Effort Documentation webinar on EFC's MWBE website for guidance on searching ESD's directory.

If you require additional assistance, please contact your designated Minority Business Officer (MBO).

Instructions for Minority Business Officers (MBO):

It is EFC's intention that this form be filled out & signed electronically by both the MBO and their Authorized Representative (if applicable) by checking the boxes indicated in Section 1.

After reviewing and signing the utilization plan, please send the **Word version by email to your MWBE Representative**

When sending the email, please use a subject heading that follows the format "UP/Waiver Request, SRF Number, Contractor". NYSEFC will review and send the MBO an accepted copy of the utilization plan by email. Please retain the Word version of this document even after receiving the accepted copy as it can be modified for easy submittal of revised utilization plans.

Please ensure that the following procedures are also followed:

1. That legally signed and executed MWBE subcontracts and purchase orders are obtained from the prime contractor, contain the appropriate bid packet, and are maintained in the MBO files for review and/or inspection by EFC.
2. That documentation of proof of payments to MWBE subcontractors is obtained from the prime contractor and maintained in the MBO files for review and/or inspection by the EFC.
3. That monthly reports from prime contractors are collected and stored in the MBO files and used by the MBO or authorized representative to compile, sign and submit the quarterly report(s) to EFC.
4. That any changes in this utilization plan, including the addition or replacement of subcontractors, require written or electronic notification of the revision(s) be submitted to EFC.
5. That any contract cost increases due to change orders or amendments are reflected on quarterly reports or a revised utilization plan if over the threshold dollar amount of \$25,000.

To ensure continued compliance with the MWBE/EEO programs, all requirements described in NYSEFC's guidance document for MBOs must be followed. For more information on the roles and responsibilities of the MBO please contact EFC's MWBE Unit at 518.402.7433 or by e-mail at mwbe@efc.ny.gov.

Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form
(Revised 09/2014)

SECTION 1: MUNICIPAL INFORMATION

Recipient/Municipality:		County:	
SRF Project No.:	GIG/EPG No.:	Contract ID:	Registration No. (NYC only):
Minority Business Officer:		Email:	Phone #:
Address of MBO:			
Signature of MBO: (Required even if Authorized Rep. is filled out) ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			Date:
<i>Complete if applicable: MBO may authorize representative to complete & submit quarterly payment reports.</i>			
Authorized Representative:		Title:	
Authorized Rep. Company:		Email:	Phone #:
Electronic Signature of Authorized Rep.:			Date:
☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.			

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION

If contract is performed through an MWBE Joint Venture or Teaming Arrangement please submit the additional form found at www.efc.ny.gov/mwbe

Firm Name:	Contract Type: ☐ Construction ☐ Other Services			
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ Other: Please repeat information in the Utilization Plan below (Section 3). If dual certified, you must select either MBE or WBE.				
Address:	Phone #:		Fed. Employer ID #:	
Description of Work:				
Award Date:	Start Date:	Completion Date:	MWBE GOAL Total	
Total Contract Amount: \$			MBE: % \$	PROPOSED MWBE Participation
MWBE Eligible Contract Amount: \$			WBE: % \$	WBE: % \$
(MWBE Goals are applied to this amount and includes all change orders, amendments, & waivers)			Total: % \$	Total: % \$
If waivers are requested, documentation must be attached: ☐ Full Waiver (No Participation) ☐ Partial Waiver (Short of the MWBE Goal)				
☐ Specialty Equipment/Services Waiver (must be of SIGNIFICANT cost - list of equipment and cost & good faith effort documentation must be attached) Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function.				Date:
Name (Please Type):				

Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form
(Revised 09/2014)

SECTION 3: UTILIZATION PLAN					
This Submittal is:		☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:		Contract Amount:	
				MBE (\$)	WBE (\$)
NYS Certified M/WBE Contractor & Subcontractor Info (MBO to check certifications)					
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			
Name:		Fed. Employer ID#:			
Address:		Phone #:			
Scope of Work:		Email:			
Select Only One: ☐ MBE ☐ WBE ☐ Other:		Start Date:			
Full Contract Amount: \$		Completion Date:			

Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form
(Revised 09/2014)

SECTION 4: EEO STAFFING PLAN (Service Providers Only - Instructions on the following page)

Municipality:	County:	SRF Project No.:	Contract ID:
Service Provider Name:		Date:	

Report Includes – Please select one from the options below:

- ☐ Workforce utilized on this contract
- ☐ Contractor/subcontractor's total workforce

Reporting Entity – Please select one from the options below:

- ☐ Prime Service Provider
- ☐ Subcontractor

Job Categories	Hispanic/ Latino		Not Hispanic or Latino												
	Male	Female	Male					Female							
			White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races	
Senior Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mid-Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Technicians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Journeypersons															
Apprentices															
Trainees															

Electronic Signature of Service Provider: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

Name (Please Type):

Date:

Minority & Women Owned Business Enterprise (MWBE) Utilization Plan & Waiver Request Form

(Revised 09/2014)

INSTRUCTIONS

General Instructions: All Service Providers (including legal, engineering, financial advisory or other professional services, and labor) and each subcontractor identified in the bid or proposal must complete an EEO Staffing Plan and submit it as part of the MWBE Utilization Plan no later than the date of execution of the contract. Where the work force to be utilized in the performance of the contract can be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form *only for the anticipated work force to be utilized on the contract*. Where the work force to be utilized in the performance of the contract **cannot** be separated out from the contractor's or subcontractors' total work force, the contractor shall complete this form for the contractor's or subcontractors' *total work force*.

RACE/ETHNIC IDENTIFICATION: Definitions of race and ethnicity for purposes of completion of this form are as follows:

- **Hispanic or Latino** - A person having origins in Cuba, Mexico, Puerto Rico, South or Central America.
- **White** - A person having origins of Europe, the Middle East, or North Africa.
- **Black or African-American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander**- A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent
- **American Indian or Alaska Native** – A person having origins in any of the original peoples of North, Central, and South America and who maintain tribal affiliation or community attachment.
- **Two or More Races** - All persons who identify with more than one of the above (Non-Hispanic or Latino) five races.

DESCRIPTION OF JOB CATEGORIES

The major job categories used in EEO Staffing Plan are listed below.

Senior Level Officials and Managers - Individuals residing in the highest levels of organizations who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services.

Mid-Level Officials and Managers - Individuals who receive directions from the Senior Level management and serve as managers, other than those who serve as Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations

Professionals - Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.

Technicians - Jobs in this category include activities that require applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required.

Sales Workers - These jobs include non-managerial activities that wholly and primarily involve direct sales.

Administrative Support Workers - These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings.

Skilled Craftsmen – Includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters

Operatives Semi-Skilled - Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers;

Laborers & Helpers - Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment.

Service Workers - Jobs in this category include food service, cleaning service, personal service, and protective service activities.

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CONTRACTOR'S Minority & Women Owned Business Enterprise (MWBE) Monthly Report & EEO Workforce Utilization Report

Instructions:

- Contractors are to complete the report in Word version and email to the SRF Recipient Minority Business Officer (MBO) on a monthly basis.
- If you require additional pages, you may find them in the Forms Folder of the MWBE web page.
- All MWBE Subcontractors for this contract **MUST** be listed in the form regardless of whether they were paid this month.
- Please save Report as "*MReport – (Project No.) – (Municipality) – (Firm Name) – (Date)*" and send the Word version of this document.
- Proofs of payment in the amounts shown below must be kept in the MBO files for review.

Municipality:		County:		Contract ID:		Month:		Year:	
SRF Project No.:		GIGP No.:		Registration No.:					
Prime Contractor/Service Provider:				Award Date:		Start Date:		Completion Date:	
Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief. Date:									
Prime Contract Amt: \$ Revised Contract Amt: \$		MWBE Eligible Amt: \$ (Goals are applied to this amount and includes eligible change orders, amendments & waivers)		MBE: % WBE: % Total: %		EFC MWBE Goals MBE Amt: \$ WBE Amt: \$ Total Amt: \$		Total Paid this Month: \$ Total Paid to Date: \$	
NYS Certified M/WBE Contractor & Subcontractor		Please Specify Any Revisions this Month.		Subcontractor Total Amount Original Revised		Payments this Month		Previous Payments Total Payments Made to Date	
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED							
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED							
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED							
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED							

CONTRACTOR'S Minority & Women Owned Business Enterprise (MWBE) Monthly Report & EEO Workforce Utilization Report

NYS Certified M/WBE Contractor & Subcontractor	Please Specify Any Revisions this Month.	Subcontractor Contract Amount		Payments this Month	Previous Payments	Total Payments Made to Date
		Original	Revised			
Name: Fed. Employer ID#: ☐ MBE ☐ WBE Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: ☐ MBE ☐ WBE Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: ☐ MBE ☐ WBE Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: ☐ MBE ☐ WBE Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
Name: Fed. Employer ID#: ☐ MBE ☐ WBE Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other:	☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED					
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CONTRACTOR'S Minority & Women Owned Business Enterprise (MWBE) Monthly Report & EEO Workforce Utilization Report

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Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
Name: Fed. Employer ID#: _____ Select Only One: ☐ MBE ☐ WBE ☐ Broker ☐ Supplier ☐ Other: _____		☐ Subcontractor is REMOVED ☐ NEW Subcontractor ☐ Subcontract Amt. INCREASED ☐ Subcontract Amt. DECREASED				[REDACTED]		
		TOTAL				[REDACTED]		

Additional Pages can be found at www.nyscfc.org

Please explain any revisions:

EQUAL EMPLOYMENT OPPORTUNITY (EEO) – WORKFORCE UTILIZATION REPORT (Revised 3/2012)

(Instruction on following page)

Municipality:	County:	SRF Project No.:	Contract ID:
Contractor/Service Provider:	Date:		

Report Includes – Please select one from the options below:

- ☐ Construction Contracts - Report the hours of contractor's and ALL subcontractor's employees who worked on contract activities during the month
☐ Service Provider Contracts - Report the Actual Contractor/subcontractor's workforce (# of personnel) utilized on this contract.

Job Categories	Hispanic/ Latino		Non-Hispanic / Latino													
	Male	Female	Male					Female								
			White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races	White	Black/ African American	Native Hawaiian/ Other Pacific Islander	Asian	Native American/ Alaska Native	Two or More Races		
Senior Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mid-Level Officials/Managers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Technicians	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sales Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Administrative Support Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Skilled Craftsmen	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Operatives Semi-Skilled	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Laborers & Helpers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Journeypersons																
Apprentices																
Trainees																

Service Provider Contracts Only: ☐ There are no changes to the workforce utilized on this contract since the last EEO Workforce Utilization Report

Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge.

Name (Please Type):

Date:

EQUAL EMPLOYMENT OPPORTUNITY (EEO) – WORKFORCE UTILIZATION REPORT (Revised 3/2012)

INSTRUCTIONS

General Instructions: All Contractors and each subcontractor identified in the approved MWBE Utilization Plan must complete an EEO Workforce Utilization Report and submit it with the MWBE Quarterly Reports.

Construction Contracts: Report the hours of contractor's and ALL subcontractors' employees who worked on contract activities for each month.

Non-Construction Contracts: Where the work force to be utilized in the performance of the contract can be separated out from the contractor's or subcontractors' total workforce, the contractors shall *complete this form only for the actual work force utilized on the contract*. Where the workforce utilized in the performance of the contract cannot be separated out from the contractor's or subcontractors' total workforce, the contractors shall *complete this form for the contractor's or subcontractors' total workforce*.

RACE/ETHNIC IDENTIFICATION: Definitions of race and ethnicity for purposes of completion of this form are as follows:

- **Hispanic or Latino** - A person having origins in Cuba, Mexico, Puerto Rico, South or Central America.
- **White** - A person having origins of Europe, the Middle East, or North Africa.
- **Black or African-American** - A person having origins in any of the black racial groups of Africa.
- **Native Hawaiian or Other Pacific Islander** - A person having origins in any of the peoples of Hawaii, Guam, Samoa, or other Pacific Islands.
- **Asian** - A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian Subcontinent
- **American Indian or Alaska Native** - Origins in any of the original peoples of North, Central, and South America and who maintain tribal affiliation or community attachment
- **Two or More Races** - All persons who identify with more than one of the above five races.

DESCRIPTION OF JOB CATEGORIES

The major job categories used in EEO Workforce Utilization Report are listed below.

Senior Level Officials and Managers - Individuals residing in the highest levels of organizations who plan, direct and formulate policies, set strategy and provide the overall direction of enterprises/organizations for the development and delivery of products or services.

Mid-Level Officials and Managers - Individuals who receive directions from the Senior Level management and serve as managers, other than those who serve as Senior Level Officials and Managers, including those who oversee and direct the delivery of products, services or functions at group, regional or divisional levels of organizations

Professionals - Most jobs in this category require bachelor and graduate degrees, and/or professional certification. In some instances, comparable experience may establish a person's qualifications.

Technicians - Jobs in this category include activities that require applied scientific skills, usually obtained by post-secondary education of varying lengths, depending on the particular occupation, recognizing that in some instances additional training, certification, or comparable experience is required.

Sales Workers - These jobs include non-managerial activities that wholly and primarily involve direct sales.

Administrative Support Workers - These jobs involve non-managerial tasks providing administrative and support assistance, primarily in office settings.

Skilled Craftsmen - Includes higher skilled occupations in construction (building trades craft workers and their formal apprentices) and natural resource extraction workers. Examples of these types of positions include: boilermakers; brick and stone masons; carpenters; electricians; painters

Operatives Semi-Skilled - Most jobs in this category include intermediate skilled occupations and include workers who operate machines or factory-related processing equipment. Most of these occupations do not usually require more than several months of training. Examples include: textile machine workers;

Laborers & Helpers - Jobs in this category include workers with more limited skills who require only brief training to perform tasks that require little or no independent judgment.

Service Workers - Jobs in this category include food service, cleaning service, personal service, and protective service activities.

Text Left Blank

Equal Employment Opportunity is **THE LAW**

Private Employers, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Applicants to and employees of most private employers, state and local governments, educational institutions, employment agencies and labor organizations are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Title VII of the Civil Rights Act of 1964, as amended, protects applicants and employees from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of race, color, religion, sex (including pregnancy), or national origin. Religious discrimination includes failing to reasonably accommodate an employee's religious practices where the accommodation does not impose undue hardship.

DISABILITY

Title I and Title V of the Americans with Disabilities Act of 1990, as amended, protect qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship.

AGE

The Age Discrimination in Employment Act of 1967, as amended, protects applicants and employees 40 years of age or older from discrimination based on age in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment.

SEX (WAGES)

In addition to sex discrimination prohibited by Title VII of the Civil Rights Act, as amended, the Equal Pay Act of 1963, as amended, prohibits sex discrimination in the payment of wages to women and men performing substantially equal work, in jobs that require equal skill, effort, and responsibility, under similar working conditions, in the same establishment.

GENETICS

Title II of the Genetic Information Nondiscrimination Act of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

RETALIATION

All of these Federal laws prohibit covered entities from retaliating against a person who files a charge of discrimination, participates in a discrimination proceeding, or otherwise opposes an unlawful employment practice.

WHAT TO DO IF YOU BELIEVE DISCRIMINATION HAS OCCURRED

There are strict time limits for filing charges of employment discrimination. To preserve the ability of EEOC to act on your behalf and to protect your right to file a private lawsuit, should you ultimately need to, you should contact EEOC promptly when discrimination is suspected:

The U.S. Equal Employment Opportunity Commission (EEOC), 1-800-669-4000 (toll-free) or 1-800-669-6820 (toll-free TTY number for individuals with hearing impairments). EEOC field office information is available at www.eeoc.gov or in most telephone directories in the U.S. Government or Federal Government section. Additional information about EEOC, including information about charge filing, is available at www.eeoc.gov.

Employers Holding Federal Contracts or Subcontracts

Applicants to and employees of companies with a Federal government contract or subcontract are protected under Federal law from discrimination on the following bases:

RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN

Executive Order 11246, as amended, prohibits job discrimination on the basis of race, color, religion, sex or national origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment.

INDIVIDUALS WITH DISABILITIES

Section 503 of the Rehabilitation Act of 1973, as amended, protects qualified individuals from discrimination on the basis of disability in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. Disability discrimination includes not making reasonable accommodation to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, barring undue hardship. Section 503 also requires that Federal contractors take affirmative action to employ and advance in employment qualified individuals with disabilities at all levels of employment, including the executive level.

DISABLED, RECENTLY SEPARATED, OTHER PROTECTED, AND ARMED FORCES SERVICE MEDAL VETERANS

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4212, prohibits job discrimination and requires affirmative action to employ and advance in employment disabled veterans, recently separated veterans (within

three years of discharge or release from active duty), other protected veterans (veterans who served during a war or in a campaign or expedition for which a campaign badge has been authorized), and Armed Forces service medal veterans (veterans who, while on active duty, participated in a U.S. military operation for which an Armed Forces service medal was awarded).

RETALIATION

Retaliation is prohibited against a person who files a complaint of discrimination, participates in an OFCCP proceeding, or otherwise opposes discrimination under these Federal laws.

Any person who believes a contractor has violated its nondiscrimination or affirmative action obligations under the authorities above should contact immediately:

The Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, 1-800-397-6251 (toll-free) or (202) 693-1337 (TTY). OFCCP may also be contacted by e-mail at OFCCP-Public@dol.gov, or by calling an OFCCP regional or district office, listed in most telephone directories under U.S. Government, Department of Labor.

Programs or Activities Receiving Federal Financial Assistance

RACE, COLOR, NATIONAL ORIGIN, SEX

In addition to the protections of Title VII of the Civil Rights Act of 1964, as amended, Title VI of the Civil Rights Act of 1964, as amended, prohibits discrimination on the basis of race, color or national origin in programs or activities receiving Federal financial assistance. Employment discrimination is covered by Title VI if the primary objective of the financial assistance is provision of employment, or where employment discrimination causes or may cause discrimination in providing services under such programs. Title IX of the Education Amendments of 1972 prohibits employment discrimination on the basis of sex in educational programs or activities which receive Federal financial assistance.

INDIVIDUALS WITH DISABILITIES

Section 504 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination on the basis of disability in any program or activity which receives Federal financial assistance. Discrimination is prohibited in all aspects of employment against persons with disabilities who, with or without reasonable accommodation, can perform the essential functions of the job.

If you believe you have been discriminated against in a program of any institution which receives Federal financial assistance, you should immediately contact the Federal agency providing such assistance.

EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

1-866-4-USWAGE
(1-866-487-9243) TTY: 1-877-889-5627



WWW.WAGEHOUR.DOL.GOV

Date _____

I, _____ (Name of Signatory Party) _____ (Title)
do hereby state:

(1) That I pay or supervise the payment of the persons employed by

_____ on the _____
(Contractor or Subcontractor)

_____ that during the payroll period commencing on the _____
(Building or Work)

_____ day of _____, and ending the _____ day of _____,
all persons employed on said project have been paid the full weekly wages earned, that no rebates have
been or will be made either directly or indirectly to or on behalf of said

_____ from the full _____
(Contractor or Subcontractor)

weekly wages earned by any person and that no deductions have been made either directly or indirectly
from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part
3 (29 C.F.R. Subtitle A), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948,
63 Stat. 108, 72 Stat. 967; 76 Stat. 357; 40 U.S.C. § 3145), and described below:

(2) That any payrolls otherwise under this contract required to be submitted for the above period are
correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the
applicable wage rates contained in any wage determination incorporated into the contract; that the
classifications set forth therein for each laborer or mechanic conform with the work he performed.

(3) That any apprentices employed in the above period are duly registered in a bona fide
apprenticeship program registered with a State apprenticeship agency recognized by the Bureau of
Apprenticeship and Training, United States Department of Labor, or if no such recognized agency exists in a
State, are registered with the Bureau of Apprenticeship and Training, United States Department of Labor.

(4) That:
(a) WHERE FRINGE BENEFITS ARE PAID TO APPROVED PLANS, FUNDS, OR PROGRAMS

☐ - in addition to the basic hourly wage rates paid to each laborer or mechanic listed in
the above referenced payroll, payments of fringe benefits as listed in the contract
have been or will be made to appropriate programs for the benefit of such
employees, except as noted in section 4(c) below.

(b) WHERE FRINGE BENEFITS ARE PAID IN CASH

☐ - Each laborer or mechanic listed in the above referenced payroll has been paid,
as indicated on the payroll, an amount not less than the sum of the applicable
basic hourly wage rate plus the amount of the required fringe benefits as listed
in the contract, except as noted in section 4(c) below.

(c) EXCEPTIONS

EXCEPTION (CRAFT)	EXPLANATION

REMARKS:

NAME AND TITLE	SIGNATURE
THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION. SEE SECTION 1901 OF TITLE 18 AND SECTION 231 OF TITLE 31 OF THE UNITED STATES CODE.	

Example AIS Manufacturer's Certifications

The following information is provided as a sample letter of **step** certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Step Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the (melting, bending, coating, galvanizing, cutting, etc.) process for (manufacturing or fabricating) the following products and/or materials shipped or provided for the subject project is in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

Example AIS Manufacturer's Certifications

The following information is provided as a sample letter of certification for AIS compliance. Documentation must be provided on company letterhead.

Date

Company Name

Company Address

City, State Zip

Subject: American Iron and Steel Certification for Project (XXXXXXXXXX)

I, (company representative), certify that the following products and/or materials shipped/provided to the subject project are in full compliance with the American Iron and Steel requirement as mandated in EPA's State Revolving Fund Programs.

Item, Products and/or Materials:

1. Xxxx
2. Xxxx
3. Xxxx

Such process took place at the following location:

If any of the above compliance statements change while providing material to this project we will immediately notify the prime contractor and the engineer.

Signed by company representative

Mr. Jason Morris, City Engineer
City of Newburgh
March 16, 2016
Page 11

B&L Terms and Conditions

STANDARD TERMS AND CONDITIONS
for
PROFESSIONAL ENGINEERING SERVICES
provided by
BARTON & LOGUIDICE, D.P.C. ("ENGINEER")

The OWNER and the ENGINEER, for themselves, their successors and assigns, have mutually agreed and do agree with each other as follows:

1.0 Basic Agreement

Engineer shall provide, or cause to be provided, the services set forth in the proposal to which these terms and conditions are attached (PROPOSAL), and Owner shall pay Engineer for such Services as set forth in PROPOSAL. The PROPOSAL, in conjunction with these terms and conditions, is referred to herein as "Agreement".

2.0 Payment Procedures

Engineer will prepare a monthly invoice in accordance with Engineer's standard invoicing practices and submit the invoice to Owner. Invoices are due and payable within 30 days of the date of the invoice. If Owner fails to make any payment due Engineer for services and expenses within 30 days after the date of Engineer's invoice, the amounts due Engineer will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, Engineer may, without liability, after giving seven days written notice to Owner, suspend services under this Agreement until Engineer has been paid in full all amounts due for services, expenses, and other related charges.

3.0 Additional Services

If mutually agreed by Owner and Engineer, or if required because of changes in the Project, Engineer shall furnish services in addition to those set forth in the PROPOSAL if requested by the Owner. Owner shall pay Engineer for such additional services as follows: (1) as mutually agreed by Owner and Engineer, or (2) an amount equal to the cumulative hours charged to the Project by each class of Engineer's employees times standard hourly rates for each applicable billing class; plus reimbursable expenses and Engineer's consultants' charges, if any.

4.0 Termination

If Engineer's services related to the project are terminated for any reason, Engineer shall be compensated for time plus reasonable expenses associated with demobilizing personnel and equipment, and, if requested in writing by the OWNER, for completion of tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

5.0 Controlling Law

This Agreement is to be governed by the law of the state in which the Project is located.

6.0 Successors, Assigns, and Beneficiaries

Owner and Engineer each is hereby bound and the partners, successors, executors, administrators, and legal representatives of Owner and Engineer (and to the extent permitted herein the assigns of Owner and Engineer) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators, and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements, and obligations of this Agreement. Neither Owner nor Engineer may assign, sublet, or transfer any rights under or interest (including, but without limitation, moneys that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

7.0 General Considerations

A. The standard of care for all professional engineering and related services performed or furnished by Engineer under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and in the same locality. Engineer makes no warranties, express or implied, under this Agreement or otherwise, in connection with Engineer's services. Engineer and its consultants may use or rely upon the design services of others, including, but not limited to, contractors, manufacturers, and suppliers.

B. Engineer shall not at any time supervise, direct, or have control over any contractor's work, nor shall Engineer have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, for safety precautions and programs incident to a contractor's work progress, nor for any failure of any contractor to comply with laws and regulations applicable to contractor's work.

C. Engineer neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform its work in accordance with the contract between Owner and such contractor.

D. Engineer shall not be responsible for the acts or omissions of any Contractor, Subcontractor, or Supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Consultants) at the Site or otherwise furnishing or performing any Work; or for any decision made regarding the Contract Documents, or any application, interpretation, or clarification, of the Contract Documents, other than those made by Engineer.

E. All design documents prepared or furnished by Engineer are instruments of service, and Engineer retains an ownership and property interest (including the copyright and the right of reuse) in such documents, whether or not the Project is completed.

F. To the fullest extent permitted by law, Owner and Engineer (1) waive against each other, and the other's employees, officers, directors, agents, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project, and (2) agree that Engineer's total liability to Owner under this Agreement shall be limited to \$50,000 or the total amount of compensation received by Engineer pursuant to the PROPOSAL, whichever is greater.

H. The parties acknowledge that Engineer's scope of services does not include any services related to a Hazardous Environmental Condition (the presence of asbestos, PCBs, petroleum, hazardous substances or waste, and radioactive materials) except as may be specifically defined in the Scope of Services. If Engineer or any other party encounters a Hazardous Environmental Condition, Engineer may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until Owner: (i) retains appropriate specialist consultants or contractors to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and (ii) warrants that the Site is in full compliance with applicable Laws and Regulations.

I. The services to be provided by Barton & Loguidice under this Agreement DO NOT INCLUDE advice or recommendations with respect to the issuance, structure, timing, terms or any other aspect of municipal securities, municipal derivatives, guaranteed investment contracts or investment strategies. Any opinions, advice, information or recommendations provided by Barton & Loguidice are understood by the parties to this Agreement to be strictly *engineering* opinions, advice, information or recommendations. Barton & Loguidice is not a "municipal advisor" as defined by 15 U.S.C. 78o-4 or the related rules of the Securities and Exchange Commission. The other parties to this Agreement should determine independently whether they require the services of a municipal advisor.

8.0 Dispute Resolution

Owner and Engineer agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice by either party of the existence of the dispute. If the parties fail to resolve a dispute through negotiation then Owner and Engineer agree that they shall first submit any and all unsettled claims, counterclaims, disputes, and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("Disputes") to mediation by a mutually acceptable mediator. Owner and Engineer agree to participate in the mediation process in good faith and to share the cost of the mediation equally. The process shall be conducted on a confidential basis, and shall be completed within 120 days. If such mediation is unsuccessful in resolving a Dispute, then (1) the parties may mutually agree to a dispute resolution of their choice, or (2) either party may seek to have the Dispute resolved by a court of competent jurisdiction.

9.0 Accrual of Claims

All causes of action between the parties to this Agreement including those pertaining to acts, failures to act, failures to perform in accordance with the obligations of the Agreement or failures to perform in accordance with the standard of care shall be deemed to have accrued and the applicable statutes of limitations shall commence to run not later than either the date of Substantial Completion for acts, failures to act or failures to perform occurring prior to Substantial Completion, or the date of issuance of the Notice of Acceptability of Work for acts, failures to act or failures to perform occurring after Substantial Completion.

10.0 Total Agreement

This Agreement constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. In the event of a conflict with contractual provisions in a Purchase Order authorization related to this Agreement, the provisions of this Agreement shall control. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

CWSRF Engineering Planning Grants

Checklist of Supporting Documents Needed for Grant Agreement

☒	<u>Supporting Documentation Submitted to NYSEFC</u>	<u>Date of Document</u>
☐	Resolution Designating of an Authorized Representative for the project (Sample Resolution Language attached)	__/__/__
☐	Executed Engineering Agreement	__/__/__
	☐ Inclusion of the “NON-CONSTRUCTION Bid Packet” from the EFC website	
☐	Compliance with the New York State’s Minority/Woman-owned Business Enterprises (M/WBE) requirements	__/__/__
	☐ All professional services contracts with a value greater than \$25,000 must submit an MWBE Workplan and approvable Utilization Plan/Waiver Request. The MWBE goal will be 30% combined.	
☐	Detailed final budget and plan of finance including all third party funding agreements, and satisfaction of the minimum 20% local match requirement	__/__/__
☐	Local resolution authorizing and obligating local match funds. Match can include cash and/or in-kind services. Other grants may not be used for local match. (Sample Resolution Language attached)	__/__/__
☐	Completion of Environmental Quality Review (SEQR) Act and State Environmental Review Process (SERP). Sample Resolution Language attached. Please refer to EFC’s “Environmental Review Guidance” on EFC’s website for more information on the SEQR and SERP processes.	__/__/__
☐	Acknowledgement of project review by the New York State Office of Parks and Historic Preservation’s State Historic Preservation Office (SHPO) Note: EFC has received a blanket NO IMPACT letter from SHPO for all of the 2015 Engineering Planning Grant Program projects.	__/__/__

**NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION**

625 Broadway
Albany, New York 12203-1010
www.dec.ny.gov

**ENVIRONMENTAL
FACILITIES CORPORATION**

625 Broadway
Albany, New York 12207-2997
www.efc.ny.gov

DEC 10 2015

Honorable Judy Kennedy
Mayor
City of Newburgh
83 Broadway
Newburgh, NY 12550

Re: Planning Grant: #55537
City of Newburgh Engineering Study

Dear Mayor Kennedy:

In 2011, Governor Cuomo launched the Regional Economic Development Councils and the Consolidated Funding Application (CFA) to provide each region with the tools to create and implement their own roadmap for economic prosperity and job creation. This community-based model uses local assets to drive local economic growth and has resulted in unprecedented partnerships and collaboration that are building a reinvigorated economy.

After four successful rounds, the 2015 CFA made \$750 million in economic development resources available from more than thirty programs across thirteen State agencies. The agency programs provide resources for projects focused on community development and job creation, direct assistance to business, waterfront revitalization, energy and environmental improvements, sustainability and low-cost financing. The Department of Environmental Conservation (DEC) and Environmental Facilities Corporation (EFC) are proud to have contributed \$2,000,000 to this year's CFA.

We are pleased to inform you that the City of Newburgh project has been selected to receive up to \$100,000 for the Engineering Planning Grant through the New York Clean Water State Revolving Fund program. On behalf of our partners at the federal, State, and local levels of government, please accept our gratitude for taking the initiative to participate in this program. If you applied for funding from other DEC or EFC programs or other State agencies, you will receive information from those programs/agencies separately.

We are ready to begin working with your community on this project, but before proceeding we would first like to confirm that you are interested in proceeding and using this funding for your project. Within two weeks of the date on this letter, please send your confirmation or declination to EFC and the name and contact information of the municipality's authorized project representative to epg@efc.ny.gov.



Department of
Environmental
Conservation

Environmental
Facilities Corporation

in order for you to remain on schedule and enter into a grant agreement with EFC to access these funds, there are several steps that must be completed by your organization. For your convenience a project checklist is enclosed but you may also visit <http://www.efc.ny.gov/Default.aspx?tabid=485> for the list of supporting documents necessary to complete the grant agreement with EFC. Your project coordinator will be reaching out to you shortly to assist with completing all the required submittals necessary to execute a grant agreement with EFC.

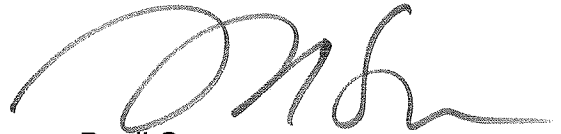
We recommend that you begin working immediately on the procurement of engineering services for the preparation of the Engineering Report. If you have already procured engineering services, please forward the contract documents to EFC as soon as possible. Please be aware that the grant requires that you seek 30 percent participation by New York State certified Minority and/or Women Owned Business Enterprises for contracted work that exceeds \$25,000. Additionally, this award requires that you provide a 20 percent minimum local match of the total project cost.

We look forward to working with you on this important water quality project. If you should have any questions, please contact EFC at epq@efc.ny.gov or call 518-402-7396.

Sincerely,



Sabrina M. Ty
President and CEO



Basil Seggos
Acting Commissioner

Enclosure

Engineering Planning Grants (EPG) Sample Resolution Language

Applicants with projects selected for funding will need to provide resolutions that:

- Authorize representative to execute a Grant Agreement
- Document and authorize the local funding match requirements
- Declare SEQR findings or determinations

The language provisions below are provided solely as examples that may be inserted into resolutions needed for the EPG. The language may be conformed to the applicant's format, style, legal requirements, and the particulars of the specific EPG project. Local counsel should be consulted prior to adopting the resolutions.

Sample SEQR resolution language is provided that may be helpful for the majority of projects that are typically reviewed under EPG.

Applicants will need to develop adequate "whereas" or "resolved" statements for the governing body's consideration, giving, for example, the name and identifying information about the project and such other background as the applicant deems necessary to support the particular determination.

If you have questions, please contact the New York State Environmental Facilities Corporation at 1-800-220-2000 (within NYS) or 518-402-7396.

Authorization for representative to sign documents

NOW, THEREFORE, BE IT:

RESOLVED that the (*designated representative by title*) is authorized to execute a Grant Agreement with the NYS Environmental Facilities Corporation and any and all other contracts, documents and instruments necessary to bring about the Project and to fulfill the (*entity's*) obligations under the Engineering Planning Grant Agreement.

Authorization and appropriation of Local match (20% local match)

Calculation Tips:

Please note, the minimum local match is 20% of the Total EPG Project Cost (this will be, in most cases, the engineering agreement contract amount) and NOT the Grant Award.

NOW, THEREFORE, BE IT:

RESOLVED that the (*municipality*) authorizes and appropriates a minimum of 20% local match as required by the Engineering Planning Grant Program for the (*Insert Project's name/description here*) project. Under the Engineering Planning Grant Program, this local match must be at least 20% of the total project cost. The maximum local share appropriated subject to any changes agreed to by the (*designated representative by title*) shall not exceed

\$(Dollar amount – based upon ___% of total project costs) based upon a total estimated maximum project cost of \$(estimated total maximum project cost including any potential increases). The (designated representative by title) may increase this local match through the use of in kind services without further approval from the (municipality).

SEQR Type II Determination Resolution

Whereas, 6 NYCRR Section 617.5 (Title 6 of the New York Code of Rules and Regulations) under the State Environmental Quality Review Act (SEQR) provides that certain actions identified in subdivision (c) of that section are not subject to environmental review under the Environmental Conservation Law;

NOW, THEREFORE, BE IT:

RESOLVED that the (municipality) hereby determines that the proposed (name/description of the EPG project) is a Type II action in accordance with 6 NYCRR Section 617.5(c)(cite specific subparagraph or subparagraphs which apply (18) and/or (21)) which constitutes the (provide quotation of the text of the cited subparagraphs (s) above which apply) and is therefore not subject to review under 6 NYCRR Part 617.

SEQR Type I or Unlisted Action Resolution authorizing filing of Negative Declaration

NOW, THEREFORE, BE IT:

RESOLVED that the (municipality) hereby determines that the proposed project will not have a significant adverse effect on the environment for the reasons (set forth in the attached Notice of Determination of Non-Significance or list all reasons and findings).

RESOLVED that the (designated municipal representative by title) is authorized to take all actions reasonable and necessary to file the Negative Declaration and discharge the (municipality)'s responsibility as lead agency for this action.

ENGINEERING PLANNING GRANT (EPG) PROGRAM

PROJECT BUDGET AND PLAN OF FINANCE

Date: _____

EPG Project Number: _____

Project Name/Description: _____

Recipient Name: _____

County: _____

	<u>COST</u>	<u>SUBTOTAL</u>
ENGINEERING		
Planning		
Design		
Administrative		
Other		
LEGAL		
ADMINISTRATIVE FORCE ACCOUNT		
TECHNICAL FORCE ACCOUNT		
OTHER (SPECIFY)		
CONTINGENCY		
Project Costs Grant Amount Local Share (minimum 20%) Other Sources of Funding (please specify)		

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
DETERMINING THAT THE PROPOSED CITY SANITARY SEWER ILLICIT
DISCHARGE IDENTIFICATION STUDY IS A TYPE II ACTION UNDER THE STATE
ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) AND WILL NOT HAVE A
SIGNIFICANT ADVERSE IMPACT ON THE ENVIRONMENT**

WHEREAS, on July 13, 2015 through resolution 170-2015 the City Council authorized Barton & Loguidice, D.P.C. to submit a planning grant through the consolidated funding application process to apply for and accept an award in an amount up to \$125,000.00; and

WHEREAS, Barton & Loguidice D.P.C. prepared and submitted the Wastewater Infrastructure Engineering Planning Grant (EPG) application to the New York State Department of Environmental Conservation/Environmental Facilities Corporation through the consolidated funding application process at no cost to the city; and

WHEREAS, on December 10, 2015 the Governor announced that the City was awarded a \$100,000.00 EPG administered by the New York State Environmental Facilities Corporation (NYSEFC) for the commissioning of a Phase II Sanitary Sewer Illicit Discharge Identification Study (the "Project"); and

WHEREAS, the City has been notified of the award of a \$100,000.00 EPG by the New NYSEFC for the commissioning of the Project; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law, as amended, and the New York State Environmental Quality Review Act ("SEQRA") and the implementing regulations at 6 NYCRR Part 617 (the "Regulations"), the City desires to comply with SEQRA and the Regulations with respect to the project; and

WHEREAS, 6 NYCRR Section 617.5 (Title 6 of the New York Code of Rules and Regulations) under SEQRA provides that certain actions identified in subdivision (c) of that section are not subject to environmental review under the Environmental Conservation Law; and

WHEREAS, the New York State Office of Parks, Recreation and Historic Preservation reviewed the Project in accordance with the New York State Historic Preservation Act of 1980 and issued an opinion that the Project will have no impact upon archaeological and/or historical resources listed in or eligible for the New York State and National Registers of Historic Places;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York, hereby determines that the proposed Phase II Sanitary Sewer Illicit Discharge Identification Study is a Type II action in accordance with 6 NYCRR Section 617.5(c)(18) and (21) which constitutes an engineering study and is therefore not subject to review under 6 NYCRR Part 617.

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION AUTHORIZING AND APPROPRIATING
THE LOCAL MATCH REQUIRED BY THE
NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION
THE ENGINEERING PLANNING GRANT PROGRAM**

WHEREAS, by Resolution No. 170-2015 of July 13, 2015, the City Council of the City of Newburgh authorized Barton & Loguidice, D.P.C. to apply for a planning grant from the New York State Environmental Facilities Corporation through the Consolidated Funding Application process in an amount not to exceed \$125,000.00 and further authorized the City Manager to accept, if awarded, said planning grant; and

WHEREAS, the City of Newburgh was awarded an Engineering Planning Grant in the amount of \$100,000.00 administered through the New York Clean Water State Revolving Fund for the continued identification of point source sewage along the City's Hudson River waterfront; and

WHEREAS, said Engineering Planning requires a twenty (20%) percent local match in the amount of \$25,000.00, which will be derived from the in-kind services of the City's staff, for a total project cost of \$125,000.00; and

WHEREAS, the City of Newburgh finds that authorizing and appropriating the local match required 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 authorizes and appropriates a minimum of 20% local match as required by the Engineering Planning Grant Program for the Phase II Sanitary Sewer Illicit Discharge Identification Study. Under the Engineering Planning Grant Program, this local match must be at least 20% of the total project cost. The maximum local share appropriated subject to any changes agreed to by the City Manager shall not exceed \$25,000.00 based upon 20% of the total project cost of \$125,000.00 based upon a total estimated maximum project cost of \$125,000.00. The City Manager may increase this local match through the use of in-kind services without further approval from the City Council of the City of Newburgh.

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
DECLARING ITSELF TO BE LEAD AGENCY UNDER STATE ENVIRONMENTAL
QUALITY REVIEW ACT (SEQRA) FOR THE VACANT HISTORIC BUILDING
DEMOLITION PROJECT, ADOPTING AN ENVIRONMENTAL ASSESSMENT FORM
AND ISSUING A NEGATIVE DECLARATION**

WHEREAS, by Resolution No. 182-2015 of July 13, 2015, the City Council of the City of Newburgh approved the 2015 Capital Plan as proposed and further authorized the City Manager and the City Comptroller to take appropriate action to secure financing and to implement the 2015 Capital Plan; and

WHEREAS, the City of Newburgh proposes undertake the financing of several capital improvement projects including the Vacant Historic Building Project (the "Project") which includes the demolition of the buildings located at 115, 139, and 169 Johnston Street, 191 South Street, 68 Campbell Street, 254 Liberty Street, 161 Lander Street, and 140 and 251 Third Street; and

WHEREAS, by Resolution No. 29-2016 of February 8, 2016, in compliance with the State Environmental Quality Review Act (SEQRA), the City Council of the City of Newburgh declared its intent to assume Lead Agency status, classified the Project as a Type I Action, proposed to accept a Long Environmental Assessment Form and referred same to the involved and interested agencies; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh now wishes to assume Lead Agency status, approve and adopt a Long Environmental Assessment Form; and

WHEREAS, the City of Newburgh has taken a hard look at the environmental impacts of demolishing these vacant and distressed buildings located within the East End Historic District and has determined that there will be no negative environmental impacts regarding same;

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

1. That the City Council of the City of Newburgh hereby declares itself to be Lead Agency status for the environmental review of the action pursuant to 6 NYCRR 617.6; and
2. That this Council proposes to adopts the Long Environmental Assessment Form attached hereto; and

3. Issues a Negative Declaration pursuant to the SEQRA.

Full Environmental Assessment Form
Part 1 - Project and Setting

Instructions for Completing Part 1

Part 1 is to be completed by the applicant or project sponsor. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification.

Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information; indicate whether missing information does not exist, or is not reasonably available to the sponsor; and, when possible, generally describe work or studies which would be necessary to update or fully develop that information.

Applicants/sponsors must complete all items in Sections A & B. In Sections C, D & E, most items contain an initial question that must be answered either “Yes” or “No”. If the answer to the initial question is “Yes”, complete the sub-questions that follow. If the answer to the initial question is “No”, proceed to the next question. Section F allows the project sponsor to identify and attach any additional information. Section G requires the name and signature of the project sponsor to verify that the information contained in Part 1 is accurate and complete.

A. Project and Sponsor Information.

Name of Action or Project:		
Project Location (describe, and attach a general location map):		
Brief Description of Proposed Action (include purpose or need):		
Name of Applicant/Sponsor:		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Project Contact (if not same as sponsor; give name and title/role):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:
Property Owner (if not same as sponsor):		Telephone:
		E-Mail:
Address:		
City/PO:	State:	Zip Code:

B. Government Approvals

B. Government Approvals, Funding, or Sponsorship. (“Funding” includes grants, loans, tax relief, and any other forms of financial assistance.)

Government Entity	If Yes: Identify Agency and Approval(s) Required	Application Date (Actual or projected)
a. City Council, Town Board, or Village Board of Trustees ☐ Yes ☐ No		
b. City, Town or Village Planning Board or Commission ☐ Yes ☐ No		
c. City Council, Town or Village Zoning Board of Appeals ☐ Yes ☐ No		
d. Other local agencies ☐ Yes ☐ No		
e. County agencies ☐ Yes ☐ No		
f. Regional agencies ☐ Yes ☐ No		
g. State agencies ☐ Yes ☐ No		
h. Federal agencies ☐ Yes ☐ No		
i. Coastal Resources.		
i. Is the project site within a Coastal Area, or the waterfront area of a Designated Inland Waterway?		☐ Yes ☐ No
ii. Is the project site located in a community with an approved Local Waterfront Revitalization Program?		☐ Yes ☐ No
iii. Is the project site within a Coastal Erosion Hazard Area?		☐ Yes ☐ No

C. Planning and Zoning

C.1. Planning and zoning actions.

Will administrative or legislative adoption, or amendment of a plan, local law, ordinance, rule or regulation be the only approval(s) which must be granted to enable the proposed action to proceed? ☐ Yes ☐ No

- **If Yes**, complete sections C, F and G.
- **If No**, proceed to question C.2 and complete all remaining sections and questions in Part 1

C.2. Adopted land use plans.

a. Do any municipally- adopted (city, town, village or county) comprehensive land use plan(s) include the site where the proposed action would be located? ☐ Yes ☐ No

If Yes, does the comprehensive plan include specific recommendations for the site where the proposed action would be located? ☐ Yes ☐ No

b. Is the site of the proposed action within any local or regional special planning district (for example: Greenway Brownfield Opportunity Area (BOA); designated State or Federal heritage area; watershed management plan; or other?) ☐ Yes ☐ No

If Yes, identify the plan(s):

c. Is the proposed action located wholly or partially within an area listed in an adopted municipal open space plan, or an adopted municipal farmland protection plan? ☐ Yes ☐ No

If Yes, identify the plan(s):

C.3. Zoning

a. Is the site of the proposed action located in a municipality with an adopted zoning law or ordinance. ☐ Yes ☐ No
If Yes, what is the zoning classification(s) including any applicable overlay district?

b. Is the use permitted or allowed by a special or conditional use permit? ☐ Yes ☐ No

c. Is a zoning change requested as part of the proposed action? ☐ Yes ☐ No

If Yes,

i. What is the proposed new zoning for the site? _____

C.4. Existing community services.

a. In what school district is the project site located? _____

b. What police or other public protection forces serve the project site?

c. Which fire protection and emergency medical services serve the project site?

d. What parks serve the project site?

D. Project Details

D.1. Proposed and Potential Development

a. What is the general nature of the proposed action (e.g., residential, industrial, commercial, recreational; if mixed, include all components)?

b. a. Total acreage of the site of the proposed action? _____ acres

b. Total acreage to be physically disturbed? _____ acres

c. Total acreage (project site and any contiguous properties) owned
or controlled by the applicant or project sponsor? _____ acres

c. Is the proposed action an expansion of an existing project or use? ☐ Yes ☐ No

i. If Yes, what is the approximate percentage of the proposed expansion and identify the units (e.g., acres, miles, housing units, square feet)? % _____ Units: _____

d. Is the proposed action a subdivision, or does it include a subdivision? ☐ Yes ☐ No

If Yes,

i. Purpose or type of subdivision? (e.g., residential, industrial, commercial; if mixed, specify types)

ii. Is a cluster/conservation layout proposed? ☐ Yes ☐ No

iii. Number of lots proposed? _____

iv. Minimum and maximum proposed lot sizes? Minimum _____ Maximum _____

e. Will proposed action be constructed in multiple phases? ☐ Yes ☐ No

i. If No, anticipated period of construction: _____ months

ii. If Yes:

- Total number of phases anticipated _____

- Anticipated commencement date of phase 1 (including demolition) _____ month _____ year

- Anticipated completion date of final phase _____ month _____ year

- Generally describe connections or relationships among phases, including any contingencies where progress of one phase may determine timing or duration of future phases: _____

f. Does the project include new residential uses? ☐ Yes ☐ No If Yes, show numbers of units proposed.				
	<u>One Family</u>	<u>Two Family</u>	<u>Three Family</u>	<u>Multiple Family (four or more)</u>
Initial Phase	_____	_____	_____	_____
At completion	_____	_____	_____	_____
of all phases	_____	_____	_____	_____

g. Does the proposed action include new non-residential construction (including expansions)? ☐ Yes ☐ No If Yes,	
i. Total number of structures _____	
ii. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; and _____ length	
iii. Approximate extent of building space to be heated or cooled: _____ square feet	

h. Does the proposed action include construction or other activities that will result in the impoundment of any liquids, such as creation of a water supply, reservoir, pond, lake, waste lagoon or other storage? ☐ Yes ☐ No If Yes,	
i. Purpose of the impoundment: _____	
ii. If a water impoundment, the principal source of the water: ☐ Ground water ☐ Surface water streams ☐ Other specify:	

iii. If other than water, identify the type of impounded/contained liquids and their source.	

iv. Approximate size of the proposed impoundment. Volume: _____ million gallons; surface area: _____ acres	
v. Dimensions of the proposed dam or impounding structure: _____ height; _____ length	
vi. Construction method/materials for the proposed dam or impounding structure (e.g., earth fill, rock, wood, concrete):	

D.2. Project Operations

a. Does the proposed action include any excavation, mining, or dredging, during construction, operations, or both? ☐ Yes ☐ No (Not including general site preparation, grading or installation of utilities or foundations where all excavated materials will remain onsite) If Yes:	
i. What is the purpose of the excavation or dredging? _____	
ii. How much material (including rock, earth, sediments, etc.) is proposed to be removed from the site?	
• Volume (specify tons or cubic yards): _____ • Over what duration of time? _____	
iii. Describe nature and characteristics of materials to be excavated or dredged, and plans to use, manage or dispose of them.	

iv. Will there be onsite dewatering or processing of excavated materials? ☐ Yes ☐ No	
If yes, describe. _____	

v. What is the total area to be dredged or excavated? _____ acres	
vi. What is the maximum area to be worked at any one time? _____ acres	
vii. What would be the maximum depth of excavation or dredging? _____ feet	
viii. Will the excavation require blasting? ☐ Yes ☐ No	
ix. Summarize site reclamation goals and plan: _____	

b. Would the proposed action cause or result in alteration of, increase or decrease in size of, or encroachment into any existing wetland, waterbody, shoreline, beach or adjacent area? ☐ Yes ☐ No If Yes:	
i. Identify the wetland or waterbody which would be affected (by name, water index number, wetland map number or geographic description): _____	

ii. Describe how the proposed action would affect that waterbody or wetland, e.g. excavation, fill, placement of structures, or alteration of channels, banks and shorelines. Indicate extent of activities, alterations and additions in square feet or acres:

iii. Will proposed action cause or result in disturbance to bottom sediments? ☐ Yes ☐ No
If Yes, describe: _____

iv. Will proposed action cause or result in the destruction or removal of aquatic vegetation? ☐ Yes ☐ No
If Yes:

- acres of aquatic vegetation proposed to be removed: _____
- expected acreage of aquatic vegetation remaining after project completion: _____
- purpose of proposed removal (e.g. beach clearing, invasive species control, boat access): _____
- proposed method of plant removal: _____
- if chemical/herbicide treatment will be used, specify product(s): _____

v. Describe any proposed reclamation/mitigation following disturbance: _____

c. Will the proposed action use, or create a new demand for water? ☐ Yes ☐ No
If Yes:

i. Total anticipated water usage/demand per day: _____ gallons/day

ii. Will the proposed action obtain water from an existing public water supply? ☐ Yes ☐ No
If Yes:

- Name of district or service area: _____
- Does the existing public water supply have capacity to serve the proposal? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No
- Do existing lines serve the project site? ☐ Yes ☐ No

iii. Will line extension within an existing district be necessary to supply the project? ☐ Yes ☐ No
If Yes:

- Describe extensions or capacity expansions proposed to serve this project: _____
- Source(s) of supply for the district: _____

iv. Is a new water supply district or service area proposed to be formed to serve the project site? ☐ Yes ☐ No
If Yes:

- Applicant/sponsor for new district: _____
- Date application submitted or anticipated: _____
- Proposed source(s) of supply for new district: _____

v. If a public water supply will not be used, describe plans to provide water supply for the project: _____

vi. If water supply will be from wells (public or private), maximum pumping capacity: _____ gallons/minute.

d. Will the proposed action generate liquid wastes? ☐ Yes ☐ No
If Yes:

i. Total anticipated liquid waste generation per day: _____ gallons/day

ii. Nature of liquid wastes to be generated (e.g., sanitary wastewater, industrial; if combination, describe all components and approximate volumes or proportions of each): _____

iii. Will the proposed action use any existing public wastewater treatment facilities? ☐ Yes ☐ No
If Yes:

- Name of wastewater treatment plant to be used: _____
- Name of district: _____
- Does the existing wastewater treatment plant have capacity to serve the project? ☐ Yes ☐ No
- Is the project site in the existing district? ☐ Yes ☐ No
- Is expansion of the district needed? ☐ Yes ☐ No

• Do existing sewer lines serve the project site? _____ • Will line extension within an existing district be necessary to serve the project? _____ If Yes: • Describe extensions or capacity expansions proposed to serve this project: _____ _____ _____	☐ Yes ☐ No ☐ Yes ☐ No	
iv. Will a new wastewater (sewage) treatment district be formed to serve the project site? _____ If Yes: • Applicant/sponsor for new district: _____ • Date application submitted or anticipated: _____ • What is the receiving water for the wastewater discharge? _____	☐ Yes ☐ No	
v. If public facilities will not be used, describe plans to provide wastewater treatment for the project, including specifying proposed receiving water (name and classification if surface discharge, or describe subsurface disposal plans): _____ _____ _____		
vi. Describe any plans or designs to capture, recycle or reuse liquid waste: _____ _____ _____		
e. Will the proposed action disturb more than one acre and create stormwater runoff, either from new point sources (i.e. ditches, pipes, swales, curbs, gutters or other concentrated flows of stormwater) or non-point source (i.e. sheet flow) during construction or post construction? _____ If Yes: i. How much impervious surface will the project create in relation to total size of project parcel? _____ Square feet or _____ acres (impervious surface) _____ Square feet or _____ acres (parcel size) ii. Describe types of new point sources. _____ _____ iii. Where will the stormwater runoff be directed (i.e. on-site stormwater management facility/structures, adjacent properties, groundwater, on-site surface water or off-site surface waters)? _____ _____ • If to surface waters, identify receiving water bodies or wetlands: _____ _____ • Will stormwater runoff flow to adjacent properties? _____	☐ Yes ☐ No ☐ Yes ☐ No ☐ Yes ☐ No	
iv. Does proposed plan minimize impervious surfaces, use pervious materials or collect and re-use stormwater? _____		
f. Does the proposed action include, or will it use on-site, one or more sources of air emissions, including fuel combustion, waste incineration, or other processes or operations? _____ If Yes, identify: i. Mobile sources during project operations (e.g., heavy equipment, fleet or delivery vehicles) _____ ii. Stationary sources during construction (e.g., power generation, structural heating, batch plant, crushers) _____ iii. Stationary sources during operations (e.g., process emissions, large boilers, electric generation) _____	☐ Yes ☐ No	
g. Will any air emission sources named in D.2.f (above), require a NY State Air Registration, Air Facility Permit, or Federal Clean Air Act Title IV or Title V Permit? _____ If Yes: i. Is the project site located in an Air quality non-attainment area? (Area routinely or periodically fails to meet ambient air quality standards for all or some parts of the year) _____ ii. In addition to emissions as calculated in the application, the project will generate: • _____ Tons/year (short tons) of Carbon Dioxide (CO₂) • _____ Tons/year (short tons) of Nitrous Oxide (N₂O) • _____ Tons/year (short tons) of Perfluorocarbons (PFCs) • _____ Tons/year (short tons) of Sulfur Hexafluoride (SF₆) • _____ Tons/year (short tons) of Carbon Dioxide equivalent of Hydroflourocarbons (HFCs) • _____ Tons/year (short tons) of Hazardous Air Pollutants (HAPs)		☐ Yes ☐ No ☐ Yes ☐ No

h. Will the proposed action generate or emit methane (including, but not limited to, sewage treatment plants, landfills, composting facilities)? ☐ Yes ☐ No If Yes: i. Estimate methane generation in tons/year (metric): _____ ii. Describe any methane capture, control or elimination measures included in project design (e.g., combustion to generate heat or electricity, flaring): _____			
i. Will the proposed action result in the release of air pollutants from open-air operations or processes, such as quarry or landfill operations? ☐ Yes ☐ No If Yes: Describe operations and nature of emissions (e.g., diesel exhaust, rock particulates/dust): _____			
j. Will the proposed action result in a substantial increase in traffic above present levels or generate substantial new demand for transportation facilities or services? ☐ Yes ☐ No If Yes: i. When is the peak traffic expected (Check all that apply): ☐ Morning ☐ Evening ☐ Weekend ☐ Randomly between hours of _____ to _____. ii. For commercial activities only, projected number of semi-trailer truck trips/day: _____ iii. Parking spaces: Existing _____ Proposed _____ Net increase/decrease _____ iv. Does the proposed action include any shared use parking? ☐ Yes ☐ No v. If the proposed action includes any modification of existing roads, creation of new roads or change in existing access, describe: _____			
vi. Are public/private transportation service(s) or facilities available within ½ mile of the proposed site? ☐ Yes ☐ No vii. Will the proposed action include access to public transportation or accommodations for use of hybrid, electric or other alternative fueled vehicles? ☐ Yes ☐ No viii. Will the proposed action include plans for pedestrian or bicycle accommodations for connections to existing pedestrian or bicycle routes? ☐ Yes ☐ No			
k. Will the proposed action (for commercial or industrial projects only) generate new or additional demand for energy? ☐ Yes ☐ No If Yes: i. Estimate annual electricity demand during operation of the proposed action: _____ ii. Anticipated sources/suppliers of electricity for the project (e.g., on-site combustion, on-site renewable, via grid/local utility, or other): _____ iii. Will the proposed action require a new, or an upgrade to, an existing substation? ☐ Yes ☐ No			
l. Hours of operation. Answer all items which apply. <table style="width: 100%;"> <tr> <td style="width: 50%; vertical-align: top;"> i. During Construction: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> <td style="width: 50%; vertical-align: top;"> ii. During Operations: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____ </td> </tr> </table>		i. During Construction: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____	ii. During Operations: • Monday - Friday: _____ • Saturday: _____ • Sunday: _____ • Holidays: _____
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m. Will the proposed action produce noise that will exceed existing ambient noise levels during construction, operation, or both? ☐ Yes ☐ No If yes: i. Provide details including sources, time of day and duration: _____ _____	
ii. Will proposed action remove existing natural barriers that could act as a noise barrier or screen? ☐ Yes ☐ No Describe: _____ _____	
n.. Will the proposed action have outdoor lighting? ☐ Yes ☐ No If yes: i. Describe source(s), location(s), height of fixture(s), direction/aim, and proximity to nearest occupied structures: _____ _____	
ii. Will proposed action remove existing natural barriers that could act as a light barrier or screen? ☐ Yes ☐ No Describe: _____ _____	
o. Does the proposed action have the potential to produce odors for more than one hour per day? ☐ Yes ☐ No If Yes, describe possible sources, potential frequency and duration of odor emissions, and proximity to nearest occupied structures: _____ _____ _____	
p. Will the proposed action include any bulk storage of petroleum (combined capacity of over 1,100 gallons) or chemical products 185 gallons in above ground storage or any amount in underground storage? ☐ Yes ☐ No If Yes: i. Product(s) to be stored _____ ii. Volume(s) _____ per unit time _____ (e.g., month, year) iii. Generally describe proposed storage facilities: _____ _____	
q. Will the proposed action (commercial, industrial and recreational projects only) use pesticides (i.e., herbicides, insecticides) during construction or operation? ☐ Yes ☐ No If Yes: i. Describe proposed treatment(s): _____ _____ _____	
ii. Will the proposed action use Integrated Pest Management Practices? ☐ Yes ☐ No	
r. Will the proposed action (commercial or industrial projects only) involve or require the management or disposal of solid waste (excluding hazardous materials)? ☐ Yes ☐ No If Yes: i. Describe any solid waste(s) to be generated during construction or operation of the facility: • Construction: _____ tons per _____ (unit of time) • Operation : _____ tons per _____ (unit of time) ii. Describe any proposals for on-site minimization, recycling or reuse of materials to avoid disposal as solid waste: • Construction: _____ _____ • Operation: _____ _____ iii. Proposed disposal methods/facilities for solid waste generated on-site: • Construction: _____ _____ • Operation: _____ _____	

s. Does the proposed action include construction or modification of a solid waste management facility? ☐ Yes ☐ No
 If Yes:
 i. Type of management or handling of waste proposed for the site (e.g., recycling or transfer station, composting, landfill, or other disposal activities): _____
 ii. Anticipated rate of disposal/processing:
 • _____ Tons/month, if transfer or other non-combustion/thermal treatment, or
 • _____ Tons/hour, if combustion or thermal treatment
 iii. If landfill, anticipated site life: _____ years

t. Will proposed action at the site involve the commercial generation, treatment, storage, or disposal of hazardous waste? ☐ Yes ☐ No
 If Yes:
 i. Name(s) of all hazardous wastes or constituents to be generated, handled or managed at facility: _____

 ii. Generally describe processes or activities involving hazardous wastes or constituents: _____

 iii. Specify amount to be handled or generated _____ tons/month
 iv. Describe any proposals for on-site minimization, recycling or reuse of hazardous constituents: _____

 v. Will any hazardous wastes be disposed at an existing offsite hazardous waste facility? ☐ Yes ☐ No
 If Yes: provide name and location of facility: _____

 If No: describe proposed management of any hazardous wastes which will not be sent to a hazardous waste facility:

E. Site and Setting of Proposed Action

E.1. Land uses on and surrounding the project site			
a. Existing land uses. i. Check all uses that occur on, adjoining and near the project site. ☐ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm) ☐ Forest ☐ Agriculture ☐ Aquatic ☐ Other (specify): _____ ii. If mix of uses, generally describe: _____ _____			
b. Land uses and coverytypes on the project site.			
Land use or Coverytype	Current Acreage	Acreage After Project Completion	Change (Acres +/-)
• Roads, buildings, and other paved or impervious surfaces			
• Forested			
• Meadows, grasslands or brushlands (non-agricultural, including abandoned agricultural)			
• Agricultural (includes active orchards, field, greenhouse etc.)			
• Surface water features (lakes, ponds, streams, rivers, etc.)			
• Wetlands (freshwater or tidal)			
• Non-vegetated (bare rock, earth or fill)			
• Other Describe: _____ _____			

c. Is the project site presently used by members of the community for public recreation? i. If Yes: explain: _____	☐ Yes ☐ No
d. Are there any facilities serving children, the elderly, people with disabilities (e.g., schools, hospitals, licensed day care centers, or group homes) within 1500 feet of the project site? If Yes, i. Identify Facilities: _____ _____	☐ Yes ☐ No
e. Does the project site contain an existing dam? If Yes: i. Dimensions of the dam and impoundment: • Dam height: _____ feet • Dam length: _____ feet • Surface area: _____ acres • Volume impounded: _____ gallons OR acre-feet ii. Dam's existing hazard classification: _____ iii. Provide date and summarize results of last inspection: _____ _____	☐ Yes ☐ No
f. Has the project site ever been used as a municipal, commercial or industrial solid waste management facility, or does the project site adjoin property which is now, or was at one time, used as a solid waste management facility? If Yes: i. Has the facility been formally closed? • If yes, cite sources/documentation: _____ ii. Describe the location of the project site relative to the boundaries of the solid waste management facility: _____ _____	☐ Yes ☐ No ☐ Yes ☐ No
iii. Describe any development constraints due to the prior solid waste activities: _____ _____	
g. Have hazardous wastes been generated, treated and/or disposed of at the site, or does the project site adjoin property which is now or was at one time used to commercially treat, store and/or dispose of hazardous waste? If Yes: i. Describe waste(s) handled and waste management activities, including approximate time when activities occurred: _____ _____	☐ Yes ☐ No
h. Potential contamination history. Has there been a reported spill at the proposed project site, or have any remedial actions been conducted at or adjacent to the proposed site? If Yes: i. Is any portion of the site listed on the NYSDEC Spills Incidents database or Environmental Site Remediation database? Check all that apply: ☐ Yes – Spills Incidents database ☐ Yes – Environmental Site Remediation database ☐ Neither database Provide DEC ID number(s): _____ Provide DEC ID number(s): _____ ii. If site has been subject of RCRA corrective activities, describe control measures: _____ _____	☐ Yes ☐ No ☐ Yes ☐ No
iii. Is the project within 2000 feet of any site in the NYSDEC Environmental Site Remediation database? If yes, provide DEC ID number(s): _____ iv. If yes to (i), (ii) or (iii) above, describe current status of site(s): _____ _____	☐ Yes ☐ No

v. Is the project site subject to an institutional control limiting property uses? ☐ Yes ☐ No - If yes, DEC site ID number: _____ - Describe the type of institutional control (e.g., deed restriction or easement): _____ - Describe any use limitations: _____ - Describe any engineering controls: _____ - Will the project affect the institutional or engineering controls in place? ☐ Yes ☐ No - Explain: _____ _____
E.2. Natural Resources On or Near Project Site
a. What is the average depth to bedrock on the project site? _____ feet
b. Are there bedrock outcroppings on the project site? ☐ Yes ☐ No If Yes, what proportion of the site is comprised of bedrock outcroppings? _____ %
c. Predominant soil type(s) present on project site: _____ % _____ % _____ %
d. What is the average depth to the water table on the project site? Average: _____ feet
e. Drainage status of project site soils: ☐ Well Drained: _____ % of site ☐ Moderately Well Drained: _____ % of site ☐ Poorly Drained _____ % of site
f. Approximate proportion of proposed action site with slopes: ☐ 0-10%: _____ % of site ☐ 10-15%: _____ % of site ☐ 15% or greater: _____ % of site
g. Are there any unique geologic features on the project site? ☐ Yes ☐ No If Yes, describe: _____ _____
h. Surface water features. i. Does any portion of the project site contain wetlands or other waterbodies (including streams, rivers, ponds or lakes)? ☐ Yes ☐ No ii. Do any wetlands or other waterbodies adjoin the project site? ☐ Yes ☐ No If Yes to either <i>i</i> or <i>ii</i> , continue. If No, skip to E.2.i. iii. Are any of the wetlands or waterbodies within or adjoining the project site regulated by any federal, state or local agency? ☐ Yes ☐ No iv. For each identified regulated wetland and waterbody on the project site, provide the following information: - Streams: Name _____ Classification _____ - Lakes or Ponds: Name _____ Classification _____ - Wetlands: Name _____ Approximate Size _____ - Wetland No. (if regulated by DEC) _____
v. Are any of the above water bodies listed in the most recent compilation of NYS water quality-impaired waterbodies? ☐ Yes ☐ No If yes, name of impaired water body/bodies and basis for listing as impaired: _____ _____
i. Is the project site in a designated Floodway? ☐ Yes ☐ No
j. Is the project site in the 100 year Floodplain? ☐ Yes ☐ No
k. Is the project site in the 500 year Floodplain? ☐ Yes ☐ No
l. Is the project site located over, or immediately adjoining, a primary, principal or sole source aquifer? ☐ Yes ☐ No If Yes: i. Name of aquifer: _____

m. Identify the predominant wildlife species that occupy or use the project site: _____ _____ _____
n. Does the project site contain a designated significant natural community? ☐ Yes ☐ No If Yes: i. Describe the habitat/community (composition, function, and basis for designation): _____ ii. Source(s) of description or evaluation: _____ iii. Extent of community/habitat: • Currently: _____ acres • Following completion of project as proposed: _____ acres • Gain or loss (indicate + or -): _____ acres
o. Does project site contain any species of plant or animal that is listed by the federal government or NYS as endangered or threatened, or does it contain any areas identified as habitat for an endangered or threatened species? ☐ Yes ☐ No
p. Does the project site contain any species of plant or animal that is listed by NYS as rare, or as a species of special concern? ☐ Yes ☐ No
q. Is the project site or adjoining area currently used for hunting, trapping, fishing or shell fishing? ☐ Yes ☐ No If yes, give a brief description of how the proposed action may affect that use: _____ _____
E.3. Designated Public Resources On or Near Project Site
a. Is the project site, or any portion of it, located in a designated agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☐ No If Yes, provide county plus district name/number: _____
b. Are agricultural lands consisting of highly productive soils present? ☐ Yes ☐ No i. If Yes: acreage(s) on project site? _____ ii. Source(s) of soil rating(s): _____
c. Does the project site contain all or part of, or is it substantially contiguous to, a registered National Natural Landmark? ☐ Yes ☐ No If Yes: i. Nature of the natural landmark: ☐ Biological Community ☐ Geological Feature ii. Provide brief description of landmark, including values behind designation and approximate size/extent: _____ _____ _____
d. Is the project site located in or does it adjoin a state listed Critical Environmental Area? ☐ Yes ☐ No If Yes: i. CEA name: _____ ii. Basis for designation: _____ iii. Designating agency and date: _____

e. Does the project site contain, or is it substantially contiguous to, a building, archaeological site, or district which is listed on, or has been nominated by the NYS Board of Historic Preservation for inclusion on, the State or National Register of Historic Places? ☐ Yes ☐ No
If Yes: i. Nature of historic/archaeological resource: ☐ Archaeological Site ☐ Historic Building or District ii. Name: _____ iii. Brief description of attributes on which listing is based: _____
f. Is the project site, or any portion of it, located in or adjacent to an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory? ☐ Yes ☐ No
g. Have additional archaeological or historic site(s) or resources been identified on the project site? ☐ Yes ☐ No If Yes: i. Describe possible resource(s): _____ ii. Basis for identification: _____
h. Is the project site within five miles of any officially designated and publicly accessible federal, state, or local scenic or aesthetic resource? ☐ Yes ☐ No If Yes: i. Identify resource: _____ ii. Nature of, or basis for, designation (e.g., established highway overlook, state or local park, state historic trail or scenic byway, etc.): _____ iii. Distance between project and resource: _____ miles.
i. Is the project site located within a designated river corridor under the Wild, Scenic and Recreational Rivers Program 6 NYCRR 666? ☐ Yes ☐ No If Yes: i. Identify the name of the river and its designation: _____ ii. Is the activity consistent with development restrictions contained in 6NYCRR Part 666? ☐ Yes ☐ No

F. Additional Information

Attach any additional information which may be needed to clarify your project.

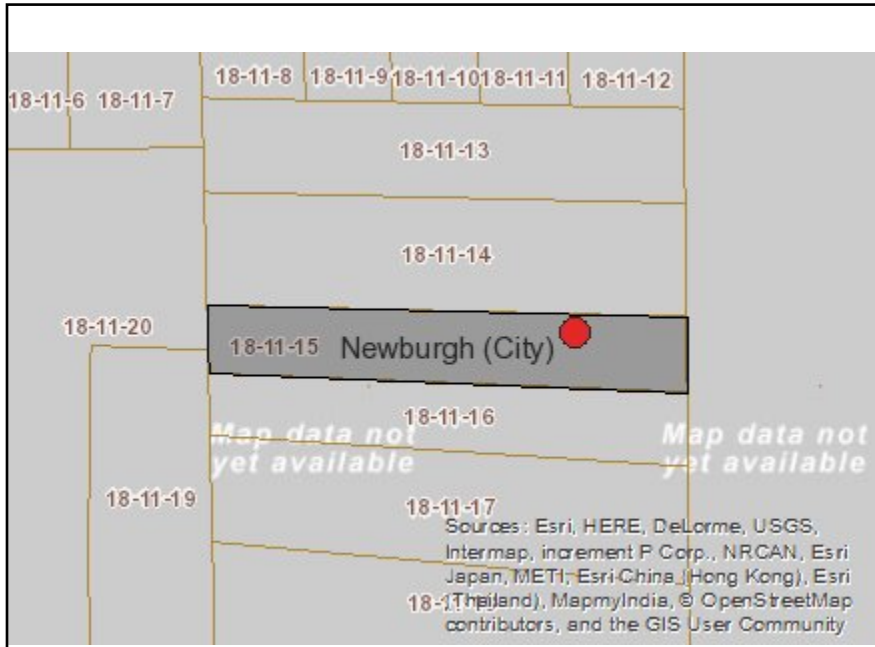
If you have identified any adverse impacts which could be associated with your proposal, please describe those impacts plus any measures which you propose to avoid or minimize them.

G. Verification

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

Applicant/Sponsor Name _____ Date _____

Signature _____ Title _____

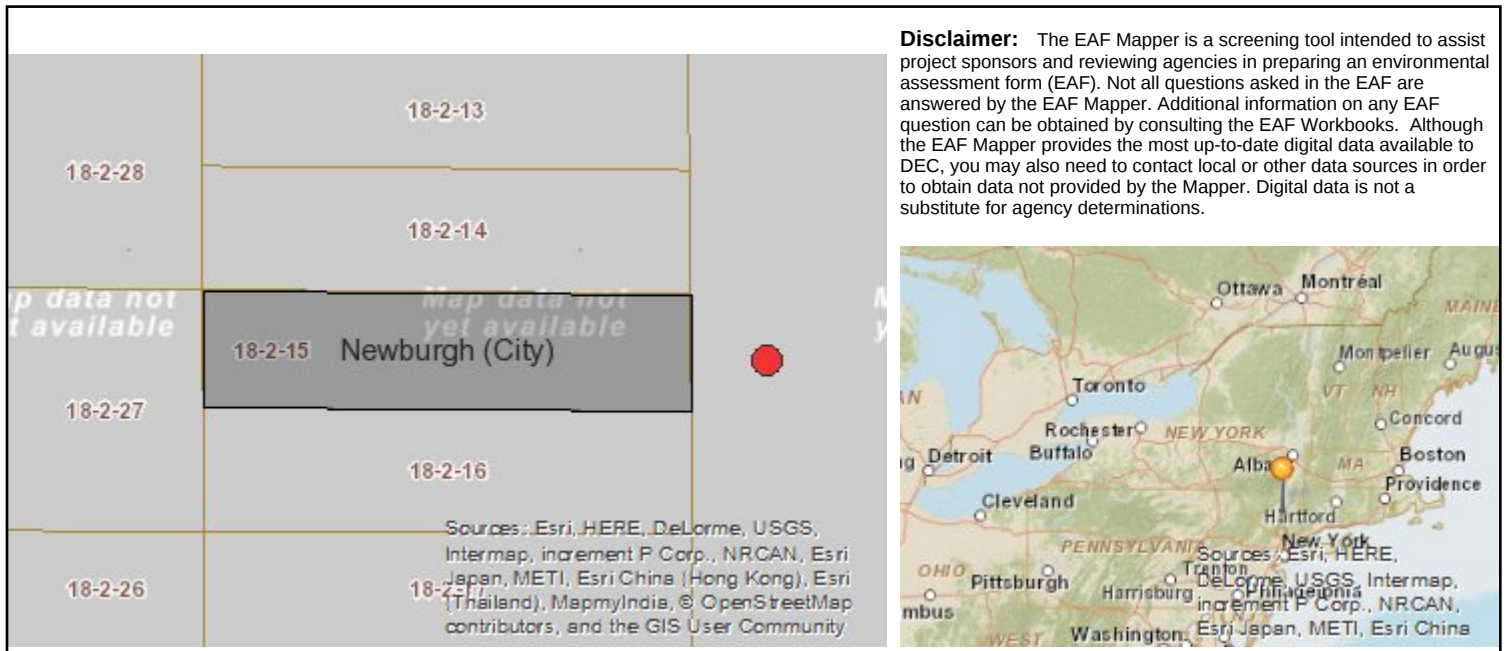


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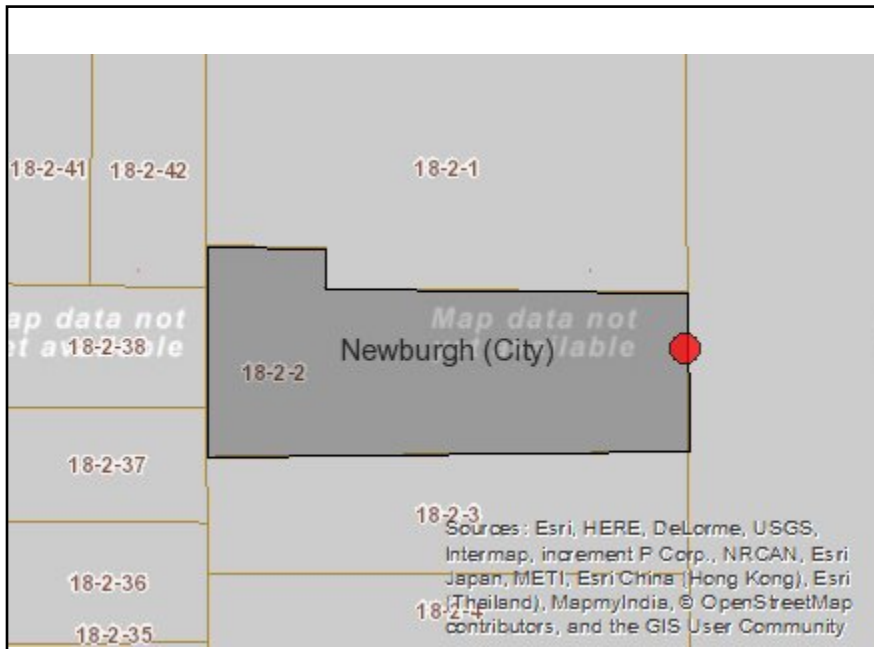
B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
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E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



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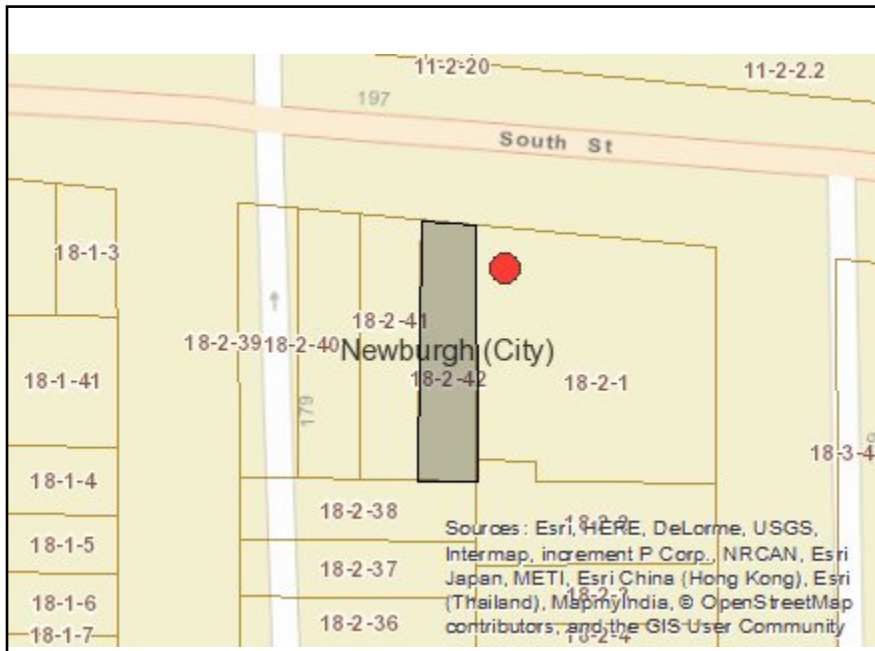


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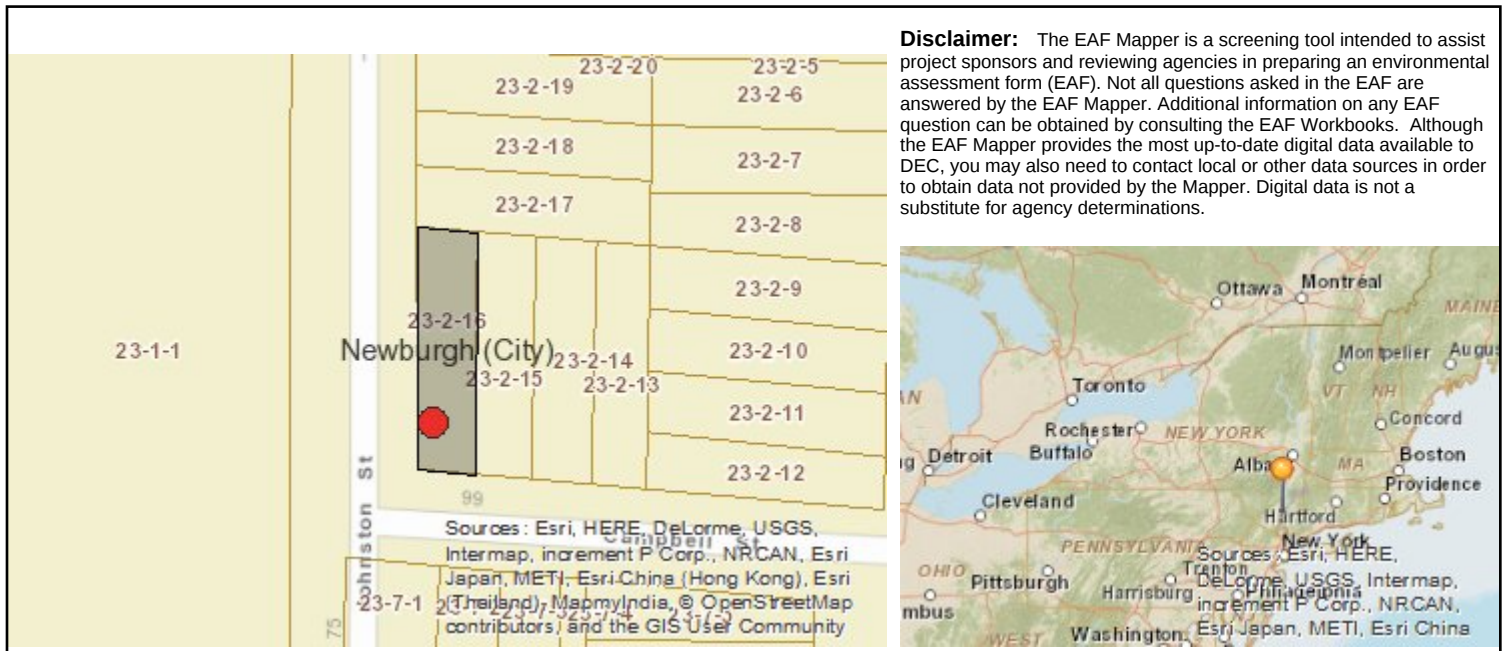


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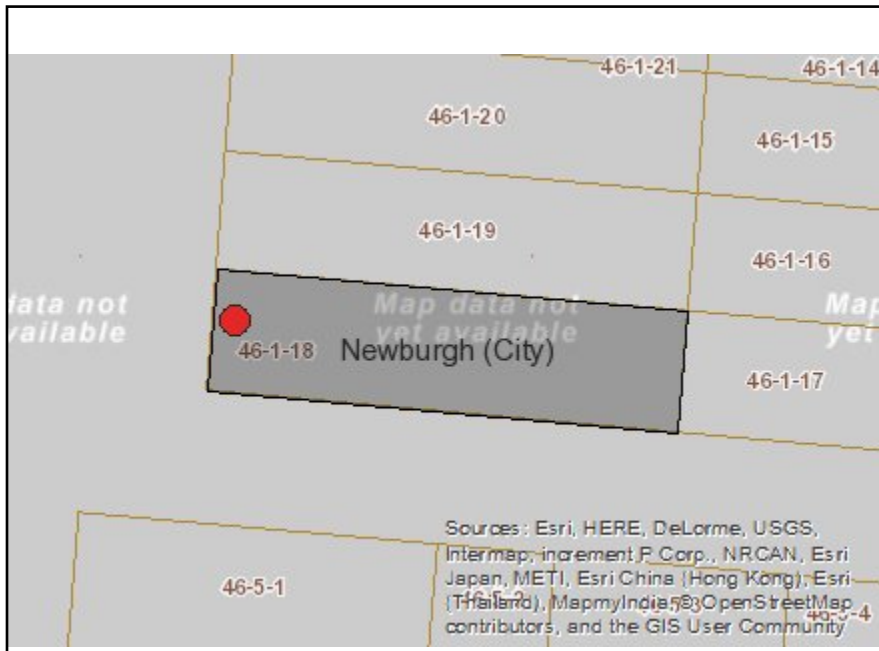
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E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No



B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	336042
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District, US Post Office--Newburgh
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

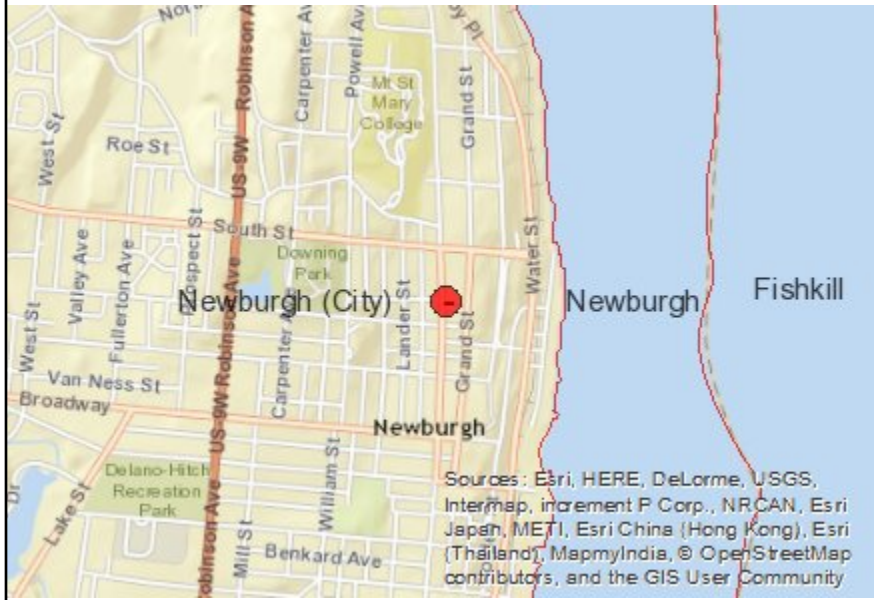


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B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	546031 , 336031 , 336055 , B00188
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

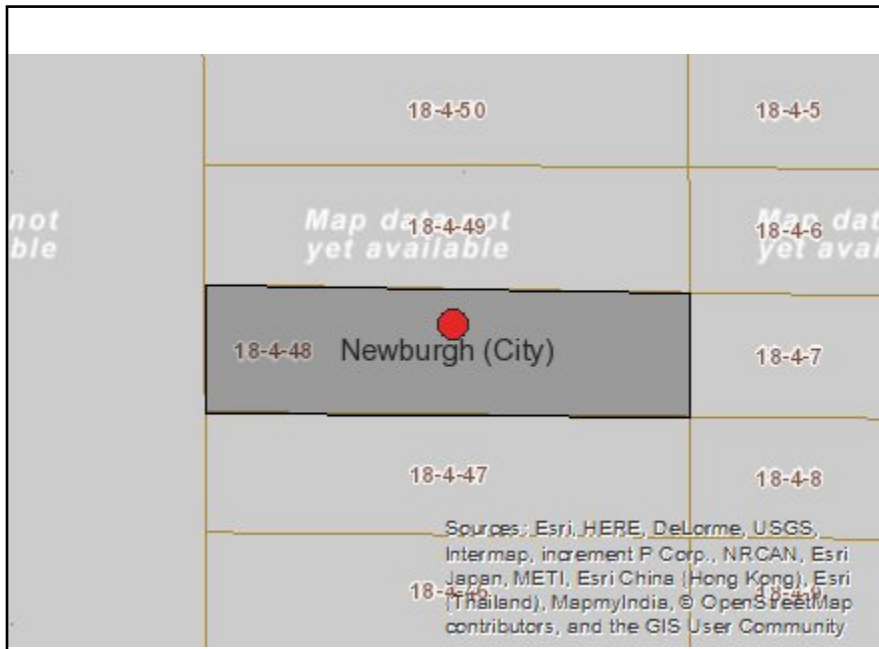


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B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	546031 , 336042 , B00189
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District, Dutch Reformed Church, US Post Office--Newburgh
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

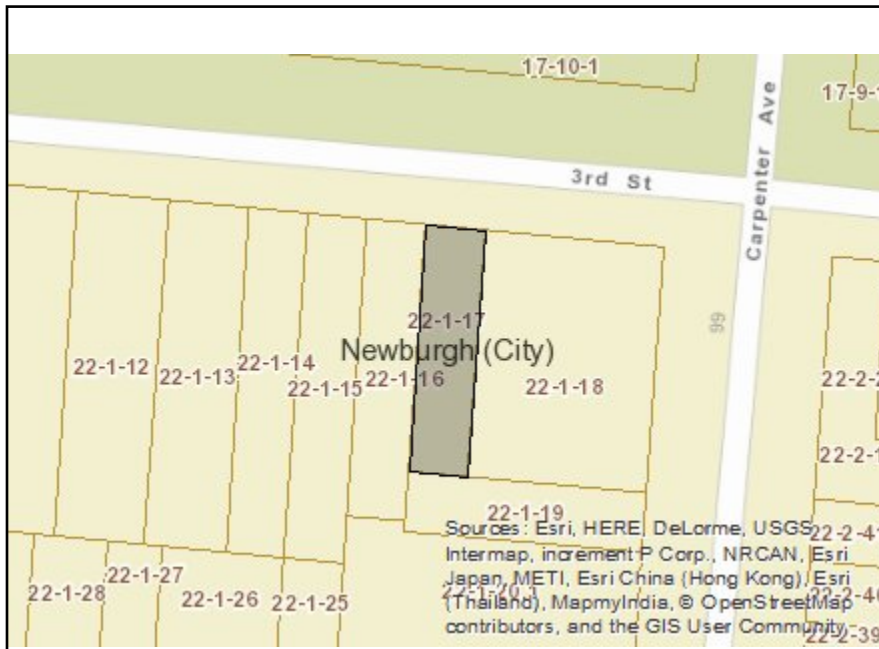


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B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	546031 , B00189
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District, Old Town Cemetery and Palatine Church Site
E.3.f. [Archeological Sites]	No
E.3.i. [Designated River Corridor]	No

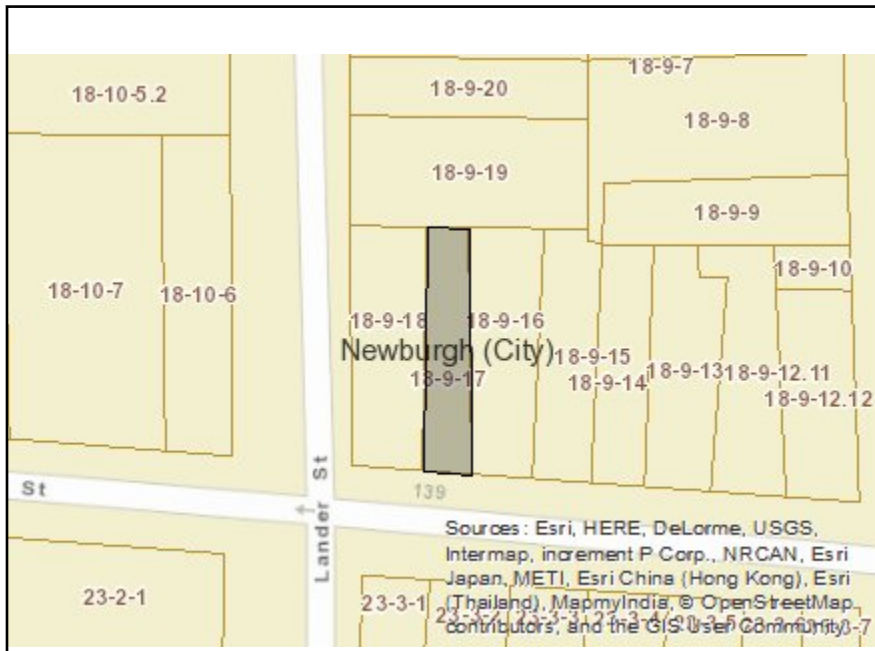


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B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	No
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	Yes
E.2.h.iii [Surface Water Features]	Yes - Digital mapping information on local and federal wetlands and waterbodies is known to be incomplete. Refer to EAF Workbook.
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	Yes
E.2.l. [Aquifer Names]	Principal Aquifer
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	No

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No



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B.i.i [Coastal or Waterfront Area]	Yes
B.i.ii [Local Waterfront Revitalization Area]	Yes
C.2.b. [Special Planning District]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h [DEC Spills or Remediation Site - Potential Contamination History]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Listed]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.i [DEC Spills or Remediation Site - Environmental Site Remediation Database]	Digital mapping data are not available or are incomplete. Refer to EAF Workbook.
E.1.h.iii [Within 2,000' of DEC Remediation Site]	Yes
E.1.h.iii [Within 2,000' of DEC Remediation Site - DEC ID]	336042 , B00189
E.2.g [Unique Geologic Features]	No
E.2.h.i [Surface Water Features]	No
E.2.h.ii [Surface Water Features]	No
E.2.h.iii [Surface Water Features]	No
E.2.h.v [Impaired Water Bodies]	No
E.2.i. [Floodway]	No
E.2.j. [100 Year Floodplain]	No
E.2.k. [500 Year Floodplain]	No
E.2.l. [Aquifers]	No
E.2.n. [Natural Communities]	No
E.2.o. [Endangered or Threatened Species]	Yes

E.2.p. [Rare Plants or Animals]	No
E.3.a. [Agricultural District]	No
E.3.c. [National Natural Landmark]	No
E.3.d [Critical Environmental Area]	No
E.3.e. [National Register of Historic Places]	Yes - Digital mapping data for archaeological site boundaries are not available. Refer to EAF Workbook.
E.3.e.ii [National Register of Historic Places - Name]	East End Historic District, US Post Office--Newburgh
E.3.f. [Archeological Sites]	Yes
E.3.i. [Designated River Corridor]	No

Full Environmental Assessment Form
Part 2 - Identification of Potential Project Impacts

Project :

Date :

Part 2 is to be completed by the lead agency. Part 2 is designed to help the lead agency inventory all potential resources that could be affected by a proposed project or action. We recognize that the lead agency's reviewer(s) will not necessarily be environmental professionals. So, the questions are designed to walk a reviewer through the assessment process by providing a series of questions that can be answered using the information found in Part 1. To further assist the lead agency in completing Part 2, the form identifies the most relevant questions in Part 1 that will provide the information needed to answer the Part 2 question. When Part 2 is completed, the lead agency will have identified the relevant environmental areas that may be impacted by the proposed activity.

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

Tips for completing Part 2:

- Review all of the information provided in Part 1.
- Review any application, maps, supporting materials and the Full EAF Workbook.
- Answer each of the 18 questions in Part 2.
- If you answer “**Yes**” to a numbered question, please complete all the questions that follow in that section.
- If you answer “**No**” to a numbered question, move on to the next numbered question.
- Check appropriate column to indicate the anticipated size of the impact.
- Proposed projects that would exceed a numeric threshold contained in a question should result in the reviewing agency checking the box “Moderate to large impact may occur.”
- The reviewer is not expected to be an expert in environmental analysis.
- If you are not sure or undecided about the size of an impact, it may help to review the sub-questions for the general question and consult the workbook.
- When answering a question consider all components of the proposed activity, that is, the “whole action”.
- Consider the possibility for long-term and cumulative impacts as well as direct impacts.
- Answer the question in a reasonable manner considering the scale and context of the project.

1. Impact on Land Proposed action may involve construction on, or physical alteration of, the land surface of the proposed site. (See Part 1. D.1) <i>If “Yes”, answer questions a - j. If “No”, move on to Section 2.</i> ☐ NO ☐ YES			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may involve construction on land where depth to water table is less than 3 feet.	E2d	☐	☐
b. The proposed action may involve construction on slopes of 15% or greater.	E2f	☐	☐
c. The proposed action may involve construction on land where bedrock is exposed, or generally within 5 feet of existing ground surface.	E2a	☐	☐
d. The proposed action may involve the excavation and removal of more than 1,000 tons of natural material.	D2a	☐	☐
e. The proposed action may involve construction that continues for more than one year or in multiple phases.	D1e	☐	☐
f. The proposed action may result in increased erosion, whether from physical disturbance or vegetation removal (including from treatment by herbicides).	D2e, D2q	☐	☐
g. The proposed action is, or may be, located within a Coastal Erosion hazard area.	B1i	☐	☐
h. Other impacts: _____ _____		☐	☐

2. Impact on Geological Features The proposed action may result in the modification or destruction of, or inhibit access to, any unique or unusual land forms on the site (e.g., cliffs, dunes, minerals, fossils, caves). (See Part 1. E.2.g) ☐ NO ☐ YES <i>If “Yes”, answer questions a - c. If “No”, move on to Section 3.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Identify the specific land form(s) attached: _____	E2g	☐	☐
b. The proposed action may affect or is adjacent to a geological feature listed as a registered National Natural Landmark. Specific feature: _____	E3c	☐	☐
c. Other impacts: _____		☐	☐

3. Impacts on Surface Water The proposed action may affect one or more wetlands or other surface water bodies (e.g., streams, rivers, ponds or lakes). (See Part 1. D.2, E.2.h) ☐ NO ☐ YES <i>If “Yes”, answer questions a - l. If “No”, move on to Section 4.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may create a new water body.	D2b, D1h	☐	☐
b. The proposed action may result in an increase or decrease of over 10% or more than a 10 acre increase or decrease in the surface area of any body of water.	D2b	☐	☐
c. The proposed action may involve dredging more than 100 cubic yards of material from a wetland or water body.	D2a	☐	☐
d. The proposed action may involve construction within or adjoining a freshwater or tidal wetland, or in the bed or banks of any other water body.	E2h	☐	☐
e. The proposed action may create turbidity in a waterbody, either from upland erosion, runoff or by disturbing bottom sediments.	D2a, D2h	☐	☐
f. The proposed action may include construction of one or more intake(s) for withdrawal of water from surface water.	D2c	☐	☐
g. The proposed action may include construction of one or more outfall(s) for discharge of wastewater to surface water(s).	D2d	☐	☐
h. The proposed action may cause soil erosion, or otherwise create a source of stormwater discharge that may lead to siltation or other degradation of receiving water bodies.	D2e	☐	☐
i. The proposed action may affect the water quality of any water bodies within or downstream of the site of the proposed action.	E2h	☐	☐
j. The proposed action may involve the application of pesticides or herbicides in or around any water body.	D2q, E2h	☐	☐
k. The proposed action may require the construction of new, or expansion of existing, wastewater treatment facilities.	D1a, D2d	☐	☐

l. Other impacts: _____ _____		☐	☐
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4. Impact on groundwater The proposed action may result in new or additional use of ground water, or may have the potential to introduce contaminants to ground water or an aquifer. (See Part 1. D.2.a, D.2.c, D.2.d, D.2.p, D.2.q, D.2.t) <i>If “Yes”, answer questions a - h. If “No”, move on to Section 5.</i>			
	☐ NO	☐ YES	
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may require new water supply wells, or create additional demand on supplies from existing water supply wells.	D2c	☐	☐
b. Water supply demand from the proposed action may exceed safe and sustainable withdrawal capacity rate of the local supply or aquifer. Cite Source: _____	D2c	☐	☐
c. The proposed action may allow or result in residential uses in areas without water and sewer services.	D1a, D2c	☐	☐
d. The proposed action may include or require wastewater discharged to groundwater.	D2d, E2l	☐	☐
e. The proposed action may result in the construction of water supply wells in locations where groundwater is, or is suspected to be, contaminated.	D2c, E1f, E1g, E1h	☐	☐
f. The proposed action may require the bulk storage of petroleum or chemical products over ground water or an aquifer.	D2p, E2l	☐	☐
g. The proposed action may involve the commercial application of pesticides within 100 feet of potable drinking water or irrigation sources.	E2h, D2q, E2l, D2c	☐	☐
h. Other impacts: _____ _____		☐	☐

5. Impact on Flooding The proposed action may result in development on lands subject to flooding. (See Part 1. E.2) <i>If “Yes”, answer questions a - g. If “No”, move on to Section 6.</i>			
	☐ NO	☐ YES	
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in development in a designated floodway.	E2i	☐	☐
b. The proposed action may result in development within a 100 year floodplain.	E2j	☐	☐
c. The proposed action may result in development within a 500 year floodplain.	E2k	☐	☐
d. The proposed action may result in, or require, modification of existing drainage patterns.	D2b, D2e	☐	☐
e. The proposed action may change flood water flows that contribute to flooding.	D2b, E2i, E2j, E2k	☐	☐
f. If there is a dam located on the site of the proposed action, is the dam in need of repair, or upgrade?	E1e	☐	☐

g. Other impacts: _____ _____		☐	☐
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6. Impacts on Air The proposed action may include a state regulated air emission source. ☐ NO ☐ YES (See Part 1. D.2.f., D.2.h, D.2.g) <i>If “Yes”, answer questions a - f. If “No”, move on to Section 7.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. If the proposed action requires federal or state air emission permits, the action may also emit one or more greenhouse gases at or above the following levels: i. More than 1000 tons/year of carbon dioxide (CO ₂) ii. More than 3.5 tons/year of nitrous oxide (N ₂ O) iii. More than 1000 tons/year of carbon equivalent of perfluorocarbons (PFCs) iv. More than .045 tons/year of sulfur hexafluoride (SF ₆) v. More than 1000 tons/year of carbon dioxide equivalent of hydrochloroflourocarbons (HFCs) emissions vi. 43 tons/year or more of methane	D2g D2g D2g D2g D2g D2h	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
b. The proposed action may generate 10 tons/year or more of any one designated hazardous air pollutant, or 25 tons/year or more of any combination of such hazardous air pollutants.	D2g	☐	☐
c. The proposed action may require a state air registration, or may produce an emissions rate of total contaminants that may exceed 5 lbs. per hour, or may include a heat source capable of producing more than 10 million BTU's per hour.	D2f, D2g	☐	☐
d. The proposed action may reach 50% of any of the thresholds in “a” through “c”, above.	D2g	☐	☐
e. The proposed action may result in the combustion or thermal treatment of more than 1 ton of refuse per hour.	D2s	☐	☐
f. Other impacts: _____ _____		☐	☐

7. Impact on Plants and Animals The proposed action may result in a loss of flora or fauna. (See Part 1. E.2. m.-q.) ☐ NO ☐ YES <i>If “Yes”, answer questions a - j. If “No”, move on to Section 8.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may cause reduction in population or loss of individuals of any threatened or endangered species, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2o	☐	☐
b. The proposed action may result in a reduction or degradation of any habitat used by any rare, threatened or endangered species, as listed by New York State or the federal government.	E2o	☐	☐
c. The proposed action may cause reduction in population, or loss of individuals, of any species of special concern or conservation need, as listed by New York State or the Federal government, that use the site, or are found on, over, or near the site.	E2p	☐	☐
d. The proposed action may result in a reduction or degradation of any habitat used by any species of special concern and conservation need, as listed by New York State or the Federal government.	E2p	☐	☐

e. The proposed action may diminish the capacity of a registered National Natural Landmark to support the biological community it was established to protect.	E3c	☐	☐
f. The proposed action may result in the removal of, or ground disturbance in, any portion of a designated significant natural community. Source: _____	E2n	☐	☐
g. The proposed action may substantially interfere with nesting/breeding, foraging, or over-wintering habitat for the predominant species that occupy or use the project site.	E2m	☐	☐
h. The proposed action requires the conversion of more than 10 acres of forest, grassland or any other regionally or locally important habitat. Habitat type & information source: _____ _____	E1b	☐	☐
i. Proposed action (commercial, industrial or recreational projects, only) involves use of herbicides or pesticides.	D2q	☐	☐
j. Other impacts: _____ _____		☐	☐

8. Impact on Agricultural Resources The proposed action may impact agricultural resources. (See Part 1. E.3.a. and b.) ☐ NO ☐ YES <i>If "Yes", answer questions a - h. If "No", move on to Section 9.</i>			
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may impact soil classified within soil group 1 through 4 of the NYS Land Classification System.	E2c, E3b	☐	☐
b. The proposed action may sever, cross or otherwise limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc).	E1a, E1b	☐	☐
c. The proposed action may result in the excavation or compaction of the soil profile of active agricultural land.	E3b	☐	☐
d. The proposed action may irreversibly convert agricultural land to non-agricultural uses, either more than 2.5 acres if located in an Agricultural District, or more than 10 acres if not within an Agricultural District.	E1b, E3a	☐	☐
e. The proposed action may disrupt or prevent installation of an agricultural land management system.	E1 a, E1b	☐	☐
f. The proposed action may result, directly or indirectly, in increased development potential or pressure on farmland.	C2c, C3, D2c, D2d	☐	☐
g. The proposed project is not consistent with the adopted municipal Farmland Protection Plan.	C2c	☐	☐
h. Other impacts: _____		☐	☐

9. Impact on Aesthetic Resources The land use of the proposed action are obviously different from, or are in sharp contrast to, current land use patterns between the proposed project and a scenic or aesthetic resource. (Part 1. E.1.a, E.1.b, E.3.h.) <i>If "Yes", answer questions a - g. If "No", go to Section 10.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Proposed action may be visible from any officially designated federal, state, or local scenic or aesthetic resource.	E3h	☐	☐
b. The proposed action may result in the obstruction, elimination or significant screening of one or more officially designated scenic views.	E3h, C2b	☐	☐
c. The proposed action may be visible from publicly accessible vantage points: i. Seasonally (e.g., screened by summer foliage, but visible during other seasons) ii. Year round	E3h	☐ ☐	☐ ☐
d. The situation or activity in which viewers are engaged while viewing the proposed action is: i. Routine travel by residents, including travel to and from work ii. Recreational or tourism based activities	E3h E2q, E1c	☐ ☐	☐ ☐
e. The proposed action may cause a diminishment of the public enjoyment and appreciation of the designated aesthetic resource.	E3h	☐	☐
f. There are similar projects visible within the following distance of the proposed project: 0-1/2 mile 1/2 -3 mile 3-5 mile 5+ mile	D1a, E1a, D1f, D1g	☐	☐
g. Other impacts: _____ _____		☐	☐

10. Impact on Historic and Archeological Resources The proposed action may occur in or adjacent to a historic or archaeological resource. (Part 1. E.3.e, f. and g.) <i>If "Yes", answer questions a - e. If "No", go to Section 11.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may occur wholly or partially within, or substantially contiguous to, any buildings, archaeological site or district which is listed on or has been nominated by the NYS Board of Historic Preservation for inclusion on the State or National Register of Historic Places.	E3e	☐	☐
b. The proposed action may occur wholly or partially within, or substantially contiguous to, an area designated as sensitive for archaeological sites on the NY State Historic Preservation Office (SHPO) archaeological site inventory.	E3f	☐	☐
c. The proposed action may occur wholly or partially within, or substantially contiguous to, an archaeological site not included on the NY SHPO inventory. Source: _____	E3g	☐	☐

d. Other impacts: _____ _____		☐	☐
If any of the above (a-d) are answered “Moderate to large impact may occur”, continue with the following questions to help support conclusions in Part 3: e. i. The proposed action may result in the destruction or alteration of all or part of the site or property. ii. The proposed action may result in the alteration of the property’s setting or integrity. iii. The proposed action may result in the introduction of visual elements which are out of character with the site or property, or may alter its setting.	E3e, E3g, E3f E3e, E3f, E3g, E1a, E1b E3e, E3f, E3g, E3h, C2, C3	☐ ☐ ☐	☐ ☐ ☐

11. Impact on Open Space and Recreation The proposed action may result in a loss of recreational opportunities or a reduction of an open space resource as designated in any adopted municipal open space plan. (See Part 1. C.2.c, E.1.c., E.2.q.) <i>If “Yes”, answer questions a - e. If “No”, go to Section 12.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in an impairment of natural functions, or “ecosystem services”, provided by an undeveloped area, including but not limited to stormwater storage, nutrient cycling, wildlife habitat.	D2e, E1b E2h, E2m, E2o, E2n, E2p	☐	☐
b. The proposed action may result in the loss of a current or future recreational resource.	C2a, E1c, C2c, E2q	☐	☐
c. The proposed action may eliminate open space or recreational resource in an area with few such resources.	C2a, C2c E1c, E2q	☐	☐
d. The proposed action may result in loss of an area now used informally by the community as an open space resource.	C2c, E1c	☐	☐
e. Other impacts: _____ _____		☐	☐

12. Impact on Critical Environmental Areas The proposed action may be located within or adjacent to a critical environmental area (CEA). (See Part 1. E.3.d) <i>If “Yes”, answer questions a - c. If “No”, go to Section 13.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may result in a reduction in the quantity of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
b. The proposed action may result in a reduction in the quality of the resource or characteristic which was the basis for designation of the CEA.	E3d	☐	☐
c. Other impacts: _____ _____		☐	☐

13. Impact on Transportation

The proposed action may result in a change to existing transportation systems.

☐ NO

☐ YES

(See Part 1. D.2.j)

If “Yes”, answer questions a - f. If “No”, go to Section 14.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. Projected traffic increase may exceed capacity of existing road network.	D2j	☐	☐
b. The proposed action may result in the construction of paved parking area for 500 or more vehicles.	D2j	☐	☐
c. The proposed action will degrade existing transit access.	D2j	☐	☐
d. The proposed action will degrade existing pedestrian or bicycle accommodations.	D2j	☐	☐
e. The proposed action may alter the present pattern of movement of people or goods.	D2j	☐	☐
f. Other impacts: _____		☐	☐

14. Impact on Energy

The proposed action may cause an increase in the use of any form of energy.

☐ NO

☐ YES

(See Part 1. D.2.k)

If “Yes”, answer questions a - e. If “No”, go to Section 15.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action will require a new, or an upgrade to an existing, substation.	D2k	☐	☐
b. The proposed action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two-family residences or to serve a commercial or industrial use.	D1f, D1q, D2k	☐	☐
c. The proposed action may utilize more than 2,500 MWhrs per year of electricity.	D2k	☐	☐
d. The proposed action may involve heating and/or cooling of more than 100,000 square feet of building area when completed.	D1g	☐	☐
e. Other Impacts: _____			

15. Impact on Noise, Odor, and Light

The proposed action may result in an increase in noise, odors, or outdoor lighting.

☐ NO

☐ YES

(See Part 1. D.2.m., n., and o.)

If “Yes”, answer questions a - f. If “No”, go to Section 16.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may produce sound above noise levels established by local regulation.	D2m	☐	☐
b. The proposed action may result in blasting within 1,500 feet of any residence, hospital, school, licensed day care center, or nursing home.	D2m, E1d	☐	☐
c. The proposed action may result in routine odors for more than one hour per day.	D2o	☐	☐

d. The proposed action may result in light shining onto adjoining properties.	D2n	☐	☐
e. The proposed action may result in lighting creating sky-glow brighter than existing area conditions.	D2n, E1a	☐	☐
f. Other impacts: _____ _____		☐	☐

16. Impact on Human Health

The proposed action may have an impact on human health from exposure to new or existing sources of contaminants. (See Part 1.D.2.q., E.1. d. f. g. and h.)

☐ NO

☐ YES

If "Yes", answer questions a - m. If "No", go to Section 17.

	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action is located within 1500 feet of a school, hospital, licensed day care center, group home, nursing home or retirement community.	E1d	☐	☐
b. The site of the proposed action is currently undergoing remediation.	E1g, E1h	☐	☐
c. There is a completed emergency spill remediation, or a completed environmental site remediation on, or adjacent to, the site of the proposed action.	E1g, E1h	☐	☐
d. The site of the action is subject to an institutional control limiting the use of the property (e.g., easement or deed restriction).	E1g, E1h	☐	☐
e. The proposed action may affect institutional control measures that were put in place to ensure that the site remains protective of the environment and human health.	E1g, E1h	☐	☐
f. The proposed action has adequate control measures in place to ensure that future generation, treatment and/or disposal of hazardous wastes will be protective of the environment and human health.	D2t	☐	☐
g. The proposed action involves construction or modification of a solid waste management facility.	D2q, E1f	☐	☐
h. The proposed action may result in the unearthing of solid or hazardous waste.	D2q, E1f	☐	☐
i. The proposed action may result in an increase in the rate of disposal, or processing, of solid waste.	D2r, D2s	☐	☐
j. The proposed action may result in excavation or other disturbance within 2000 feet of a site used for the disposal of solid or hazardous waste.	E1f, E1g E1h	☐	☐
k. The proposed action may result in the migration of explosive gases from a landfill site to adjacent off site structures.	E1f, E1g	☐	☐
l. The proposed action may result in the release of contaminated leachate from the project site.	D2s, E1f, D2r	☐	☐
m. Other impacts: _____ _____			

17. Consistency with Community Plans The proposed action is not consistent with adopted land use plans. (See Part 1. C.1, C.2. and C.3.) <i>If “Yes”, answer questions a - h. If “No”, go to Section 18.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action’s land use components may be different from, or in sharp contrast to, current surrounding land use pattern(s).	C2, C3, D1a E1a, E1b	☐	☐
b. The proposed action will cause the permanent population of the city, town or village in which the project is located to grow by more than 5%.	C2	☐	☐
c. The proposed action is inconsistent with local land use plans or zoning regulations.	C2, C2, C3	☐	☐
d. The proposed action is inconsistent with any County plans, or other regional land use plans.	C2, C2	☐	☐
e. The proposed action may cause a change in the density of development that is not supported by existing infrastructure or is distant from existing infrastructure.	C3, D1c, D1d, D1f, D1d, E1b	☐	☐
f. The proposed action is located in an area characterized by low density development that will require new or expanded public infrastructure.	C4, D2c, D2d D2j	☐	☐
g. The proposed action may induce secondary development impacts (e.g., residential or commercial development not included in the proposed action)	C2a	☐	☐
h. Other: _____ _____		☐	☐

18. Consistency with Community Character The proposed project is inconsistent with the existing community character. (See Part 1. C.2, C.3, D.2, E.3) <i>If “Yes”, answer questions a - g. If “No”, proceed to Part 3.</i>			
		☐ NO	☐ YES
	Relevant Part I Question(s)	No, or small impact may occur	Moderate to large impact may occur
a. The proposed action may replace or eliminate existing facilities, structures, or areas of historic importance to the community.	E3e, E3f, E3g	☐	☐
b. The proposed action may create a demand for additional community services (e.g. schools, police and fire)	C4	☐	☐
c. The proposed action may displace affordable or low-income housing in an area where there is a shortage of such housing.	C2, C3, D1f D1g, E1a	☐	☐
d. The proposed action may interfere with the use or enjoyment of officially recognized or designated public resources.	C2, E3	☐	☐
e. The proposed action is inconsistent with the predominant architectural scale and character.	C2, C3	☐	☐
f. Proposed action is inconsistent with the character of the existing natural landscape.	C2, C3 E1a, E1b E2g, E2h	☐	☐
g. Other impacts: _____ _____		☐	☐

Full Environmental Assessment Form
Part 3 - Evaluation of the Magnitude and Importance of Project Impacts
and
Determination of Significance

Part 3 provides the reasons in support of the determination of significance. The lead agency must complete Part 3 for every question in Part 2 where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.

Based on the analysis in Part 3, the lead agency must decide whether to require an environmental impact statement to further assess the proposed action or whether available information is sufficient for the lead agency to conclude that the proposed action will not have a significant adverse environmental impact. By completing the certification on the next page, the lead agency can complete its determination of significance.

Reasons Supporting This Determination:

To complete this section:

- Identify the impact based on the Part 2 responses and describe its magnitude. Magnitude considers factors such as severity, size or extent of an impact.
- Assess the importance of the impact. Importance relates to the geographic scope, duration, probability of the impact occurring, number of people affected by the impact and any additional environmental consequences if the impact were to occur.
- The assessment should take into consideration any design element or project changes.
- Repeat this process for each Part 2 question where the impact has been identified as potentially moderate to large or where there is a need to explain why a particular element of the proposed action will not, or may, result in a significant adverse environmental impact.
- Provide the reason(s) why the impact may, or will not, result in a significant adverse environmental impact
- For Conditional Negative Declarations identify the specific condition(s) imposed that will modify the proposed action so that no significant adverse environmental impacts will result.
- Attach additional sheets, as needed.

Determination of Significance - Type 1 and Unlisted Actions

SEQR Status: ☐ Type 1 ☐ Unlisted

Identify portions of EAF completed for this Project: ☐ Part 1 ☐ Part 2 ☐ Part 3

Upon review of the information recorded on this EAF, as noted, plus this additional support information

and considering both the magnitude and importance of each identified potential impact, it is the conclusion of the _____ as lead agency that:

☐ A. This project will result in no significant adverse impacts on the environment, and, therefore, an environmental impact statement need not be prepared. Accordingly, this negative declaration is issued.

☐ B. Although this project could have a significant adverse impact on the environment, that impact will be avoided or substantially mitigated because of the following conditions which will be required by the lead agency:

There will, therefore, be no significant adverse impacts from the project as conditioned, and, therefore, this conditioned negative declaration is issued. A conditioned negative declaration may be used only for UNLISTED actions (see 6 NYCRR 617.d).

☐ C. This Project may result in one or more significant adverse impacts on the environment, and an environmental impact statement must be prepared to further assess the impact(s) and possible mitigation and to explore alternatives to avoid or reduce those impacts. Accordingly, this positive declaration is issued.

Name of Action:

Name of Lead Agency:

Name of Responsible Officer in Lead Agency:

Title of Responsible Officer:

Signature of Responsible Officer in Lead Agency:

Date:

Signature of Preparer (if different from Responsible Officer)

Date:

For Further Information:

Contact Person:

Address:

Telephone Number:

E-mail:

For Type 1 Actions and Conditioned Negative Declarations, a copy of this Notice is sent to:

Chief Executive Officer of the political subdivision in which the action will be principally located (e.g., Town / City / Village of)

Other involved agencies (if any)

Applicant (if any)

Environmental Notice Bulletin: <http://www.dec.ny.gov/enb/enb.html>

MEMORANDUM OF UNDERSTANDING
AMONG THE CITY OF NEWBURGH (THE CITY)
AND THE
NEW YORK STATE HISTORIC PRESERVATION OFFICER (SHPO)
AND THE
ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)
AND THE
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
REGARDING THE EMERGENCY REMEDIATION OF PROPERTIES

WHEREAS, certain activities under the Program constitute an undertaking subject to review under Section 106 of the National Historic Preservation Act (NHPA), 16 U.S.C. § 470f, and its implementing regulations, 36 C.F.R. Part 800; and

WHEREAS, pursuant to 36 C.F.R. §800.12(d), immediate rescue and salvage operations conducted to preserve life or property are exempt from the provisions of Section 106 and this PA; and

WHEREAS, an “Emergency Declaration” (ED) for demolition has been issued by the Chief Building Inspector.

WHEREAS, a public hearing notice has been published, and a public hearing has been opened on September 8, 2015 and closed on November 10, 2015, to discuss:

REMEDY FOR SEVERELY DISTRESSED PROPERTIES, at the request of the applicant/owner, **THE CITY OF NEWBURGH**, is seeking comments **TO SEEK REMEDY INCLUDING POTENTIAL DEMOLITION FOR SEVERLY DISTRESSED PROPERTIES**.

PROPERTIES LOCATED AT:

**169 JOHNSTON STREET
191 SOUTH STREET
68 CAMPBELL STREET
115 JOHNSTON STREET
2 LIBERTY STREET
161 LANDER STREET
139 JOHNSTON STREET**

**109 CHAMBERS STREET
132 THIRD STREET
140 THIRD STREET
251 THIRD STREET
76 LANDER STREET
28 COURTNEY AVE**

WHEREAS, the in response to the Public Hearing, no disputes to demolition as a remedy where heard; and

WHEREAS, the City determined that the buildings specified in this PA pose imminent threat of collapse; and

WHEREAS, an “Emergency Declaration” (ED) for demolition has been be issued by the Fire Chief (FC); and

WHEREAS, an “Emergency Declaration” (ED) for demolition has been be issued by the Chief Building Inspector; and

WHEREAS, HUD provides funds to the City under the Community Development Block Grant Program (CDBG),

WHEREAS, the use of CDBG funds includes obligations under Section 106 of the NHPA and HUD has assumed those responsibilities for the Program; and

WHEREAS, the City has determined that the Action may have an adverse effect on historic properties and cultural resources that are listed in or eligible for listing in the National Register of Historic Places, and has consulted with the New York State Historic Preservation Office (SHPO), the Architectural Review Commission (ARC), and Building Department pursuant to 36 C.F.R. Part 800; and

WHEREAS, the ARC has held open a Public Hearing for sixty days to solicit input from the public; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the City has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination providing the specified documentation, and the ACHP has chosen to participate in the consultation pursuant to 36 C.F.R. § 800.6(a)(1)(iii); and

NOW, THEREFORE, the CITY, SHPO, ACHP, and HUD agree that the MOA shall be implemented in accordance with the following stipulations in order to take into account the effect of individual undertakings of the program on historic properties.

STIPULATIONS

The Parties shall ensure that their designated responsibilities under this MOA are carried out:

I. PROTECTION TO ADJOINING BUILDINGS

- A. All general protection should be taken during the demolition process to mitigate potential effects on surrounding buildings and properties, especially but not limited to party walls and adjoining walls.
- B. All work will be done by contractors who are qualified in the demolition of historic properties, trained in lead safe practices, and with knowledge and certification if necessary of asbestos abatement.
- C. All party walls will be evaluated prior to demolition for their structural integrity. All necessary actions will be taken to brace or support party walls that require such mitigations in order to fully support the continued occupation of the adjoining properties. Party walls will also be evaluated for the integrity of the material, including the potential need for repointing or mortar repairs where necessary. A clear, vapor-permeable, brick appropriate sealant will be applied to all exposed bricks that were not previously exterior walls.

II. REMEDY OF THE SITE

- A. Demolition of each building will include the removal of all materials from that site, and the cleaning of each property to a state that will allow for redevelopment without environmental remediation due to or caused by this demolition action. Each site will be fenced at a minimum to disallow vehicles from entering the site.
- B. Each site will be available, as per City of Newburgh Policy, to the adjoining property owner for use as a Side Yard. The adjoining owners will be notified by the City of this option following the cleaning of each site.
- C. All properties in the East End Historic District, including those listed in this action, are subject to Powers and Duties of the ARC, in accordance with City of Newburgh Code §300—38 **Powers and Duties of the ARC**. Specifically, “The ARC shall exercise aesthetic judgment to maintain the character of historic and architectural design districts, or a landmark, and to prevent construction, reconstruction, alteration or demolition, which would be out of harmony with the architectural aesthetics, style, materials, colors, line and details of the district and/or landmark.” Any new development on a site in this action will require this review.
- D. All new development or redevelopment of properties within Form Based Zoning districts in the City of Newburgh must conform to requirements for massing, scale, landscaping and signage, in accordance with City of Newburgh Code §300—126 to §300—157. These requirements were designed in order to direct new construction to match the as-built environment and therefore reflect the massing and scale of the existing historic neighborhoods.

III. DOCUMENTATION

- A. The City will work with a photographer trained or familiar with HABS photography standards to document each building prior to demolition. These photographs will be provided to NYSHPO through the CRIS system and will be stored by the City Historian.

IV. POST REVIEW DISCOVERIES

If, during the implementation of any demolition activities covered by this PA a previously unidentified property that may be eligible for inclusion in the National Register is encountered, or a known historic property may be affected in an unanticipated manner, the City shall assume its responsibilities pursuant to 36 C.F.R. Part 800.13.

- A. In the event that previously unidentified archeological sites or human remains are discovered during demolition of buildings in the Program, that portion of the demolition work shall stop as quickly as is feasible, consistent with site safety, worker protection, and protection of the public, and the project manager shall notify the City, SHPO, and other consulting party signatories within 48 hours, and shall take appropriate steps to immediately secure the site.
- B. If human remains are discovered, they shall be respectfully covered over. The Police and Medical Examiner shall be notified to determine if the remains are of forensic interest. If they are of forensic interest, they will determine the ensuing process. If the remains are not of forensic interest, the City, SHPO, and other consulting and interested parties need to be consulted.
- C. The Responsible Entity shall consult with the SHPO/Tribal Historic Preservation Officer (THPO) and Tribes to determine if the discovered site appears eligible for the National Register of Historic Places. If it does appear eligible, the Responsible Entity shall submit a treatment plan for the avoidance, protection, recovery of information, or destruction without data recovery to the SHPO for review and comment. The treatment plan shall be consistent with the ACHP's handbook Treatment of Archaeological Properties and subsequent amendments and SHPO guidelines. If human remains are discovered, the treatment plan shall follow the guidance in [Advisory Council on Historic Preservation Policy Statement Regarding Treatment of Burial Sites, Human Remains and Funerary Objects](#), including appropriate consultation with descendent communities. The Responsible Entity shall notify all consulting parties of the unanticipated discovery and provide the proposed treatment plan for their comment. Ground disturbing activities in the area of the discovery shall not continue until the plan has been accepted by the signatory parties and implemented except as necessary to protect public safety.
- D. All human burial sites in New York are protected under state law and any undertaking that may affect a human burial site shall comply with provisions of "Not for Profit Corporation Law Article 15, Cemeteries and Crematories, New York State Cemetery Board, New York State Department of State, Division of Cemeteries", <http://www.dos.ny.gov/cmt/cemlaw.html#nfpclaw>, the terms of this Agreement notwithstanding.

V. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of execution.

VI. MONITORING AND REPORTING

Each December following the execution of this MOA until it expires or is terminated, the City shall provide all parties to this MOA a summary report detailing work carried out pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in efforts to carry out the terms of this MOA.

VIII. FUNDING

CDBG funds will be provided by the City to cover costs of archaeological compliance and HABS/HAER/HALS recordation.

State Environmental Quality Review
NEGATIVE DECLARATION
Notice of Determination of Non-Significance

Project Number _____

Date: _____

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The _____ as lead agency, has determined that the proposed action described below will not have a significant adverse environmental impact and a Draft Impact Statement will not be prepared.

Name of Action:

SEQR Status: Type 1 **G**
 Unlisted **G**

Conditioned Negative Declaration: **G** Yes
 G No

Description of Action:

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Reasons Supporting This Determination:

(See 617.7(a)-(c) for requirements of this determination ; see 617.7(d) for Conditioned Negative Declaration)

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)

For Further Information:

Contact Person:

Address:

Telephone Number:

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice is sent to:

Chief Executive Officer , Town / City / Village of

Other involved agencies (If any)

Applicant (If any)

Environmental Notice Bulletin, 625 Broadway, Albany NY, 12233-1750 (Type One Actions only)

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT WITH THE PRESERVATION LEAGUE OF NEW YORK STATE
CONNECTION WITH PROFESSIONAL ENGINEERING SERVICES
FOR THE DUTCH REFORMED CHURCH**

WHEREAS, the Dutch Reformed Church is a historical, architectural and cultural gem in the heart of the City of Newburgh; and is the object of a dedicated campaign of generous and public-spirited citizens and local and national organizations to preserve, protect and restore; and

WHEREAS, the Preservation League of New York State ("Preservation League") is among the organizations devoted to the preservation of the Dutch Reformed Church; and

WHEREAS, the Preservation League proposes to assist the City in the continuing preservation efforts by engaging the firm of Ryan Biggs Clark Davis Engineering and Surveying, P.C. ("Ryan Biggs") to conduct a professional engineering assessment of the Dutch Reformed Church's current conditions in order to determine the next steps in the stabilization of the Church; and

WHEREAS, the Preservation League has obtained a proposal from Ryan Biggs to perform a structural engineering assessment of the Dutch Reformed Church at a cost of approximately \$18,500.000 which costs will be funded by the City's Community Development Block Grant Program; and

WHEREAS, the preservation, protection and restoration of the Dutch Reformed Church and the collaboration of the City and the Preservation League requires an agreement between the City and the Preservation League; the same being 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 on behalf of the City of Newburgh to enter into a sub-recipient grant agreement with the Preservation League of New York State for the retention and management of a professional engineering services contract with Ryan Biggs Clark Davis Engineering and Surveying, P.C. to perform a structural engineering assessment of the Dutch Reformed Church at a cost of approximately \$18,500.000 in substantially the form attached hereto with such other terms and conditions as may be required by Corporation Counsel as required by law and as being in the best interests of the City of Newburgh; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to take all such actions as are appropriate and necessary to carry out the terms and conditions of such contracts and carry out the subject work in furtherance of the preservation, protection and restoration of the Dutch Reformed Church; same as being in the best interests of the City of Newburgh.

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____ 2016

BY AND BETWEEN:

NAME: **Preservation League of New York State**

ADDRESS: 44 Central Avenue, Albany, New York 12206

FEDERAL EMPLOYER ID #: _____

A not-for-profit corporation established under the laws of the State of New York, having its principal office at 44 Central Avenue, Albany, New York, hereinafter referred to as referred to as the "Sub-grantee", and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as "City",

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the Sub-grantee has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement (**Attachment A**); and

WHEREAS, City wishes to engage the Preservation League as sub-grantee to conduct the aforementioned program for the period of such agreement;

WHEREAS, the Newburgh City Council has authorized the funding of the program and purpose as detailed in Attachment A, and the project budget not to exceed \$20,000.

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

Article I. SCOPE OF SERVICES

(1) The Sub-grantee shall establish and implement a program within the City of Newburgh as set forth in the Sub-grantee's funding proposal and assures the City that the Sub-grantee will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said Sub-grantee to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Sub-grantee will continue to maintain adequate office facilities at a suitable location within the designated area and provide essential equipment, supplies and services as needed for the operation of such office. The office and services to be provided shall be clearly identified with a sign as to being funded, in whole or in part, by the City under the Housing and Community Development Act of 1974. Such office and services provided are intended to provide assistance principally to existing and prospective residents of the City and to carry out those activities authorized under this agreement.

(3) The Sub-grantee shall maintain a complete job description for all full-time personnel to be employed by said agency for the purpose of this Agreement. Such job description shall fully describe the title, minimum education and experience requirements, salary range and benefits, work hours and responsibilities. The Sub-grantee shall also maintain an Affirmative Action Program in accordance with the Equal Employment Opportunity provisions of Article VII.

(4) The Sub-grantee agrees to provide a quantifiable increase in a comprehensive service already being rendered by the Sub-grantee on the date of this agreement and/or the introduction of a new service as set forth in the attached request for funding proposal. Any changes in the scope of services included in this agreement are to be approved by the City Manager of the City.

(5) The Sub-grantee agrees to provide technical support to carry out this service as stated in Article I (4). The administrative requirements set forth in OMB Circular A-110, copies of which are attached and made a part of this agreement, are applicable to this agreement except those sections which are deleted.

ARTICLE II. PAYMENT BY THE CDBG PROGRAM

(1) The services of the Sub-grantee are to commence upon execution of this agreement and extend for a period ending one (1) year from the date thereof or as otherwise provided herein.

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party. This agreement may be terminated for any breach of the agreement or for other reasons herein stated. One cause for termination is failure to achieve the goals and objectives or performance standards for any one month, quarter, or semi-annual period.

ARTICLE III. SERVICES TO BE PROVIDED BY THE CITY

- (1) Upon request by the Sub-grantee, the City may provide such technical and/or advisory assistance as is requested, based upon requirements and availability of staff. Approval of such requests is at the sole discretion of the City Manager of the City.
- (2) If, in the opinion of the City, technical assistance is required from HUD or New York State, a request may be initiated by the City for such assistance.

ARTICLE IV. PROGRAM DOCUMENTATION

- (1) The Sub-grantee hereby agrees to maintain confidential documentation for all clients served and all activities sponsored in the conduct of the aforesaid program. These confidential records will be subject to and made available for periodic site review by the Compliance Officer/representative of the City. For each such review, the representative of the City will prepare a written report containing comments on overall program performance and effectiveness.
- (2) The Sub-grantee hereby agrees to maintain separate and complete accounting for all funds received from the City of Newburgh under this agreement. Complete and accurate time and attendance records will be maintained for all personnel receiving funds under this grant.
- (3) Certified yearly audits of the Sub-grantee must be submitted to the City for review by the City's independent auditors. If the Sub-grantee is a Governmental unit or agency, such as the County, it will comply with the Single Audit regulations and the audit will be on file at the main governmental office.

ARTICLE V. COMPENSATION

- (1) Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this agreement that the agreement of the City to fund the Sub-grantee shall be deemed executory to the extent that CDBG grant monies are available to it for the purpose of carrying out the terms of this contract and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this agreement.
- (2) Total payment under this Contract shall not exceed \$20,000.00 as full payment for all services rendered by the Sub-grantee during the period of this agreement.
- (3) The City may withhold any payment whenever the Sub-grantee fails to achieve its program goals for the vouchered expenditure period. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

(1) Within thirty (30) days of the execution of this Agreement, and on a monthly basis, thereafter, for the term of this Agreement, the City shall pay, and the Sub-grantee agrees to accept as full compensation for such services and in conformity with the approved budget attached hereto, the following amounts under this Agreement:

(a) For the first month and for each succeeding monthly period, payments will be made based upon vouchers submitted which reflect actual authorized expenses per budget for the period and contain documentation for all expenditures. Vouchers documenting expenditures for the billing period must be submitted on or before the 15th of the month. In no event shall such expenditures exceed unless prior written approval of the excess expenditure of funds is obtained from the City Manager of the City.

(b) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from CDBG funds. Neither the City shall be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

(1) In carrying out the obligation of this Contract, the Sub-grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Sub-grantee shall take affirmative action to ensure that applicants for employment and employees of the Sub-grantee are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(2) The Sub-grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Sub-grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.

(3) The Sub-grantee shall also comply with Executive Order 11246, as amended, and HUD regulations (24 CFR 130) applicable to HUD assisted construction contracts.

(4) No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE VIII. ASSIGNMENT BY THE SUB-GRANTEE

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

ARTICLE IX. RECORDS AND REPORTS

(1) The Sub-grantee shall maintain accounts and records, including personnel, property and financial records, adequate to identify the account for all costs pertaining to its performance under this Agreement, and such other records as may be deemed necessary by the Sub-grantee, the City, and/or HUD to assure proper accounting for project funds, both Federal and non-Federal shares. The Sub-grantee agrees that such records shall be open for inspection by any authorized representative of the City, or its assignee under this Agreement.

(2) The Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement. This report will be submitted with the monthly, quarterly, or semi-annual voucher and will be the format as prescribed in Attachment "1" or in such other form agreed as may be required by the City Manager of the City.

ARTICLE X. AUDITS

(1) Certified yearly audits made by a Certified Public Accountant shall be submitted to the City for review within three (3) months of the end of each year of this agreement. If the Sub-grantee is a governmental unit or agency, it will comply with Single Audit regulations and will file the audit in the main office of the governmental unit.

(2) The Sub-grantee shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, HUD or the Comptroller General of the United States or any authorized representative and will be retained for such periods of time as may be required by Federal, State and local statutes, but in any event, not less than three (3) years.

ARTICLE XI. CONFIDENTIALITY

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the as Sub-grantee in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents. The Sub-grantee hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Law of the State of New York.

ARTICLE XII. FACILITIES AND PERSONNEL

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

ARTICLE XIII. INTEREST OF CORPORATION, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

(1) The Sub-grantee hereby agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.

(2) The Sub-grantee further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.

(3) The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

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

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

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

ARTICLE XV. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member or delegate of the Congress of the United States, or other federal officials, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XVII. CHANGES AND MODIFICATIONS

The City, at any time by written notice to and with the written agreement of the Sub-grantee, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Sub-grantee or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Sub-grantee or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

(1) In the event of termination as herein provided, any completed reports prepared by the Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City and shall be submitted to it.

(2) In the event of termination, the Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-grantee, the City may withhold from any payments due the Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by the Sub-grantee.

ARTICLE XIX. INDEMNIFICATION

(1) The Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of the Sub-grantee or its agents, sub-contractors, servants or employees.

(2) If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Sub-grantee hereby agrees to save harmless the City from and against any and all loss, expense, damage or injury whatsoever.

THE FOLLOWING INDEMNIFICATION CONDITIONS DO NOT APPLY TO UNITS OF GOVERNMENT OR GOVERNMENTAL AGENCIES SUCH AS ORANGE COUNTY OR New York STATE.

(3) The City hereby assumes entire responsibility and liability for which it would otherwise be legally responsible for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act or failure to act of the City or its agents, sub-contractors or employees (except the City shall be responsible for the acts of the Sub-grantee, its agents and employees).

(4) The Sub-grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.

(A) The Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

(B) The Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:

PROPERTY DAMAGE LIABILITY

Each Occurrence
\$1,000,000

PERSONAL INJURY LIABILITY

Each Person
\$1,000,000

Occurrence
\$2,000,000

ARTICLE XX. MODIFICATION

This Agreement may not be modified orally. It may only be modified by written agreement signed by the parties hereto. Notices of any nature referred to in this agreement shall be in writing by certified mail or delivery by hand, or sent by facsimile. Notices shall be effective on the date of receipt

To the City: City Manager
Executive Office
83 Broadway,
Newburgh, NY 12550

To the Sub-grantee:

With a copy to:

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

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

SUB-GRANTEE

WITNESS BY: _____

Preservation League of New York

By _____

Title _____

Date: _____

CITY OF NEWBURGH

WITNESS BY: _____

By _____
City Manager

Date _____

APPROVED AS TO FORM BY:

APPROVED BY:

Corporation Counsel

Comptroller



**RYAN BIGGS
CLARK DAVIS**
ENGINEERING & SURVEYING

October 16, 2015

Revised January 29, 2016

Ms. Erin Tobin
Preservation League of NYS
44 Central Avenue
Albany, NY 12206

**Re: Dutch Reformed Church - Newburgh, New York
Ryan Biggs | Clark Davis Proposal P9892**

Dear Ms. Tobin:

We are pleased to submit this **revised** proposal for limited professional services to be performed for the structural evaluation at the Dutch Reformed Church in Newburgh, New York.

The existing structure is approximately 50 feet wide by 100 feet long. The building has wood-framed floors and roof supported by stone and brick-masonry exterior walls and foundations. The roof framing consists of heavy wood timber trusses spanning across the building, heavy timber beams between the truss top chords, and rafters supported by the beams. There have been previous foundation stabilization and floor reinforcing projects. Partial roof framing reinforcing was designed and drawings were prepared by Ryan-Biggs Associates in 2009 as part of a roof repair project by Mesick Cohen Wilson Baker Architects. The roof reinforcing project was limited in load capacity for construction loading to allow the installation of a new roof. The project was not performed.

In January 2012, the existing arched, plaster ceiling collapsed. We visited the site at that time and the following structural concerns were noted during our site visit:

- There were cracked floor framing members. This was caused by the impact of the falling ceiling.
- Areas of the balconies may have displaced.
- The trusses may have been damaged. Additional truss reinforcement from the damage may be required.
- The truss reinforcement should consider current snow loading and supports for the future ceiling framing.
- The existing masonry walls may have been damaged.

This proposal is based on the conditions observed at the site in January 2012 and January 2016. Portions of the ceiling debris have been removed. Additional limited removals may be required to allow access for a lift to provide safe access to observe the truss connections and high wall conditions.

A. SCOPE OF SERVICES

The scope of services provided by Ryan Biggs | Clark Davis will be to:

Investigation Phase

1. Make interior and exterior observations and take measurements of existing conditions as required for our work. A lift in the interior of the building will be used to observe each joint and member of the existing roof trusses, roof framing, and walls at truss bearing points. Observe the balcony framing and connections to the existing walls. Ceiling and balcony floor removals will be required to observe the conditions.

If conditions are found during the investigation that require stabilization, Ryan Biggs | Clark Davis will provide stabilization sketches to be installed. We have assumed 12 hours of engineering effort for this work if needed. The estimated professional fee for this work has been separated out in Section B, Compensation for Professional Services.

Access and construction services needed to assist in the evaluation will be provided by the Client or Owner. This includes:

- a. Selective removal of existing debris to allow access for the lift.
 - b. Lift and operator.
 - c. Ceiling and floor removals to observe the balcony framing and connections.
 - d. Installation of stabilization measures, if needed.
2. Perform an analysis of the existing roof trusses using the loads prescribed in the current building code (2010 *Building Code of New York State*). The purpose of the analysis is to identify reinforcing needed to upgrade the trusses to current code snow loads and new ceiling loads, and address additional structural damage that may have been caused by the progressive ceiling collapse.
 3. Perform a structural analysis of the existing walls and balcony structure. The connections of the balcony to the walls are of particular importance.
 4. Prepare a preliminary report of our findings. In the report, we will:
 - a. Identify problems observed.
 - b. Recommend additional removals for areas displaying symptoms of possible problems, if needed.
 - c. Develop a priority list of concept-level repair work to address problems observed.
 - d. Prepare an opinion of probable construction cost for repairs identified.
 5. Meet with Client to review the preliminary report and Client's comments. Issue final report.
 6. Prepare a proposal for the Design, Bid, and Construction Phases.

The following services are not included in Ryan Biggs | Clark Davis' proposed fee. If requested, Ryan Biggs | Clark Davis can be retained to provide additional scope items as noted in the Additional Services section of the Terms and Conditions.

1. Provide material testing and engineering services.
2. Retain a contractor to provide access and construction services.
3. Prepare full bidding package and front-end documents.
4. Attend public review meetings or hearings.

B. COMPENSATION FOR PROFESSIONAL SERVICES

Ryan Biggs | Clark Davis will perform the listed services on an hourly basis for the following estimated fees plus the reimbursable expenses listed in C below.

Structural Evaluation and report:	\$16,500
Stabilization Sketches (if needed)	<u>\$ 2,000</u>
Total Professional Fee	\$18,500

Because the existing conditions of the site and trusses are not fully known, the scope of services may change, our fee is an estimate only. If the estimate is expected to be exceeded, you will be notified.

C. COMPENSATION FOR EXPENSES

Reimbursable expenses incurred by Ryan Biggs | Clark Davis for the project are in addition to the fee and shall include the following: printing, postage, shipping, courier services, and travel mileage to locations more than 25 miles from our office.

1. Reimbursable expenses will be billed monthly for the actual cost of expenditures plus a 10 percent administrative fee.
2. Reimbursable expenses are estimated to be \$500, but the amount invoiced may be greater depending upon the costs incurred.

D. TERMS AND CONDITIONS

1. Billing and Payment

- a. Invoice will be sent monthly.
- b. Payment shall be mailed to: Ryan Biggs | Clark Davis Engineering & Surveying, P.C., 257 Ushers Road, Clifton Park, New York 12065.
- c. Payment is due upon receipt.
- d. After 90 days, interest charges will be added to unpaid accounts at a monthly rate of 1 percent of the unpaid balance and accrued monthly until account is paid in full.

- e. If the Client fails to make payments to Ryan Biggs | Clark Davis in accordance with this agreement, such failure shall be considered substantial nonperformance and cause for termination, or at Ryan Biggs | Clark Davis' option, cause for suspension of performance of services under this agreement. If services are suspended, Ryan Biggs | Clark Davis shall have no liability to the Client for delay or damage caused the Client because of such suspension of services. Before resuming services, Ryan Biggs | Clark Davis shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of Ryan Biggs | Clark Davis' services. Ryan Biggs | Clark Davis' fees for the remaining services and the time schedules shall be equitably adjusted.

2. Standard Hourly Rates

- a. Ryan Biggs | Clark Davis' current rates are as follows:

<u>Personnel</u>	<u>Hourly Rates</u>
Principal/Principal Consultant	\$225
Principal Associate	200
Senior Associate	175
Associate	160
Senior Engineer	140
Chief Surveyor	130
Professional Engineer	120
Design Engineer/Technician	100
Senior CADD	90
CADD	80
Non-Technical	55

- b. After 6 months, the hourly rates may increase at the discretion of Ryan Biggs | Clark Davis and may increase annually thereafter.

3. Additional Services

Services not indicated or which are subsequently requested, either verbally or in writing, will be considered additional services. The fee will be based upon either a mutually agreed fixed fee or an hourly basis at rates in effect at the time the services are performed, plus reimbursable expenses as previously defined.

4. Client's Responsibilities

Client shall make available to Ryan Biggs | Clark Davis all records and data pertinent to the project and will give all reasonable assistance to Ryan Biggs | Clark Davis in obtaining such additional information as may be required. Client shall provide access to and make all provisions for Ryan Biggs | Clark Davis to enter upon public and private lands as required by Ryan Biggs | Clark Davis to perform such work as surveys and observations in the development of the project.

5. Construction Cost

An opinion of probable construction cost is made on the basis of Ryan Biggs | Clark Davis' experience and best judgment as a design professional. However, since Ryan Biggs | Clark Davis has no control over cost of labor, materials, or equipment, or over competitive bidding or market conditions, Ryan Biggs | Clark Davis cannot guarantee that proposals, bids, or the construction cost will not vary from its opinion of probable cost. If Client wishes greater assurance as to the construction cost, Client should employ an independent cost estimator.

6. Hazardous and Asbestos-Containing Materials

Ryan Biggs | Clark Davis shall have no responsibility for the discovery, presence, or removal of any hazardous material, including mold, asbestos-containing material, lead-based paint, or contaminated soil.

7. Existing Conditions

Inasmuch as the evaluation of an existing structure requires that certain assumptions be made regarding existing conditions, some of which may be concealed by existing materials or cannot be investigated by reasonable visual observations, and because some of these assumptions cannot be verified without expending great sums of additional money or destroying otherwise adequate or serviceable portions of the structure, the Client agrees that except for negligence on the part of Ryan Biggs | Clark Davis, the Client will hold harmless and indemnify Ryan Biggs | Clark Davis for and against any and all claims, damages, awards, and costs of defense arising out of the professional services provided under this agreement.

8. Documents

- a. All documents produced by Ryan Biggs | Clark Davis under this agreement shall remain the property of Ryan Biggs | Clark Davis and may not be used by this Client or provided by this Client to any third party for any other endeavor without the written consent of Ryan Biggs | Clark Davis.
- b. Ryan Biggs | Clark Davis reserves the right to rescind the documents for failure of the Client to make payment under the terms of this agreement.

9. Electronic Media

- a. Electronic media refers to any exchange of non-tangible documentation.
- b. Any use or reuse of altered electronic media files by the Client or others after the final document submittal, without written verification by Ryan Biggs | Clark Davis or adaptation for the specific purpose intended will be at the Client's risk and full legal responsibility. Furthermore, the Client will, to the fullest extent permitted by law, indemnify and hold Ryan Biggs | Clark Davis harmless from any and all claims, suits, liability, demands, or costs arising out of or resulting therefrom. Any verification of such adaptation by the Client will entitle Ryan Biggs | Clark Davis to additional compensation at its current rates.

10. Allocation of Risk

Professional Standards

The only obligation of Ryan Biggs | Clark Davis and its employees is to meet normal professional standards in performing its obligations under this agreement. Apart from such obligation there is no representation, warranty, guarantee, or other obligation of Ryan Biggs | Clark Davis or its employees arising out of this proposal, its acceptance, the provisions of services, or the relationship between the parties in respect to any of them. The cumulative liability of Ryan Biggs | Clark Davis and its employees for all types of damages incurred or suffered as a result of any breach of such obligation, howsoever arising, (including negligence) shall be limited in the aggregate to \$100,000.

Indemnification

- a. The Client agrees to indemnify and hold harmless Ryan Biggs | Clark Davis and its employees and Subconsultants/Subcontractors from and against any and all damages, losses, liabilities or costs, including reasonable attorneys' fees, and defense costs arising out of or resulting from the performance of the services, provided and to the extent that all damages, losses, liabilities or costs are caused by the negligent act or omission of the Client.
- b. Ryan Biggs | Clark Davis agrees to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, but only to the extent caused by the Consultant's negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom the Consultant is legally liable.

Neither the Client nor the Consultant shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

11. Taxes

All taxes or fees on services applicable to this contract enacted by local, state, or federal government subsequent to the date of this contract and based on gross receipts or revenues will be added to amounts due under this contract, in accordance with any such fees or taxes.

12. Termination of Services

This agreement can be terminated by either party upon receipt of a 30-day written notice. Ryan Biggs | Clark Davis will be paid in full for all services and reimbursements provided up to the date of termination.

13. Agreement Form and Period

- a. The scope and fee indicated are predicated upon execution of this proposal in this form including all terms and conditions. Alternative forms of contract or revision proposed by the Client will require reevaluation of the scope and fee by Ryan Biggs | Clark Davis.

- b. This proposal is valid for a period of 60 days from the date on the first page.
- c. The agreement period is to last 18 months from the Ryan Biggs | Clark Davis signature date on the last page.

14. Contract Disputes

If a dispute arises out of or related to this contract or breach thereof, and if the said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation using the Mediation Rules of the American Arbitration Association before seeking settlement in a judicial forum.

Thank you for considering us for this project. We look forward to working with you.

Your signature in the space provided indicates your understanding and acceptance of the provisions set forth herein. Please return (1) one signed copy of this proposal to:

Ryan Biggs | Clark Davis Engineering & Surveying, P.C.

257 Ushers Road

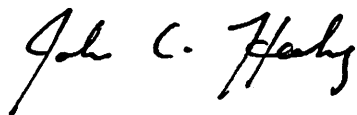
Clifton Park, New York 12065

by mail or contracts@ryanbiggs.com by e-mail.

Agreed to by:

RYAN BIGGS | CLARK DAVIS
ENGINEERING & SURVEYING, P.C.

PRESERVATION LEAGUE OF NYS



Authorized Signature

Jack C. Healy, P.E., Principal

Print Name & Title

January 29, 2016

Date

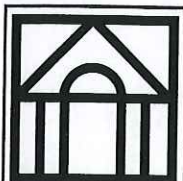
JCH/vma/02

Authorized Signature

Print Name & Title

Date

Client Project Number or Purchase Order
Number



Preservation
League
of
New York
State

44 CENTRAL AVENUE
ALBANY, NY 12206-3002
518-462-5658
FAX 518-462-5684
WWW.PRESERVENYS.ORG

2015-2016 OFFICERS

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Vice Chair

Karen Arrison
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Gerald A. Holbrook
Vice Chair

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February 29, 2016

Mr. Michael G. Ciaravino
Newburgh City Manager
City Hall - 83 Broadway
Newburgh, New York 12550



Dear Mr. Ciaravino,

Beginning in August, staff from the Preservation League of New York State have been engaged in conversations with staff from the City of Newburgh and others, regarding the future of the 1835, National Historic Landmark, Dutch Reformed Church. Like you, we have been concerned for some time about the deteriorating condition of this building of national importance. With the collapse of a significant portion of the barrel-vaulted ceiling over the nave in 2012, we think that the time is right to do whatever we can to see that this landmark is stabilized and protected. If we wait much longer, we fear the building may be lost.

There have been a number of assessments of the building's conditions over the years, as well as the completion of a historic structure report that was funded with a \$15,000 grant from the Preservation League in 2002. However, since the collapse of the ceiling, we feel that it is important to have an updated professional engineering assessment of the church's current conditions in order to determine the next steps in the building's stabilization.

In January we toured the church with an engineer from the firm of Ryan Biggs Clark Davis who is familiar with the structure. His primary concern was that the ceiling collapse could have further compromised the truss system of the ceiling, as well as adding excessive weight to the nave floor and mezzanine. These situations must be assessed and remedied before debris removal can take place and stabilization work commenced.

Ryan Biggs Clark Davis proposes the following:

1. Make interior and exterior observations and take measurements of existing conditions as required. A lift in the interior of the building will be used to observe each joint and member of the existing roof trusses, roof framing, and walls at truss bearing points. Observe the mezzanine framing and connections to the existing walls. If conditions are found during the investigation that require stabilization, Ryan Biggs Clark Davis will provide stabilization sketches.
2. Perform an analysis of the existing roof trusses using the loads prescribed in the current building code. The purpose of the analysis is to identify reinforcing needed to upgrade the trusses to current code snow loads and new ceiling loads, and address additional structural damage that may have been caused by the progressive ceiling collapse.

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Mr. Michael G. Claravino
February 29, 2016
Page 2 of 2

3. Provide a structural analysis of the existing walls and mezzanine structure. The connections of the mezzanine to the walls are of particular importance.
4. Prepare a preliminary report of all findings that will identify problems observed; recommend additional removals for areas displaying symptoms of possible problems; develop a priority list of concept-level repair work; prepare an opinion of probable construction cost for repairs identified.

The estimated cost for this work is not to exceed \$19,999.

We would like to secure funding from the City of Newburgh in order to contract with Ryan Biggs Clark Davis to complete this work. We believe that this conditions assessment will give us all a better understanding of the structure and what needs to be done in order proceed to the next step of stabilization.

I look forward to hearing your response and am available by telephone or email to discuss this matter further. Thank you again for all that you have done protect this important national landmark.

Sincerely,



Jay DiLorenzo
President

Cc: Deirdre Glenn, Director of Planning and Development
Alexandra Church, City Planner

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**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 58 HENRY AVENUE
(SECTION 48, BLOCK 11, LOT 23)**

WHEREAS, on February 7, 2006, the City of Newburgh conveyed property located at 58 Henry Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 48, Block 11, Lot 23, to Habitat for Humanity of Greater Newburgh, Inc.; and

WHEREAS, Habitat for Humanity of Greater Newburgh, Inc., by its 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 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.

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

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 159 LANDER STREET (SECTION 18, BLOCK 4, LOT 47) AT PRIVATE
SALE
TO ROBERT AND ERIKA URIE FOR THE AMOUNT OF \$1,000.00**

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

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

WHEREAS, the City of Newburgh desires to sell 159 Lander Street, being more accurately described as Section 18, Block 4, Lot 47 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have offered to purchase this property at private sale; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before June 27, 2016, being ninety (90) days from the date of this resolution; and

<u>Property Address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
159 Lander Street	18 - 4 - 47	Robert and Erika Urie	\$1,000.00

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

Terms and Conditions Sale

159 Lander Street, City of Newburgh (18-4-47)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The property is sold subject to unpaid 2015-2016 School Taxes and 2016 County Taxes and any subsequent levies. The purchaser shall reimburse the City for 2015-2016 School Taxes and 2016 County Taxes and any subsequent levies. Upon the closing, the property shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
7. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
8. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
9. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office on or before June 27, 2016. *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and

shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.

10. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
11. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
12. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
13. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
14. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
15. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
16. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

Purchase Proposal Summary

Location: **159 Lander Street** (located on the east side between South and Farrington Streets)

Tax Map Number: 18-4-47

Property Class: 311— Residential Vacant Land

Zoning: RM—Residential Medium Density—Within East End Historic District

Description: Vacant Lot: 25 x 100.

Condition: Average

Assessed Value: \$ 1,000

Annual Taxes: \$ 53+/-

Selling Price: \$ 1,000 @ 100%

The city acquired this property: August 2009

Offer Information:

Name: Robert & Erika Urie

Offer Price: **\$ 1,000**

Construction Estimate: \$ N/A

Proof of Financing: Wells Fargo account.

Comments: The purchasers currently reside in the greater Philadelphia area. The Uries are purchasing the City-owned property on 155 Lander Street. (Resolution 57-2016, passed on 3/14/2019) They wish to purchase this vacant lot to use for either off-street parking or a garden. It is only separated from 155 Lander by one property.



RECEIVED
3/1/16

Proposal Form

Contact Information:

Name: Robert E. Curie
Business Name (If Applicable): _____
Address: 228 Woodlawn Avenue
City, State & Zip: Glenside PA 19038
Home phone: 215-517-5388
Business Phone: _____
Mobile Phone: 215-517-5388
E-mail: Robert.E.Curie@Yahoo.com
Federal I.D. No. (If Available): _____

Information on Bid Property:

Property Address: 159 Lander St - Lot
SBL#: 18-4-47

Order of Preference: (If submitting more than one proposal): _____

Type of Project:

____ Single Family Yes ____ No ____
____ Multi-Family Yes ____ No ____ # Units: ____
____ Commercial ____ Industrial

Offer Purchase Price: \$ 1000.00

Does your proposal conform with existing zoning? Yes ____ No ____

Renovation Estimate - How much do you anticipate investing in this project for renovations? Do not include offer purchase price: \$ N/A

Who will be doing the work? ____ Self ____ Other (complete below)

Please keep in mind that the City of Newburgh requires electrical and plumbing work to be performed by City licensed electricians and plumbers.

General Contractor: N/A
Architect: N/A
Engineer: N/A

Do you (or your contractor) have a history of tax delinquency or code violations in the City of Newburgh? No X Yes _____ (attach explanation)

Finances:

I am providing: ☒ Personal Financial Statement
☐ Letter from Lender/Investor
☒ Personal or Business Bank Statement
☐ Evidence of project funding
☐ Developers should provide three years financial statements

Business Relationship:

Have you had a "business relationship" as defined in Chapter 34, Article 2 (B) (2) of the municipal code, with any City elected official in the 12 months prior to the due date of this proposal? Yes _____ No X

What You should Attach:

- o Description of renovation plan with preliminary budget
- o Verification of financial capacity
- o Explanation of any tax delinquency/code violations (if applicable)

INFORMATION RELEASE:

It is our intent that all personal financial information submitted with this proposal to the Department of Planning and Development shall be considered confidential. I hereby authorize the City of Newburgh Department of Planning and Development to obtain credit reports and verify information supplied as part of this proposal. All information provided is true and accurate to the best of my knowledge.

Robert W. Wic 3/2/16
Signature Date

Robert Wic SS# [REDACTED] Date of Birth [REDACTED]
Print Name
EMKA NORTON WIC [REDACTED] [REDACTED]

Submit Application to:

Department of Planning & Development
City Hall – 83 Broadway
Newburgh NY 12550

ROBERT E URIE
228 WOODLYN AVE
GLENSIDE PA 19038-4731

Questions?

Available by phone 24 hours a day, 7 days a week:
Telecommunications Relay Services calls accepted

1-800-TO-WELLS (1-800-869-3557)

TTY: 1-800-877-4833

En español: 1-877-727-2932

華語 1-800-288-2288 (6 am to 7 pm PT, M-F)

Online: wellsfargo.com

Write: Wells Fargo Bank, N.A. (338)
P.O. Box 6995
Portland, OR 97228-6995

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IMPORTANT ACCOUNT INFORMATION

Periodically, we may evaluate the timing of statements, monthly service fee assessment and interest payments to your accounts. We may adjust the timing in order to align your statement, monthly service fee assessment (if any) and interest payment dates with one another. You may receive a partial statement that reflects activity and interest payments from the last statement date to the date of the change. No monthly service fees will be assessed during a partial statement period and there will be no impact to your interest rate or compounding frequency.

Activity summary

Beginning balance on 1/16	\$102,163.56
Deposits/Additions	12,000.83
Withdrawals/Subtractions	- 1,535.25
Ending balance on 2/12	\$112,629.14

Account number: [REDACTED]

ROBERT E URIE

North Carolina account terms and conditions apply

For Direct Deposit use
[REDACTED]

RESOLUTION NO.: _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO
ACCEPT A DONATION FROM THE DELANO HITCH RESTORATION FUND, INC.
IN THE AMOUNT OF \$250.00 TO PROVIDE FUNDING FOR
BASEBALL FIELD IMPROVEMENTS**

WHEREAS, the Delano Hitch Restoration Fund, Inc. is a group of dedicated persons who wish to devote their efforts to the protection, maintenance, promotion, improvement and enhancement of the Park through donations of funds and other works to benefit the Park and to improve the quality of life of the citizens of the City of Newburgh; and

WHEREAS, the Delano Hitch Restoration Fund, Inc. wishes to donate \$250.00 to provide funding for baseball field improvements; and

WHEREAS, this Council has determined that accepting such donation is in the best interests of the City of Newburgh and its youth;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a donation from the Delano Hitch Restoration Fund, Inc., in the amount of \$250.00 to provide funding for baseball field improvements with the thanks of this Council on behalf of itself and of the children and families of the City of Newburgh.

RESOLUTION NO. _____ - 2016

OF

MARCH 28, 2016

**A RESOLUTION RATIFYING A MEMORANDUM OF AGREEMENT
AND APPROVING A COLLECTIVE BARGAINING AGREEMENT WITH
PATROLMEN'S BENEVOLENT ASSOCIATION OF NEWBURGH, NEW YORK**

WHEREAS, City of Newburgh and the Patrolmen's Benevolent Association of Newburgh, New York, Inc. ("PBA") are parties to a collective bargaining agreement which expired on December 31, 2014; and

WHEREAS, the City Manager and negotiators representing the City of Newburgh and the PBA have engaged in collective negotiations for a successor agreement pursuant to the requirement of the Taylor Law; and

WHEREAS, the City Council has reviewed the terms negotiated as set forth in the attached Collective Bargaining Agreement between the City of Newburgh and the PBA, which sets forth the terms and conditions of employment for the term January 1, 2015 through December 31, 2021, and has consulted with the representatives of the City, who have recommended that the City Council approve the negotiated changes and new collective bargaining agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the terms of the attached Memorandum of Agreement are ratified; and

BE IT FURTHER RESOLVED, that the City Manager is directed and authorized to enter into a complete collective bargaining agreement incorporating the terms of the Memorandum of Agreement into a complete collective bargaining agreement with the Patrolmen's Benevolent Association of Newburgh, New York, Inc. for the term January 1, 2015 through December 31, 2021.

STIPULATION OF AGREEMENT made and entered into this ____th day of March 2016 by and between the negotiating committees for the City of Newburgh and the Newburgh Patrolmen's Benevolent Association of Newburgh, New York, Inc. ("the Association").

WHEREAS, the parties have engaged in negotiations in good faith in an effort to arrive at the terms of a new collective negotiations agreement to succeed the one that expired on December 31, 2014; and

WHEREAS, the parties have arrived at a tentative agreement;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties stipulate and agree as follows:

1. The provisions of this Agreement are subject to ratification by the Association's membership, and ratification and approval by the City Council.
2. The signatories agree to recommend this Agreement for ratification/approval.
3. A copy of this original document has been furnished to representatives of the City and the Association.
4. All proposals made by either party during the course of negotiations that are not covered by this Agreement will be deemed dropped.
5. Housekeeping. Clean-up contract for non-substantive grammatical and spelling errors and delete expired and unnecessary language and consistent with the proposed revisions contained in the draft 2013-2014 contract dated February 19, 2016, plus same in order to update this Agreement from the draft 2013-2014 contract.
6. Salary (Article III(A)(2)).
 - (a) Effective December 31, 2015, for each employee on the payroll on the date of the complete ratification and approval of the 2015-2021 Agreement, each police officer

salary rate will be increased by 1.5% above the rates in effect on July 1, 2014. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(b) Effective January 1, 2016, for each employee on the payroll on the date of complete ratification and approval of the 2015-2021 Agreement, each police officer salary rate will be increased by 1.75% above the rates in effect on December 31, 2015. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(c) Effective January 1, 2017, each police officer salary rate will be increased by 2% above the rates in effect on December 31, 2016. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(d) Effective January 1, 2018, each police officer salary rate will be increased by 1.5% above the rates in effect on December 31, 2017. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(e) Effective January 1, 2019, each police officer salary rate will be increased by 1.5% above the rates in effect on December 31, 2018. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(f) Effective January 1, 2020, each police officer salary rate will be increased by 1.75% above the rates in effect on December 31, 2019. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

(g) Effective January 1, 2021, each police officer salary rate will be increased by 1.75% above the rates in effect on December 31, 2020. Detectives, I.D. Officers and Youth Officers will receive increases pursuant to CBA Article III(C, D).

7. Hospitalization (Article IX (B)(3) (New)). Add: "Effective on complete ratification and approval of the 2015-2021 Agreement, all employees will contribute towards their health insurance for the duration of their employment. Employees with up to five years of

service will pay 15% of their health insurance premium. Employees with six to 10 years of service will contribute 10% of their health insurance premium. Employees with 11 to 15 years of service will contribute 5% of their health insurance premium. Employees with 16 or more years of service will contribute 2.5% of their health insurance premium.”

8. Hospitalization (Article IX (A)(3) (New)). “All employees hired on or after January 1, 2016 must, in order to be eligible for health insurance upon retirement, have 20 years of service as a police officer in the City of Newburgh.”

9. Hospitalization (Article IX (A)(1)). Revise the last sentence to read that, “The City will contribute 100% of the cost of health insurance premiums for eligible employees who retire from the City on or after December 31, 2014.”

10. Hospitalization (Article IX (A)(1)). Add: “Employees who add family coverage at or after retirement will continue to pay 65% of the cost of the family premium.”

11. Hospitalization (Article IX (B)(4) (New)). Add: “Effective January 1, 2016, employees who opt for the health insurance waiver and then join the City’s health insurance plan in the two years prior to retirement will contribute 15% of the cost of the premium for single coverage and 65% of the cost of the premium for family coverage.”

12. Hospitalization (Article IX(C)). Effective January 1, 2016, delete “the schedule of benefits is at least equal to the coverage being replaced and of.”

13. Deferred Compensation (Article XI). Add: “Effective on complete ratification and approval of the 2015-2021 Agreement, the City will provide a one-time sign up bonus to new enrollees of \$500. Effective on full and complete ratification and approval of the 2015-2021 Agreement, the City will also provide a one-time dollar-for-dollar matching contribution of up to \$250 to each employee who newly enrolls or is already enrolled in the Deferred Compensation

Plan. The monies will be paid as set forth above to all employees eligible therefor within 21 days of the date on which the employee(s) qualify for same.”

14. Sick Leave Conversion (Article XIV(C)(1)). Effective on complete ratification and approval of the 2015-2021 Agreement, sick leave conversion will be reduced from 180 days to 150 days.

15. Sick Leave Conversion (Article XIV(C)(3) (New)). Add” “Effective on complete ratification and approval of the 2015-2021 Agreement, as an alternative to cash conversion, upon direct retirement from the City immediately following the submission and implementation of an application for and the commencement of the receipt of benefits from the Police & Fire Retirement System, an employee may convert, at the employee’s then current rate, a maximum of 150 days of accumulated and unused sick leave to be used upon retirement to contribute to the cost of retiree’s share of health insurance premiums. The value of unused sick leave is converted to a monthly credit, which is applied toward paying any contribution the employee makes for health insurance for the rest of his or her life.”

16. Longevity (Article XV(F)(1))

(a) Effective January 1, 2018, the annual longevity payment will increase by \$150.

(b) Effective January 1, 2019, the annual longevity payment will increase by an additional \$100.

(c) Effective January 1, 2020, the annual longevity payment will increase by an additional \$100.

(d) Effective January 1, 2021, the annual longevity payment will increase by an additional \$100.

17. Grievance Procedure (Article XX(4)). Effective on complete ratification and approval of the 2015-2021 Agreement, insert “or authorized designee” after “City Manager” except in the first sentence.

18. Grievance Procedure (Article XX(5)). Effective on complete ratification and approval of the 2015-2021 Agreement, insert “or authorized designee” after “City Manager” except the second time it appears in the paragraph.

19. Holidays (Article V(C)). For all employees hired on or after December 31, 2014, effective on January 1, 2015, Lincoln’s Birthday and Washington’s Birthday will continue to be replaced by Presidents’ Day and Election Day will be deleted.

20. Holidays (Article V(B)). Paragraph 5 (Floating Holidays) of the 2013-2104 Interest Arbitration Award will be deleted, retroactive to December 31, 2014.

FOR THE CITY:

FOR THE ASSOCIATION:

RESOLUTION NO.: _____-2016

OF

MARCH 28, 2016

**A RESOLUTION AMENDING THE 2016 PERSONNEL ANALYSIS BOOK
TO RESTORE \$1,000.00 STIPEND TO THE FIRE ALARM SUPERINTENDENT
IN THE CITY OF NEWBURGH FIRE DEPARTMENT**

WHEREAS, Fire Alarm Superintendent is to be available even when off duty to respond and to troubleshoot and repair any deficiencies with Gamewell Fire Alarm system, which includes street boxes and master boxes; and

WHEREAS, the Collective Bargaining Agreement between the City of Newburgh and Local 589, International Associations of Firefighters, AFL-CIO provides for a \$1,000.00 stipend to be paid to the employee who serves as Fire Alarm Superintendent within the City of Newburgh Fire Department; and

WHEREAS, due to retirement, the Fire Department has been without a Fire Alarm Superintendent since 2013 and therefore the position and the stipend were not included in the 2016 Personnel Analysis Book; and

WHEREAS, the Fire Department now has an employee certified and able to fulfill the duties and responsibilities of Fire Alarm Superintendent; and

WHEREAS, to comply with the terms of the Collective Bargaining Agreement, the restoration of the Fire Alarm Superintendent and the \$1,000.00 stipend requires the amendment of the City of Newburgh Adopted Personnel Analysis Book for 2016; the same being in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Personnel Analysis Book for 2016 be and is hereby amended to restore the Fire Alarm Superintendent position within the City of Newburgh Fire Department at a stipend of \$1,000.00.

ORDINANCE NO.: _____ - 2016

OF

_____, 2016

**AN ORDINANCE CREATING CHAPTER 168 ENTITLED “FILMING”
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

BE IT ORDAINED by the City Council of the City of Newburgh that the Code of Ordinances is hereby amended to add new Chapter 168 entitled “Filming” to read as follows:

Section 1. Chapter 168: “FILMING”

Section 168-1. Purpose.

It is the purpose and intent of the City of Newburgh to encourage the motion picture and television industries to utilize the scenic beauty and variety of backdrops afforded in the City of Newburgh as locations for filming and/or video taping for commercial production. It is the purpose and intent of this Chapter to provide the means by which such activities may be reasonably regulated to preserve the public health and safety and provide for the protection of property, to not unduly restrict such activities, and to maintain harmonious relations between the community and those engaged in such activities.

Section 168-2. Definitions.

CHARITABLE FILMS – means commercials, motion pictures, television, OR videotapes produced by a nonprofit organization, which qualifies under Section 501 (c) (3) of the Internal Revenue Code as charitable organization. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films, or tapes.

CITY PRODUCED GOVERNMENT ACCESS FILMS – means motion pictures or programs produced by or in association with the City of Newburgh. No person, directly or indirectly, shall receive a profit from the marketing and production of the film or from showing the films or tapes.

CONCERT FILMING – means the filming a concert event for Not-for-Profit or religious entity but shall not include activities occurring for businesses, corporations and for-profit entities that will be distributed, sold and/or broadcast for commercial purposes.

FILM or FILMING or FILMING ACTIVITY – means all activity in preparation of, and attendant to, staging, making, striking, filming or video recording commercial motion pictures, television shows, programs and commercials, including magazines or documentary programs.

FILM OFFICE – means the City Manager’s designee responsible for routing and processing film permits.

NEWS MEDIA – means the photographing, filming or videotaping for the purpose of spontaneous, unplanned television news broadcast or reporting for print media by reporters, photographers or camera operators.

STUDENT FILMS – means motion pictures, television programs or commercials produced to satisfy a course or curriculum requirement at an educational institution. The student filmmaker must supply proof that he/she is currently enrolled.

STUDIO – means a fixed place of business where filming activities are regularly conducted upon the premises.

Section 168-3. Permit required; Exemptions.

A. Film Permit required: No person shall, for commercial purposes, use any kind of public property, facility or residence herein or portion thereof owned and/or controlled by the City of Newburgh to cause, direct or conduct filming activities as defined without first applying for and obtaining a film permit from the City Manager or his/her designee.

B. Exemptions:

1. The following activities shall not require an application or film permit under the provisions of this Chapter:
 - a. News Media: Reporters, photographers or camera operators in the employ of a newspaper, news service, or similar entity engaged in on-the-spot print media, publishing or broadcasting, of news events concerning those persons, scenes or occurrences which are in the news and of general public interest.
 - b. Family or personal use video: The filming or videotaping of motion pictures solely for private-family use.
 - c. Photographers engaged in still photography.
 - d. City Produced Government Access Films.
2. A film permit application as required by this Chapter shall be completed and submitted without a fee for the following activities:
 - a. Charitable Films: Projects that qualify under Section 501 (c) (3) of the Internal Revenue Code.
 - b. Student Films.
 - c. Concert film by a Not-for-Profit or religious entity.

Section 168-4. Application requirements.

The Application for such Film Permit shall be made upon forms prescribed therefor by City and require, at minimum, the following information:

1. The name, address, telephone number and e-mail address of the applicant.

2. The name, address and telephone number of the production company and the name, address and telephone number of the production company owner.
3. The name, address, telephone number and e-mail address of the person(s) in charge of the film production as the contact person.
4. The street address(es) of the location(s) at which filming will take place.
5. The dates and hours during which filming activity will occur.
6. An estimated number of persons, including cast and crew, to be involved.
7. List of equipment and generator, if any.
8. Number and type of vehicles.
 - a. Identify historic or period vehicles or equipment that will be used in the production.
9. List of any animals, pyrotechnics, hazardous chemicals, demolition of buildings or structures and/or use of residential vehicles proposed to be used and a safety plan to be used by the applicant in the event such items are used during the production.
10. Plan to minimize disruption of traffic and parking.
11. Requests for City services and equipment including but not limited to signs, barricades.
12. Insurance:
 - a. Certificate of liability insurance covering the event to be held and naming the City of Newburgh as an additional insured with limits of liability of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate for bodily injury and \$50,000 for each occurrence and \$100,000 aggregate for property damage. All such policies must be written in the broadest form available by a company authorized to do business in New York State and of recognized financial standing which has been fully informed about the proposed event.
 - b. Worker's Compensation Insurance: An applicant shall conform to all applicable Federal and State requirements for Worker's Compensation Insurance for all persons operating under a film permit.
 - c. Hold Harmless Agreement: Applicants shall execute a hold harmless agreement as provided by the City prior to the issuance of a film permit under this ordinance wherein the applicant shall defend, hold harmless and indemnify the city of Newburgh against any and all claims, proceedings or action brought in connection with or as a result of the filming and/or recording activities.

Section 168-5. Filing of application and issuance of permit.

A. The application for a film permit shall be filed with the office of the City Manager in completed form together with all applicable fees no less than fourteen (14) days prior to the commencement of such filming activities.

B. The issuing authority shall be the City Manager or his/her designee. The City Manager may deny a permit in his or her sole and absolute discretion.

C. Any change in the applicant's/permittee's planned activities as set forth in the film permit applications shall be submitted to the City Manager or his/her designee at least 24 hours in advance of the change and approved or denied in the same manner as the original film permit application.

Section 168-6. Fees.

The fees for each filming permit shall be as set forth in Chapter 163, Fees, of this Code and shall include a non-refundable application fee, a fee for each permit issued, and a refundable security deposit all of which shall be paid to the City Manager or his/her designee. No film permit shall be issued to an applicant who owes the City money on a prior permit.

Section 168-7. Additional restrictions.

A. The applicant/permittee shall in the credits of the motion picture or television program, acknowledge the production was filmed in the City of Newburgh.

B. All filming activities, including set up and takedown activities, shall take place in the hours specified in the film permit.

C. Filming and/or recording activities as permitted under a film permit shall comply with all the requirements and standards of Chapter 212, Noise, of this Code of Ordinances.

D. The permittee shall conduct operations in an orderly fashion with continuous attention to the storage of equipment not in use and the cleanup of trash and debris. The area used shall be cleaned of trash and debris upon completion of shooting at the scene and restored to the original condition before leaving the site.

E. The permittee is required to obtain the property owner's permission, consent and/or lease for use of property not owned or controlled by the City. No film permit may be issued for filming on a property with open Zoning Code, Building Code, Property Maintenance and/or Fire Code violations.

F. Filming and/or recording under a film permit shall comply with all requirements of the New York State Vehicle and Traffic Law and Chapter 288, Vehicles and Traffic, of this Code of Ordinances, except as follows:

1. The applicant/permittee shall obtain permission of the City Manager to park equipment, trucks, and/or cars in no parking, no standing and no stopping zones. The City Manager or his or her designee shall provide temporary "No Parking" signs which shall be posted by the applicant/permittee at least 24 hours prior to parking vehicles or equipment.

2. The applicant/permittee shall obtain the permission of the City Manager to string cable across sidewalks, or from generator to service point. Such cable or electrical lines shall be marked, taped and/or secured to avoid creating a hazardous condition.
3. The applicant/permittee shall furnish and install advance warning signs and any other traffic control devices required in order to take all appropriate safety precautions.
4. Traffic may be restricted to one 12-foot lane of traffic and/or stopped intermittently. The period of time that traffic may be restricted will be determined by the City, based on location.
5. Traffic shall not be detoured across a double line without prior approval of the City of Newburgh.
4. Unless authorized by the City, the camera cars must be driven in the direction of traffic and must observe all traffic laws.

G. Any emergency roadwork or construction by City crews and/or private contractors, under permit or contract to the appropriate department, shall have priority over filming activities.

H. A permittee under a film permit shall be required to personally deliver or to mail a copy of the film permit or a letter of intent to film to all owners of real property located within 100 feet of the property line of the filming and/or recording site as shown on the latest assessment roll of the City Assessor and to all owners of real property located on the same street as the filming and/or recording site who are located within 300 feet of a property line of such site at least two days for personal delivery or four postmarked delivery days for mailing prior to the first day of filming and/or recording. The City Manager may require notice to additional owners of real property in the vicinity if conditions of the filming and/or recording so require.

Section 168-8. Authority to promulgate regulations; waiver of provisions.

A. The City Manager may promulgate additional regulations in furtherance of the findings and purpose of this Chapter.

B. The City Manager may grant a waiver of a part or parts of this Chapter, and/or other City ordinances if the City Manager is so authorized therein, for a particular filming and/or recording event on the City Manager's written finding that such waiver would be in the public interest of the surrounding neighborhood and/or City as a whole.

Section 168-9. Permit revocation, suspension, appeal.

A. Permit Revocation. A film permit may be revoked by the City Manager if the permittee, or any agent, employee, or contractor of the permittee fails to comply with the requirements set forth in this Chapter, or in the film permit, or if it is determined that the film permit application was false in any material detail.

1. Notice of the grounds for revocation of the film permit shall be provided in writing to the permit applicant or person in charge at the location of the filming activity.

2. Appeals of the film permit revocation shall be conducted in the manner specified in this Chapter.

B. Permit Suspension. The City police department and/or fire department officers assigned to supervise the filming activity site may suspend the film permit if at any time the filming activity poses an immediate hazard to persons or property and the location manager will not, or cannot, prevent the hazard after being instructed to do so by the officer. The grounds for the film permit suspension shall be provided in writing by the City film office to the permittee within two working days of the suspension.

C. Appeals. The film permit applicant or permittee may appeal a denial of a film permit, or a revocation, suspension, or permit condition. Such appeal shall be filed with the City Manager or his/her designee not later than five working days after the date written notice of the decision is made. Failure to timely file an appeal shall result in a waiver to the right to appeal. The appeal shall be reviewed by the City Manager or his/her designee. The decision of the City Manager or his/her designee shall be rendered in five working days and shall be final and is subject to judicial review pursuant to Article 78 of the New York Civil Practice Law and Rules.

Section 168-10. Penalties for offenses.

- A. Each and every violation of this Chapter shall be punishable by a fine of not less than \$250.00 and/or imprisonment not exceeding 15 days for each and every day a violation of this Chapter is found to exist.
- B. The imposition of such fine and/or imprisonment shall not be the City's exclusive remedy in the event of a violation and the City shall have the right to pursue any and all other legal and equitable remedies available to it in connection with any violation of this Chapter.

Section 168-11. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause, or phrase in this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective.

Section 2. This ordinance shall take effect immediately.

ORDINANCE NO.: _____ - 2016

OF

_____, 2016

**AN ORDINANCE AMENDING CHAPTER 163 ENTITLED “FEES” OF THE CODE OF
THE CITY OF NEWBURGH TO ADD FEES FOR FILMING**

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
<u>Chapter 168, Filming</u>		
<u>§ 168-6</u>	<u>Non-refundable application fee</u>	<u>\$200.00</u>
	<u>Permit fee</u>	<u>\$500.00 for use of public property per day</u>
		<u>\$750.00 for use of public property per night</u>
		<u>\$200.00 per day to reserve public street parking</u>
	<u>Refundable security deposit</u>	<u>\$1,500.00</u>

Section 2. This ordinance shall take effect upon the adoption of Ordinance No. _____ -2016 of _____, 2016 entitled “An Ordinance Creating Chapter 168 Entitled “Filming” of the Code of Ordinances of the City of Newburgh

Underlining denotes additions
~~Strikethrough~~ denotes deletions

The City of Newburgh

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MEMORANDUM

TO: Judith L. Kennedy, Mayor
Genie Abrams, Councilwoman
Regina Angelo, Councilwoman
Torrance Harvey, Councilman
Cindy Holmes, Councilwoman
Karen Mejia, Councilwoman
Hillary Rayford, Councilwoman
Michael G. Ciaravino, City Manager

FROM: Michelle Kelson, Corporation Counsel

DATE: March 16, 2016

RE: 2014-2015
Amounts paid to Outside Counsel
Amounts spent on investigations

At the request of Councilwoman Holmes, I have prepared a list of law firms representing the City as outside counsel and the amounts paid to each law firm for the years 2014 and 2015.

Lawyer or Firm Name	Hourly Rate	Amount Paid 2014	Amount Paid 2015
Bond, Schoeneck & King, PLLC	\$195/hour	N/A	\$10,012.83
Edward Bruno, Esq.	\$175/hour	\$10,246.25	\$12,250.00
Burke, Miele & Golden, LLP	\$225/hour	\$134,848.17	\$72,884.28
Catania, Mahon, Milligram & Rider, PLLC	\$190/hour (M Fund) \$250/hour (A Fund)	\$83,277.15	\$74,891.93

Hodges, Walsh & Messemer, LLP	\$190/hour	\$42,087.29	\$48,287.05
Lamb & Barnosky, LLP	\$235/hour	\$171,446.37	\$228,105.23
McCabe & Mack, LLP	\$190/hour Eff. 1/1/16 rate increase to \$210/hour	\$94,870.79	\$103,333.01
Rodenhausen Chale, LLP	\$195/hour	\$13,289.25	\$41,657.75
Toohar & Barone, LLP	\$200/hour	\$17,316.03	\$6,339.89

Please be advised that Harris Beach LLP serves as the City's bond counsel and legal fees are based on a combination of a percentage of the cost of the particular transaction and hourly rate of \$295. Those fees are not billed to the Law Department. Accordingly, the Comptroller could provide an accounting of the fees paid to this firm.

Also at the request of Councilwoman Holmes, please see the chart below with the costs associated with workplace investigations in 2014 and 2015.

Year	Amount paid
2014	\$66,965.18
2015	\$56,423.49

Kindly contact the undersigned if you have questions or need more information.



MICHELLE KELSON
Corporation Counsel

MK/dt