

A regular meeting of the City Council of the City of Newburgh was held on Monday, April 24, 2017 at 7:00 PM in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Prayer/Rezo

The Prayer was led by Elder Robert Davis of Baptist Temple Church followed by the Pledge of Allegiance.

Pledge of Allegiance/Juramento a la Alianza

Roll Call / Lista de Asistencia

Present: President Pro Tem Harvey presiding; Councilwoman Abrams, Councilwoman Holmes, Councilwoman Mejia, Councilwoman Rayford - 5

Absent: Councilwoman Angelo, Mayor Kennedy - 2

COMMUNICATIONS

Approval of the minutes of the meeting of April 6, 2017

Councilwoman Abrams moved and Councilwoman Mejia seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Carried

City Manager Update / Gerente de la Ciudad pone al día a la audiencia de los planes de cada departamento

The Planning and Economic Development Department has received a New York State Grant in the amount of \$463,000.00 for streetscape and sidewalk improvements on Liberty Street. The street naming ceremony in honor of the late Richard Frank "Dickie" Peterson, Jr. will be held on Thursday, May 11th at 3:00 p.m. in Martin Luther King Park at the foot of Colden Street. As part of our streetscape standards adopted last year, the City of Newburgh has purchased the Bluestone Stamp for use in the Historic District. Although we are still in the process of setting up policies, applicants will be able to check out this stamp for use in upgrading their sidewalks so that they are done to the specifications of the Architectural District and it is affordable to the community. Anyone requiring use of the Bluestone Stamp should contact Planning and Economic Development for further updates. The City has also received a \$7,500.00 Grant from the Hudson River Valley Greenway to update crosswalks and improve pedestrian safety throughout the City.

At the Recreation Department, registration for the Summer Playground is ongoing. This

is the annual Summer Camp for boys and girls in grades 1 through 6 and the Camp dates are from June 26th through August 4th Monday through Friday from 8:00 a.m. to 4:00 p.m. The cost is \$350.00 for residents and \$450.00 for non-residents which includes all trips and registration must be done in person at the City of Newburgh Activity Center.

Note that there are limited slots still available so register as soon as you can. Spring Soccer begins next month for boys and girls ages three through seven and the cost is \$65.00 per player. They held the Gloves Up Gums Down Boxing Show on Easter Sunday with boxers attending from Wisconsin, Rhode Island, Pennsylvania and most notably Ireland and the Newburgh Hook Elite boxers performed well. The next Boxing Show is scheduled for August 19, 2017 at the Delano Hitch Stadium. Also, with assistance from Planning & Economic Development, the Outdoor Fitness Area at Recreation Park was just completed this past week. The Boat Launch at the foot of Washington Street is now open from 6:00 a.m. to 8:00 p.m. daily. Daily parking charges are \$15.00 per day and we are in the process of transitioning from a cash only system to a new pay-and-display system which is scheduled to take effect in early May. During the early stages of the transition there will be attendants at the Boat Launch to help customers with this new system and we will continue to offer Seasonal Passes in the City Clerk's office for \$100.00. Police will ticket any vehicle where the permit is not displayed and the cost of a ticket is \$50.00 so be sure to display the permit clearly in the windshield of the transportation vehicle.

In Codes, to date we have licensed twenty-six plumbers and sixteen bonded excavating companies and our Plumbing Inspector, Ed Howard, is working to ensure that these lists are placed on our Website. We also have to date one hundred and ten licensed electricians and we are working to increase the number of both plumbers and electricians to provide competitive pricing for our community giving them the opportunity to shop around. With the amount of improvements going on in our community we understand that there is a strong demand for both plumbers and electricians and we want to make sure that we have the most competitive market possible.

At the Water Department, the painting project of the Plant floor is finally completed. As many may know, the Brown's Pond Boat House was vandalized in 2016 and our Water Department took on the reconstruction of that by doing the work in-house and we expect that to be completed this week. New hydrants have been installed and are back in service on 9W and Hasbrouck Street as well as on Russell Street. Some excellent news is that the Water Department discovered a significant water leak on a twelve inch fire pump on private property on Wisner Avenue. This was found as part of our leak detection survey with new equipment and it was terminated at the main by a team of the Corporation Counsel, Engineering and Water Department. It is believed that this leak had been occurring since the early 1990's and when we cut it off it was leaking at approximately one hundred thousand gallons of water per day. This speaks to the value of the equipment that is now in service by the Water Department.

At the Police Department, Lt. Carrion has announced his retirement. He was appointed to the Acting Chief position approximately four weeks ago but the Acting Chief designation was rejected by our Civil Service Commission. He is pleased to announce that we now have Lt. Cortez who is bilingual and has been leading our Detective Bureau. He will be attempting to appoint Lt. Cortez to the Acting Chief position and if for any reason he is deemed to not be qualified or ineligible then he will be working in the Lieutenant in command position and will try to work out the pay. Lt. Cortez has worked in our YPI and

with a number of our new programs having a role in designing them to enhance police and community relations. Our City of Newburgh Police Department has been recognized in the State of New York for the progressive work of establishing positive relationships between the Police Department and the community. Lt. Cortez had a hand in that as did Lt. Carrion and Acting Chief Dan Cameron. They will not allow this disruption in leadership to interfere with this very important work because we know that it takes a village to police a community and it requires trust. While we await the results from the Civil Service exam the plan is that Lt. Cortez will be in command and he will continue with the work that Acting Chief Cameron pioneered. We are also excited at the opportunity as we seek to diversify our departments because Lt. Cortez is bilingual as he speaks both English and Spanish and he knows the Department. He will be working with the Council for the opportunity to try to fashion a remedy that may enable Lt. Cortez to be the Chief of our Police Department.



City of Newburgh City Comptroller's Office

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TO: Michael Ciaravino, City Manager
Mayor - Judy Kennedy
Councilwoman – Genie Abrams
Councilwoman – Regina Angelo
Councilman – Torrance Harvey
Councilwoman – Cindy Holmes
Councilwoman – Karen Mejia
Councilwoman – Hillary Rayford

FROM: Kathryn Mack, City Comptroller

DATE: April 24, 2017

SUBJECT: City of Newburgh Financials – March 2017

Below are the highlights for the City of Newburgh revenue and expense activity for the period of January through March 2017.

General Fund Revenue

Through the month of March 2017, the City of Newburgh collected \$10.9 million compared to the annual revenue budget of \$44.4 million. Of the \$10.9 million collected, \$8.5 million was for Real Property Taxes and PILOT Payments.

The remaining \$2.4 million was a combination of departmental income, fund balance transfer and inter-fund transfers. Compared to this time last year we have collected approximately \$180k less in FY2017. This is primarily due to timing on tax deposits in 2016 compared to 2017.

Highlights for increased revenue:

Codes building permits - \$110k RUPCO project

Consumer and Utilities Gross Receipts – Up by \$75k compared to this time last year

Gain from Sale of Properties – up by \$136k compared to this time last year

General Fund Expense

Through the month of March, the City of Newburgh expended \$10.7 million.

Overall Departmental expenses are in-line with the approved budgets.

The Police 2017 overtime expense is above spending levels compared to the activity for the same time period in 2016.

YTD March 2016 - \$229,383

YTD March 2017 - \$338,081

Variance - +\$108,698 increase 47.4%

Expense Description	Department Name	ACCOUNT DESCRIPTION	~2016 March			~2017 March		
			Activity	ADJUSTED BUDGET	% to budget	Activity	ADJUSTED BUDGET	% to budget
Public Safety	Police	OVERTIME..	\$ 133,980	\$ 755,000	17.75%	\$ 221,876	\$ 755,000	29.39%
		COURT OVERTIME..	\$ 42,179	\$ 189,575	22.25%	\$ 48,380	\$ 200,000	24.19%
		OVERTIME-CIVILIANS	\$ 15,607	\$ 91,954	16.97%	\$ 23,597	\$ 70,000	33.71%
		NARCOTICS ENFORCEMENT OT..	\$ 12,102	\$ 91,482	13.23%	\$ 44,228	\$ 75,000	58.97%
		SPECIAL EVENT/DETAIL OVERTIME..	\$ 25,515	\$ 31,215	81.74%	\$ -	\$ 5,000	0.00%
		Police Total	\$ 229,383	\$ 1,159,225	19.79%	\$ 338,081	\$ 1,105,000	30.60%
Public Safety Total			\$ 229,383	\$ 1,159,225	19.79%	\$ 338,081	\$ 1,105,000	30.60%
Grand Total			\$ 229,383	\$ 1,159,225	19.79%	\$ 338,081	\$ 1,105,000	30.60%

The Fire 2017 overtime expense is slightly under spending levels compared to the activity for the same time period in 2016.

YTD Mar 2016-\$214,224

YTD Feb 2017-\$145,791

Variance – (\$68,433) decrease 31.94%

Expense Description	Department Name	ACCOUNT DESCRIPTION	Activity	ADJUSTED BUDGET	% to budget	Activity	ADJUSTED BUDGET	% to budget
Public Safety	Fire	OVERTIME..	\$ 207,200	\$ 1,076,827	19.24%	\$ 132,101	\$ 670,017	19.72%
		OVERTIME-CIVILIANS	\$ 7,024	\$ 60,593	11.59%	\$ 13,690	\$ 45,000	30.42%
		Fire Total	\$ 214,224	\$ 1,137,420	18.83%	\$ 145,791	\$ 715,017	20.39%

All other departments are in line with spending activity as budgeted.

Enterprise Fund Revenue

Through the month of March 2017, the Enterprise Funds (Water, Sewer and Sanitation) generated \$1.56 m in revenue.

Water and Sewer bills for FY2017 1st quarter went out April 2017.

The Sanitation 1st quarter billing was \$752k which is on trend for the \$3m revenue budget.

Enterprise Fund Expense

Through the month of March 2017, Enterprise Funds expended \$4.1m, this amount includes \$994k in Catskill Water bills as well as \$37k in additional expenditures.

Overall Department expenses are in-line with the approved budgets.

Grant Activity

Total Expenditures through March 2017- \$333,290

Total Revenues submitted for Reimbursement - \$ 254,236

See attached spreadsheet for Activity.

City of Newburgh Grant Activity 2017

Grant Description	Budgeted Award	1st Quarter- Expense	1st Quarter- Revenue	Comments	
Codes/Planning and Development Grants					
LISC Grant - Vacant/Zombie properties	\$ 149,263 \$	4,241 \$	74,631	*Received upfront wire payment for 1/2 of Grant	
Total Codes/Planning and Development	\$ 149,263 \$	4,241 \$	74,631		
Fire Department Grants					
Fire-FEMA Safer	\$ 2,061,516 \$	133,691		Waiting on final approval from DASNY	
Fire-DASNY for New Tow vehicle	\$ 60,000 \$	- \$	-		
Fire-FEMA Port Security Program	\$ 18,941 \$	- \$	-		
Total Fire Grants	\$ 2,140,457 \$	133,691 \$	-		
Police Department Grants					
Police- Youth Police Initiative	\$ 16,860 \$	1,616 \$	1,616	looking into variance of \$23.00	
Police- Larkin OT	\$ 75,000 \$	2,423 \$	2,423		
Police-JAG Mobile Police Station	\$ 17,500 \$	7,000 \$	7,000		
Police-GIVE	\$ 212,875 \$	57,522 \$	57,522		
Police-Travel to Training (Policing Teen Brain_	\$ 7,200 \$	1,652 \$	1,652		
Police-PSN	\$ 225,084 \$	4,063 \$	4,063		
Police-COPS	\$ 183,085 \$	47,036 \$	47,036		
Police-BYP Bullet Proof Vests	\$ 7,220 \$	3,771 \$	3,748		
Police-Larkin \$75K cameras	\$ 75,000				
Police-Larkin \$20K equipment	\$ 20,000 \$	- \$	-		
Police-Non Fatal Shootings Initiative	\$ 143,139 \$	- \$	-		Just started March/April 2017
Police-IT Equip & Comm. Policing Supplies	\$ 10,000 \$	- \$	-		
Police- OC Grant for Police Protective Equipment	\$ 16,300 \$	- \$	-		
Police-OC Grant \$19,610 for cameras	\$ 19,610 \$	- \$	-		
Police-OC Grant \$20K for Equipment	\$ 20,000 \$	- \$	-		
Police-Stop DWI	\$ 3,084				
Police-Police Traffic Services (PTS)	\$ 9,800 \$	- \$	-		
Total Police Grants	\$ 1,061,757 \$	125,082 \$	125,060		
Recreation Department Grants					
Rec-OC Youth Bureau Basketball Program	\$ 10,450		1,580		
Rec-OC Youth Bureau Boxing Program	\$ 1,605 \$	165 \$	165		
Rec-OC Youth Soccer Program	\$ 12,055 \$	165 \$	1,745		
Total Recreation Grants					
Engineer Department Grants					
Engineering-Sewage Pollution Right to know	\$ 33,300				
Engineering-Sanitary Sewer Overflow Investigation	\$ 882,709 \$	70,110 \$	50,000	*Received upfront wire payment	
Total Engineer Grants	\$ 916,009 \$	70,110 \$	\$2,800		
Total City of Newburgh Grant Activity	\$ 4,279,541 \$	333,290 \$	254,236		

Trust and Agency Accounts

- **Misc. Donations**
 - CAC (former Shade Tree) - 1,545
 - Landlord Registry - \$179,343
 - Parks and Recreation - \$5,445

- **Police**
 - Police Evidence - \$80,493
 - Federal Seizure - \$78,676
 - State Seizure - \$22,953
 - Police Bicycle - \$552
 - Police Donations - \$187
 - Misc. Fire Dept. - \$2,634
 - Auxiliary Police - \$2,035

- **Celebrations**
 - Puerto Rican Day - \$80
 - International Festival - \$4,387
 - Fireworks - \$2,634
 - Memorial Day - \$91

- **Other**
 - Vacant Bond Registry - \$500,000
 - Auctions - \$27,294

Comptroller's Department Updates

Finance

- *FY 2016 Audit*

- We are still finalizing outstanding items for the 2016 Audit.

Auditors will come to provide a review of the 2016 audit once we have finalized.

- *Water Emergency Expenses and Reimbursement*

- *Purchase of Aqueduct Water*

- *Jun to Dec 2016 – \$3,550,950*
 - *Jan to Feb 2017 - \$474,946.22 (approx. 50% reduction from Avg. 4th qtr. 2016 Billing)*
 - *Approximately \$278k in FY 2016 which we are finalizing a reimbursement agreement with the State.*

YTD Spending 2017 is \$68k.

- *Boat Launch Parking Meter*

- *Meters are expected to be in no later than the 2nd week of May.*
 - *We have worked with DPW to schedule the pouring of a concrete pad for the meter and information signage for this week.*
 - *We have sent out a Press release and have worked with Recreation department for the transition from personnel to boat launch.*
 - *We have also worked with Clerk's office to review the Seasonal Pass in comparison to the Daily Pass to provide to the Police department and the Parking enforcement officers with information to ensure there is no loss of revenue during the transition.*

- Overall Parking Lots and Permits
 - *Working with DPW to review current public parking to ensure that all areas are identified and the best value and place for the current three meters. A plan will be presented to Council for the location of the current meters as well as a permit program as requested by Council.*
- Accounts Receivable Module
 - *Implementing Accounts Receivable module that will allow for automatic billing for City Business as well as CDBG loans.*
- Job Posting – Jr Accountant
 - *We have worked with Human Resources for initial phone interviews to ensure that candidates are aware of the salary and testing requirements.*
 - *I have completed 3 interviews as of today and hope to have a decision shortly.*
- **BIDs/RFPs/RFQs:**
 - **Currently under Review**
 - *Real Estate Agent/City partnership*
 - *Awaiting Council approval*
 - *New Hire/Random Drug Testing Deadline:*
 - *We have decided to reject the one responder and sent the RFP out one more time in a larger publication to solicit more responders*
 - *Waterfront Revitalization/Dutch Reform and City Club*
 - *We have received the responses to our questions and will be reviewing over the next week or so to determine whether or not we will recommend an award.*

○ **Current RFPs out for public review**

- *4th of July Fireworks – Due back on 5/11/17 @ 4pm*
 - *Will be held on Sunday 7/2/17*
 - *Rain date Sat 7/8/17*
- *New Camera Project – Due back 5/22/17*
 - *Sent out today 4/24/17 – 30-day response time*
 - *We have received a number of inquiries since the advertisement*
- *Liberty and Grand Street Sewer Improvements: Contract 1-GC– Due Back 5/22/17 @ 10:30 am*
- *West Trunk Line Sewer Corridor Improvements Contract 1-GC – Due Back 5/22/17 @ 10:30 am*
- *West Trunk Line Sewer Corridor Improvements Contract 2-GC – Due Back 5/22/17 @ 11:30 am*

○ **Upcoming RFPs/BIDs/RPQs**

Finance Office

- *Demolitions funded by 2016 BAN*
 - *We are working with a vendor to provide professional services with regards to the Bid Process as well as project management of the Demolition Project. We have a meeting scheduled tomorrow to go over the contract and process to ensure that all local and state requirements are met.*
- *Civil War Monument – Downing Park*
- *Supplies and Cleaning Products*

Engineers Office

- *Brown's Pond House ACM Demolition Project*
- *Mill Street Bridge Repair*

Assessor's Office

- Change of assessment notices have been mailed
 - If you have not received your letter, please contact the Assessor's office as we have received a number of returned letters due to the forwarding address being expired or no forwarding address.
- Tentative roll to be filed in Goshen, roll books will be in the assessor's office on May 1 and on the city website.
- Grievance Day is Tuesday, May 23, 2017 4-8PM (by appt.) at the Activity Center. Form RP-524 must be submitted to the assessor's office by this date

Information Systems

- Additional Camera Project –
 - Bid went out today April 24, 2017 with a deadline of May 22, 2017
 - 13 additional cameras identified by Police Department
 - All Wireless network cameras
 - 30 Day time frame
 - To streamline the coordination with Central Hudson regarding the pole walk, I.T. will provide Central Hudson pole numbers where cameras will be mounted now. Additional poles for peripheral equipment will be identified after the RFP is awarded.
- Flash Cams – Illegal Dumping in various locations throughout the City
 - Demo Camera configured and ready for placement
 - Central Hudson Pole Walk (waiting for completion of shot spotter walk through)
 - Create internal workflow with regards to process

(I.T. cont.)

- Shot Spotter – Update
 - Need date for Pole walk with Central Hudson
 - Nick spoke with Central Hudson today and we should have a tentative date shortly.
 - Installation of Equipment
 - Equipment Testing
 - Final Implementation – current timetable estimated June 2017.
- City Hall Camera-
 - 2 Cameras-1st floor
 - One for front door
 - Tax Collector office view
 - 1 Camera 4th floor
 - To cover IT office and Comptroller's office hallway

Tax Collectors office

- We have received the unpaid 2016-17 school taxes from the school district and are now accepting payments in the Tax collector's office.
- Working with Tax Collector to implement credit card options for WSS, parking and other cash handling departments, as well as exploring debit card acceptance or online e-check acceptance for all bills.
 - Tax Collector is reaching out to various other Tax Collectors in sister cities such as Poughkeepsie, Port Jervis and Beacon to compare products and processes.
 - We will be exploring and building processes and policy regarding credit card/debit card acceptance.
- Working to integrate automated Installment Payment Agreement collections and calculations with current KVS (financial system).

PRESENTATIONS

A Public Hearing will be held on Monday to hear public comment concerning a Local Law Allowing Reciprocal Licensing Agreements for Electricians in Other Jurisdictions

President Pro Tem Harvey called for a Public Hearing that was advertised for this meeting to hear public comment concerning a Local Law allowing reciprocal licensing agreements for electricians in other jurisdictions.

City Manager, Michael Ciaravino explained that the goal here is to not in any way reduce the quality of the licensed electrician but to expand the number. If other communities meet the very stringent standards of the Newburgh Fire Department for Licensed Electricians then we would recognize theirs and reciprocally they would recognize ours.

Jeff Wallace, City of Newburgh said that licensing for the trades is restrictive, redundant and unnecessary. A County wide license would be a perfectly reasonable standard and easy to regulate. The licensing in this City cripples the development. He is not sure what this is about or the details but he is sure it's a good thing.

There being no one else wishing to speak for or against this public hearing was closed.

A Public Hearing is scheduled for Monday's Council Meeting to hear public comment concerning a Local Law Prohibiting the Possession or Sale of Sparklers/Sparkling Devices

President Pro Tem Harvey called for a Public Hearing that was advertised for this meeting to hear public comment concerning a Local Law prohibiting the possession or sale of sparklers/sparkling devices.

City Manager, Michael Ciaravino said that they are asking the public and the City Council to consider an amendment to our Local Law amending Chapter 172 of the Code of Ordinances to add Article II, "Fireworks and Sparkling Devices". Chief Ahlers explained that there was a provision in the State Law that removed the ability for certain municipalities to restrict this but now we have that opportunity so by recommendation of our Fire Department, given the density and age of our architecture, we would like to be able to limit the amount of fire hazards we have in the City of Newburgh. Unlike a suburban community that is sprawled out we have very high density architecture with old timber that ignites like gun powder. We also do not have modern standard firewalls so we are just trying to exercise the authority that the Legislature has provided to minimize the risks for the City of Newburgh.

Jonathan Jacobson, 25 Pierces Road said he is strongly in favor of this law. There is no reason why everyday citizens should have sparklers or fireworks. It's great when you have professionals putting on a nice show but the only thing you get when citizens have fireworks is some poor kid blowing off their hand. He has seen too many of these

headlines throughout the Country and in this area so there is no reason to have them here. This is a good law.

Maurice Miller, City of Newburgh said that he doesn't totally disagree with this law but he thinks that sparklers should be separate from the fireworks. Explosive devices are definitely very dangerous but he remembers sparklers from when he was a child. In his opinion, if you take everything away then people will start reaching for anything like road flares to celebrate with. You have to give them something. Perhaps a law where under a certain age adult supervision is required and if they are caught with them and they are underage then the parents will be responsible and fined. You can't take everything away and some people use sparklers on birthday cakes. They are sold in the Town of Newburgh at Walmart so it is going to be hard to enact this law.

Vincent Esposito, July 4 Ever Fireworks in the Town of Newburgh said that he has personally worked on this legislation for over fifteen years to get it to where it is today. The type of fireworks we are talking about are the most benign. Fountains that don't go higher than five or six feet into the air to the highest that might go about twenty feet into the air and sparklers. These sparklers you will see on cakes at celebrations and prohibiting them is contrary to what the statistics say. Statistics say that as consumption goes up injuries go down with fireworks. He understands there are concerns about the timber and he agrees that fireworks can be dangerous but these are not meant to be placed inside a home but outside on the street. Someone commented about adult supervision and the law states that no one under the age of eighteen can possess, purchase or sell fireworks. They are incredibly safe and if anyone wants more information they can go on their Website or call the company as they are happy to provide information. They want to work with the Fire and Codes Departments to educate or answer any questions and do whatever they can to make this safer for everyone in the community. Another person commented that children are blowing off their hands but those are not the types of fireworks that are allowed in the State of New York. If these safe fireworks are prohibited, then people will head to Pennsylvania to buy the big stuff and the City will be in a worse situation than they are in now. When this law was first enacted and people started purchasing their fireworks, they were thrilled that they were allowed to have these fountains and sparklers to celebrate with so he respectfully asked the Council to not pass this law.

Omari Shakur, City of Newburgh said that the 4th of July is coming and there will be fireworks in the community so he hopes they have something in place. If the fireworks are illegal then stop them from coming in to the community because the kids in his community will be doing it. He also hopes that this is going to be enforced city wide and not just in his community.

There being no one else wishing to speak for or against this public hearing was closed.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Marlon Ramos, City of Newburgh said in regard to Item #9 for the IDA appointments that he wanted to thank the Council for their support and for allowing new members to be part of this team.

Jonathan Jacobsen, 25 Pierces Rd., said in regard to Item #18 for the Electronic and Telephonic Communications Policy that when he read the last version there was no difference for city employees as compared to elected officials. Elected officials are treated the same as the employees. It also states that there is no expectation of privacy so anything you do on your iPad including communications between two Council people is subject to exposure. He thinks there should be some separation between regular employees and elected officials so that they would have some privacy regarding the everyday business as a representative of the Council. On Items #16 and 17 concerning changes to the rules he said it appears they are combining the comments to all be at the beginning of the meeting and they are limiting the time to one hour for everything. Most of the time that will not make a difference but if we have an Agenda with two or three controversial items on it then you are talking only twelve people being allowed to speak in total. He thinks that should be changed.

Raymond Bryant, City of Newburgh asked about resolution #106-17. Are they trying to sell the property for more money? If they do this agreement, will the people in the City of Newburgh have first priority to this list and how will it be represented? Where will this information be available and how can people get a hold of it?

There being no further comments this portion of the meeting was closed.

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Abrams agrees with Mr. Wallace who stated that the lack of reciprocal licensing between the City of Newburgh and other municipalities cripples the City so she is in favor of this. In regard to the sparklers, she is going with what our Fire Chief recommends. In her Ward, the sparklers are a danger as she has seen it herself with the dry grass and garbage in the street. She believes that the IT Policy should apply to the Council and the citizens that they represent. What's good for one is good for all. In regard to limiting the comments to one hour, that would mean that only twelve people could speak and she is worried about that. She appreciates the work that went into this but she suggested maybe changing or amending it by taking out that one hour time limit.

Councilwoman Holmes agrees with the electrical licensing and having other municipalities join. She definitely agrees with the sparklers because one was lit under her car which cost her a lot of money. She will not be voting for the master listing agreement because she needs more information and would like a cost benefit analysis. For many months we have been selling houses and doing so well but we don't sell to our City residents or have a program for them. She doesn't see City residents buying houses. They are being put into foreclosure and the ones who need to rebuy their houses we aren't doing anything for

them. She feels this should be tabled or she is voting no. The Electronic and Telephonic Communications Policy is near and dear to her heart. Everyone knows that her iPad was erased and what happened with that so there is not enough information in there for her because the same thing could happen again. There was information from constituents and notes to constituents as well as things that she felt were a legacy to her such as Grand Openings, the Boat Launch, Brown's Pond and things she had attended that were near and dear to her heart that are just gone. In regard to Lt. Cortez, she knows that he will get the pay but he will not get the Acting Chief title. That is just the Civil Service rules and regulations so he has to talk to them because it is not going to happen unless it's changed. She said she will give him the number and name of someone in Albany he can talk to because he is from Newburgh and she knows him so she wants the best for him.

Councilwoman Mejia said in regard to the two public hearings that were held today, she is looking for additional feedback from the community as to where they stand. She thinks the reciprocal licensing for electricians could be favorable for the City and looks forward to when that will also impact the plumbers. As for the sparklers and fireworks, she will be looking for more feedback from the community because one of the concerns she has is around the enforcement aspect of it. She would love to hear from our Police Department on what enforcement would look like because education is a large component and as Mr. Shakur commented this has to be enforced city wide. She would hate for enforcement to take place in certain areas which would add to the tension between Police and the community unnecessarily without having the proper education. She understands the safety aspect of it but needs to hear more from constituents and individuals who use those devices for community celebrations and for fun things to do on a hot summer night. She is happy to support the IDA appointments. She followed up with the individuals who were recommended and she is excited about the energy and talent they will bring. Her understanding on the Master Listing Agreement is that the City put out an RFP to mainstream the selling of City owned In-Rem properties. While the Planning & Development Department has moved many properties in this last two years there was still a plethora that needs to take place so to have someone who specializes in those types of services would be beneficial. The priority, however, is to make sure we are keeping residents in their homes and provide incentives to renters to be able to gain access to purchasing these types of properties. We have had multiple discussions about the tools that are available here in the City of Newburgh and one of the main stumbling blocks is the amount of remediation that many of these buildings require before you can even begin your own rehabilitation efforts. Around the IT Policy she struggles with having various different rules. One that applies to Council members and the Mayor and one that applies to staff. She doesn't think we should have separate policies around open government and transparency. The same rules should apply to all.

Councilwoman Rayford said in regard to the public hearing for the sparklers that she agrees with some of the comments. If you take away from the community, then what else can they do? Her vote will be no for that because they are not explosive and the State Law says you have to be at least eighteen years of age. As for the IDA appointments, she is excited to have new people on the Board and looks forward to the change. In regard to resolution #105-2017 for the PFOS reimbursement, she understands what is being asked but it also raises a question. If the City wants to be reimbursed for the expenditure, what about the homeowners who purchased this tainted water? On resolution #106-2017, she asked if there is a law in place that we are overlooking because we are sending mixed

messages. We keep saying that department is selling many houses with an increase this year in sales so why can't we advertise ourselves? If we go with this Brokerage she feels there might be a discrepancy or even a lawsuit from other Brokers saying we didn't pay them or give them a chance. Can we advertise ourselves? If there are people interested in these one family homes and they are having financial difficulty or need assistance, can't we refer them? Is it necessary for us to have them as our own Brokerage service? Her vote will be no for that. In regard to the IT Policy, when she first got on the Council all of the Council information was deleted. It didn't affect her and Councilman Harvey as much but she does not want to adopt this because there will be no separation. If the City Manager wants to delete things again he can because the City workers are under him and if he gives instructions for them to erase or delete information again then their information will be gone as well so she will say no to that. On the Council Rules and Procedures, she agrees we can't limit the timing for the public because they elected us and we need to hear from them. Maybe we can cut down some of the Agenda items and prioritize. If it is a hot topic, we know the community is going to come out and it is not fair to limit them because they are the taxpayers and the voice of our City so they have a right to speak.

Councilman Harvey said he is excited about the new IDA appointments because they are always looking for new energy. In regard to the Communication Policy, several of his colleagues have communicated very clearly that in terms of the Technological License that we have there seems to be a discrepancy between the rules for the Council members and employees so until we all have the same rules across the board he will not be supporting this Policy. As for the changes to our rules and the order for public comments on the Agenda, they all thought it was a good idea to have all of the comments at the beginning of the meeting because a lot of our constituents come in and speak to Agenda items and then have to wait the entire meeting to speak again. He thinks that moving this up is a great idea but limiting the comments to one hour is a problem. Only twelve speakers will not fly so we need to tweak that and consider limiting some of our items. If we have a hot topic and the public wants to speak, then we need to be considerate and perhaps cut some of our Agenda items and move them to the next meeting. As for the Real Estate Agreement, he thanked Deirdre Glenn for all of the work she did to put this on the table and broadening the net of potential homeowners for our City. He thinks it is a very significant move and it is very important but he has some concerns. He knows that an RFQ was done for this so there shouldn't be any discriminatory issues but it seems as if this particular Real Estate Company has already done a lot of work for the City unbeknownst to us. There was a report that Councilwoman Holmes showed him of a large number of City properties being sold by this particular Real Estate Company.

Michelle Kelson, Corporation Counsel said she would like to clarify for the record that the list of properties that he saw were privately owned properties that the Real Estate Broker brought to sale through private means. Those properties were not City owned properties and they have not been engaged by the City in any way, shape or form to broker or sell real property on behalf of the City. We would never do that without the approval of the City Council and without a Contract. That is their portfolio to show that they have experience in marketing and selling and bringing those properties to a closing.

City Manager, Michael Ciaravino added that they do know Newburgh but if it is the Council's pleasure to table this and get more information they will be happy to accept that.

Councilman Harvey said that makes a big difference for him individually because we have been in discussion about this ever since the Work Session. One super objective is to get these homes sold for revenue for the city. He has heard many people say over and over that the City is not in the business of real estate but there a lot of zombie and foreclosed properties so if we could get more money for those properties and have a vetting process where the people purchasing those homes are not solely landlords but residents. If this Brokerage Company can do that, then he is in favor of it. It will generate money for the City, bring taxes down and bring homeownership up because right now only thirty percent of our residents are homeowners bearing the weight. He was under the impression that the properties they have on their Website were properties negotiated through the City but being that they were privately owned makes a world of difference to him. If this Brokerage Firm is agreed upon, it's a one year contract with opportunities for us to renew or not and they would have to make the listings public to our community so that they can have an opportunity to purchase these homes. Is there a way for City residents to have a priority?

Deirdre Glenn, Planning & Development said that there is a clause in their agreement to give a prior showing to homeowner occupant proposals. She told them to remember that any Terms of Sale would come before this Council and the public before being sold. There are fifty-five new properties on the state books and they are a different group of properties. Many of them are single type family homes so they were thinking about getting eight to ten of them on the MLS to advertise as first homeowner opportunities as well as to see if we could up the market prices. That was our focus on this and if anyone wants more information she will provide them with whatever they ask for.

City Manager, Michael Ciaravino said that the tools the Realtors have are much more extensive with opportunity to move things along. We have a one year window to see if they perform and what we have learned from past mismanagement is that we do not want these properties sitting in our inventory. That breeds maintenance costs and deterioration so the sooner we can turn it around the quicker it is producing as a ratable and is equally displacing the tax burden in the community.

Deirdre Glenn, Planning & Development added that this company has extensive experience with the four main homeowner occupied mortgage companies that are State and Federal so they have vast experience in qualifying people.

Councilman Harvey said that in our previous meetings we had the Land Bank come before us to purchase a large amount of City owned property for little money and then we talk about the zombie and boarded up properties and complain that the taxes are too high. He feels we can't have it both ways. Our Executive Staff went through a vetting process with an RFQ which is a fair and open process to get Brokers to inquire and make proposals to bid for a Contract with the City for one year. This Brokerage Firm after vetting has won the process. They have had dealings with our properties through private sales and this will be a broader net. He is very familiar with the MLS listings and he knows there is more access to promoting, marketing and advertising properties in the City of Newburgh on MLS than the City has access to. If we can get these properties sold, it will generate revenue and put them back on the tax rolls so we can start getting rid of some of the blight in our City. He thinks it is an opportunity because the alternative is to keep kicking the can down the road by not moving these properties. He is excited about Lt. Cortez taking a

permanent role in our Police Department as our Chief but he is concerned about the Civil Service Law and the rules and regulations that govern that particular opportunity. He met Lt. Cortez through the YPI Program and being that he is a Newburgh native and he is bilingual he feels that this is great news. Whatever the process is to be in alignment with the Civil Service Law he hopes they can find a quick and easy resolution to that challenge.

There being no further comments this portion of the meeting was closed.

CITY MANAGER'S REPORT

Resolution No. 102 - 2017 - IDA Appointments

Councilwoman Abrams moved and Councilwoman Rayford seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 103- 2017 - License Agreement Renewal with Mobile Life Support Services Inc.

Councilwoman Abrams moved and Councilwoman Holmes seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 104 - 2017 Vendor Services Agreement Renewal with Mobile Life for EMS Services

Councilwoman Abrams moved and Councilwoman Holmes seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 105 - 2017 - NYS DEC Reimbursement of PFOS Expenses

Councilwoman Abrams moved and Councilwoman Holmes seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 106 -2017 Master Listing Agreement with River Realty for Real Estate Brokerage Services for the City of Newburgh

Councilwoman Holmes asked that this be tabled. She is going to ask for a cost benefit analysis as well as a comparison of what we have sold and what they have sold privately. She is also going to ask for a copy of the RFP that was sent out.

Councilwoman Rayford said that Deirdre Glenn mentioned that there are fifty-five

properties so if they know how many houses there are, why can't we advertise our own? She understands about the MLS which is worldwide but why can't we have a Broker in that department of our own?

Councilwoman Abrams said that you need to be a Licensed Broker.

Councilwoman Rayford added that they already know the count is fifty-five and that department has been selling properties like hotcakes. Will the City residents have a fair chance at these? She understands the MLS and that we don't want those properties to just sit but let's give the residents a chance first. She agrees that this should be tabled.

Councilwoman Mejia added that she is in favor of tabling but there is a very different set of skills that comes with a Licensed Realtor. When you are in the market for a house you can call your Realtor 24/7 which is a service that our City employees cannot provide. Saturdays and Sundays is when people have the time to look at properties and she doesn't mean anything negative against the staff that we have now it's just a different set of skills and focus.

Councilwoman Abrams noted that she will vote against the table because she feels we have enough information already and it is just delaying something that should be done right away.

Councilman Harvey said that he respects everyone's point on this. We are always talking about the revitalization of the City of Newburgh and restoring it back to its historical elements. We get these golden opportunities and we stall on them but he will respectfully go with the table to do more fact finding. We have to understand that Deirdre and her office did a vetting process and this is the Brokerage Company that won that process. It's a one year contract so if we don't like the services that they provide then we can always get a different company but there are services they can provide that our city employees can't. When you look at a Licensed Broker, their outreach goes so far beyond what someone who is not licensed can do. We want to generate revenue, get these homes that are boarded up and abandoned sold and we don't want to keep giving property away but we can't have it both ways. We don't want to keep giving hundreds of properties to not-for-profit organizations for \$1.00 or for free and now we have a Brokerage Firm that's willing to negotiate and get these properties sold at a fair market value as well as broaden the net and get potential homeowners to live in this City to increase the percentage for homeownership. We have to decide what we want to do to revitalize our community.

Councilwoman Holmes said she understands and agrees with what everyone is saying but on a bi-weekly basis she receives fifteen to twenty resolutions with hundreds of papers that sometimes she doesn't understand so if she doesn't have enough information then she can't vote.

Michelle Kelson, Corporation Counsel told the Council that everyone would rather they have more information and take their time. They would prefer they table it rather than put a proposal like this one up for defeat.

Councilwoman Holmes moved and Councilwoman Rayford seconded that the resolution be tabled.

Ayes: Harvey, Holmes, Mejia, Rayford - 4

Nays: Abrams - 1

TABLED

Resolution No. 107 - 2017 - Purchase of 10 & 12 Van Ness Street

Councilwoman Abrams moved and Councilwoman Rayford seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 108 -2017 - Summer Youth Employment Program

Councilwoman Abrams moved and Councilwoman Holmes seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 109 - 2017 - Council Rules and Order of Procedure

Councilwoman Holmes agrees that this should be amended. Tonight we only had a few people speak but we know that when something terrible happens we could have thirty people who want to speak. She asked if we can amend the Rules of Order at that time or do we have to amend it now?

Michelle Kelson, Corporation Counsel said that their Rules of Order and Procedure should reflect what they want to have on most days of the week. Those should be their default rules. If there is an exceptional circumstance, Roberts Rules allows you to suspend the rules and change the order of business or limit one particular item and expand another. The Rules of Order should reflect what they want it to be most of the time and then there are provisions to allow for the exceptions described.

Councilwoman Abrams added that we have had this happen many times before where the Mayor has asked for a suspension of the Rules of Order.

Michelle Kelson, Corporation Counsel said that the last time the Council met at the Activity Center we had a number of people in attendance and there were a number of community events occurring at the same time so to accommodate all of the different schedules the Mayor proposed suspending the Rules of Order at that time to limit the public comment session at the beginning to one hour so that the Council could hear from as many people as possible before they dispersed to their other items of business. They also changed the Agenda to move certain items up to the front so they could be voted on before others had to leave. The rules that you adopt should be the ones used most of the time to cover all of your meetings and you reserve those exceptions for a motion to suspend the rules.

Councilwoman Abrams feels that as a general rule there should be no time limit on how long the public has to speak. If anything, there should be a time limit on how long we have to speak.

Councilwoman Mejia fully supports moving up the comments to the beginning of the meeting and mixing the two. She thinks that will allow for further participation so we don't have residents coming to the beginning of the meeting and then they leave because they can't stay until the end to make their comments. She agrees with Councilwoman Abrams on the time limit because her constituents elected her to represent them so she is here for as long as they want to talk.

Michelle Kelson, Corporation Counsel said that the only rule affected is Rule VII. She would eliminate the proposed amendment to Rule VII A which is one sentence, "*public comment period be limited to one hour*" which would come out. If she is hearing everyone correctly, by combining those comment periods they still want to give people five minutes instead of three to speak so the amendment to Rule VII B would stand. They can propose an amendment and pass it tonight and then have it in affect for the next Council meeting or they can table it and vote on it at the next meeting which is totally up to them.

Councilwoman Abrams moved and Councilwoman Holmes seconded that the resolution be amended.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford – 5

CARRIED

Councilwoman Abrams moved and Councilwoman Mejia seconded that the resolution be adopted as amended.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford – 5

ADOPTED

Ordinance No. 8 -2017

Councilwoman Abrams moved and Councilwoman Mejia seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

Resolution No. 110 -2017 - Electronic and Telephonic Communications Policy

Councilwoman Holmes feels that this should be tabled because it needs more teeth. When her iPad was deleted the employees iPads and computers were not. The person who deletes it should be terminated because you should not delete anyone's information without giving them forewarning of what you are doing. This is very critical to her because she doesn't want this to happen to whoever precedes her. She feels they need to put some teeth in this so nobody's information is deleted. This needs to be tabled.

Councilwoman Rayford said her vote would be no but will agree to table it again. She doesn't think the legislative body should have the same content as the IT rules and regulations for the other City workers.

Councilwoman Holmes hopes everyone understands the need for more teeth in it. We were all here on the Council when the iPads were deleted and she was mostly affected so whoever precedes her she doesn't want their information to be deleted either. There needs

to be accountability and responsibility for someone who deletes information. She had constituent information from a Council person along with City information that is just gone.

Councilwoman Mejia appreciates the openness to table this matter. It is extremely important for future Council members as well as the departments around the use of social media and devices at the expense of taxpayers. Her information was temporarily inaccessible because it was backed into the Cloud but everything populated back to her account so there is a responsibility of the user and if you don't know that then you talk to the IT Department. They want to remedy this so that future Council members do not go through what they went through. She wants to state for the record and make sure that the public knows this is complicated and it is a two-way thing. When individuals are utilizing public property there are certain responsibilities attached. She doesn't want to give up on this because it is something we will keep bumping into as everything today is electronic.

Councilwoman Holmes said she did everything as a responsible user and some of their information was on each other's iPads so whatever happened was just totally screwed up.

Councilwoman Abrams added that this Policy has not been updated for six years and our previous policy regarding electronic communication did not mention social media so now we have a Policy that brings us into the 21st Century which was a ton of work. She thinks it is a great Policy but agrees it needs more teeth in some way so she will agree to table it if that is what the Council wants.

Councilman Harvey thinks that whatever the rules are for elected officials should be the same for employees and staff. There are also some concerns regarding privacy because although their City issued iPads are City property there are still emails that we as elected officials receive from our constituents and if that privacy is compromised by a non-elected official then that needs to be looked into.

Councilwoman Holmes moved and Councilwoman Rayford seconded that the resolution be tabled.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford – 5

TABLED

Resolution No. 111 - 2017

Councilwoman Abrams moved and Councilwoman Holmes seconded.

Ayes: Abrams, Harvey, Holmes, Mejia, Rayford - 5

Adopted

NEW BUSINESS

There was no new business.

OLD BUSINESS

There was no old business.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

Raymond Bryant, 113 First Street said that he agrees with Councilwoman Rayford on the proposal for the listing of the houses that someone should be available in the City to do this. He has been here a long time and he sees people that grew up here that can't afford to buy these houses. He and some young men have a proposal about getting some of these properties that they want to rehab so they can stay here and he hopes that will be taken into consideration. He lives in Ward 1 and the families of Pastor Brock and Timothy Hayes have proposed to make a portion of South Street from Chamber Street to Liberty Street, "Pastor Brock Way" and the corner of Farrington and Lander, "Timothy Hayes-el" Way". Both of these people lived in Newburgh all of their lives and their memories are with us so the families would like to see this go forward.

Leslie, 269 Grand Street, asked what they are going to do about the deteriorating infrastructure in the City because every single street is ridiculous with potholes everywhere. She is wondering if there are funds to address this situation because she can't afford to buy new tires every year.

Maurice, Dubois Street, said that he doesn't agree with the Sanctuary City Resolution and feels it is unfair to the people who are here legally. He is not against Immigration and said they used to be called "Illegal Immigrants" not "Undocumented Immigrants" because they broke the law by entering this Country illegally or by staying here when their Visa's expired. He doesn't believe we should give sanctuary to them because that is unfair to those who were born in this Country, became a citizen or who is here legally and is going through the process. The Federal Government has now threatened to withhold Federal Funding to any city that becomes a Sanctuary City which is very unfair to the residents of this City who are here legally, pay their taxes and worked very hard to become citizens of this Country.

There being no further comments this portion of the meeting was closed.

FURTHER COMMENTS FROM THE COUNCIL

Councilwoman Abrams said that she is proud that we are a Fair and Welcoming City as it is one of the great things we have done in the past three years since she has been on the Council. If anyone is a fan of Jazz, a new series will be starting at the old Atlas Industries building, 11 Spring Street. There will be free Jazz Classes and listening sessions which will be starting on May 18th for six weeks with more information to come.

Councilwoman Holmes said that she is in favor of the Fair and Welcoming City and she thought a lot about the Federal Funding. In her Ward the residents are eighty percent Latino and they are her brothers and sisters. She did a lot of research and she doesn't want to lose any funding for our City but with the President that we have we better all hope we are still alive tomorrow. She is glad she passed the Fair and Welcoming City Resolution and she supports it even though there were constituents in her Ward who were upset with her for it. In regard to the potholes, the DPW Superintendent does have a Pavement Plan in the works for what streets will be paved. She told Omari that she hears what he is saying about Pastor Brock and she thanked everyone who came out for the city-wide cleanup although she was a little disappointed that she only had nineteen volunteers. They got seventy five percent of Downing Park cleaned up and she hopes there will be more volunteers next year. She announced that there will be a Walking Club Kick-Off Event at Downing Park on Sunday April, 30th at 3:00 p.m. at the Shelter House with prizes, refreshments, local vendors and activities for the kids. Come learn about the Downing Park Walking Club to help reach your lifestyle goals as it's a fun, free and safe way to exercise while enjoying the outdoors. The first walk will be on May 1st at 6:30 a.m. and for more information you can call (845) 857-2202. She thanked everyone for coming tonight.

Councilwoman Mejia said she is supportive of Mr. Shakur's proposal and she spoke with him about it earlier today. She hopes the Council will be supportive of it also as on May 11th we will be doing the one at Varick Homes which sets a precedent. She asked Corporation Counsel if going forward they could have a set of guidelines for the community to make requests around the naming of streets. She wasn't at the Work Session but she will get an update on the infrastructure pavement plan that was discussed. In regard to comments made about the Sanctuary City Resolution, she said a lot of them got all sorts of colorful messages and feedback. For her the mislabeling of immigrant's brings her to the Nobel Peace Prize winning Holocaust survivor, Elie Weisel who said *"You who are so called illegal aliens must know that no human being is illegal. That is a contradiction in terms because human beings can be beautiful, or more beautiful. They can be fat or skinny, right or wrong but illegal? How can a human being be illegal?"* When asked why not he said, *"Once you label a people illegal that is exactly what the Nazis did to the Jews. You do not label a people illegal. They have committed an illegal act. They are immigrants who crossed illegally. They are immigrants who crossed without papers. They are immigrants who crossed without permission. They are living in this Country without permission but they are not an illegal people."* The mislabeling of immigrants is not something we should do. If a pedestrian crosses in the middle of the road illegally or inaccurately we don't call them an illegal pedestrian. If a kid skips School we don't call them an illegal student. She cautioned as a community that linguistically words have an impact. Although we may have differences about the path to citizenship and immigration we shouldn't dehumanize one another. She is happy to be part of a Council that understood that and we will work with the Federal and State Government to create the society that we all want to live in and be a part of. She is excited about what 2017 has for all of us and thanked everyone for coming tonight.

Councilwoman Rayford thanked everyone for coming tonight and commended the Water Department for catching that huge water leak. Let's make sure there are no more. She

thanked Lt. Cortez for stepping up. She has heard that the morale is down but she is sure that a cheerful person like him will make their spirits soar. She asked the Recreation Department if the pool will be closing on August 4th with the Camp or will it stay open?

Derrick Stanton, Recreation Department Director responded that the pool will close on August 26th.

Ms. Rayford continued with the situation on naming streets and parks. She knows they passed a resolution for a Park to be named after Father Bill but hasn't heard anything more about it. They have not dedicated anything yet so she would like an update. Naming streets and parks after people is a great thing but the question that will be asked is why them? What is so great about particular people? She would like everyone to have a street named after them but we have to be real. She wished our Mayor well and that she have a speedy recovery. She sat at this table for years with good health so she hopes she comes back with good health. Her Prayers are with her and her family and she misses her already. She has heard that she is doing well and saw pictures of her where she is looking better. She told Judy if she is listening, *"God bless you and your son. Just relax and take it easy."*

Councilman Harvey thanked all of his colleagues on the City Council and he wished our Mayor a safe, speedy recovery as well as safe travels back home. He thanked the executive staff for their assistance in helping him with presiding tonight's meeting. In regard to the condition of the streets and roads, he asked our DPW Superintendent to come speak on that because he also has grave concerns about the roads, potholes and infrastructure. He gave a report that the Council was happy with and he learned from last year, following some battles with DPW, on when and how they do the paving. They are working hard and coming up with a comprehensive plan to move forward with the pavement. In regard to the Sanctuary City, there was a huge presentation by Community Voices Heard with our New York State Attorney General and hundreds of people at the Armory prior to this vote. They searched and did a lot of vetting before they proudly and unanimously voted to become a Welcoming City which is very different from a Sanctuary City. As Councilwoman Mejia mentioned, they took some serious hits on social media with e-mails and phone calls to the point where it was very abusive and harassing and the people attacking were not even City residents. He welcomes all criticisms, comments and concerns but they should be respectful. In regard to the real estate item, we do want to find a happy medium with this issue that was tabled tonight. They want these properties sold off our rolls so we can get homeowners and increase our community with Newburgh natives as well as people who want to move here to raise their families. This is important with what they are trying to do with the revitalization of the City of Newburgh so we have to make sure our City residents have first priority if at all possible. He reminded everyone that on May 6th there will be an Anti-Violence Seminar and Solutions Event at Mt. St. Mary College from 10:00 a.m. to 1:00 p.m. This is a free event providing free food and beverages and the keynote speaker will be Dr. Robert Gore, an ER Doctor in Brooklyn who has seen a lot of tragedy where he works. He is also part of Doctors Without Borders and he is the Executive Director for a not-for-profit organization called KAVI, Kings Against Violence Initiatives. You can Google him or look him up on You Tube. He is going to bring data and statistics about what happens in the urban setting regarding African-American young men, boys and Latinos along with a list of solutions on how to address these issues. Being African-American or Latino and dying or being incarcerated before

the age of twenty-five is a health care crisis. Anyone interested in attending should RSVP at the 100 Men for Newburgh Website as the room only fits one hundred people. He is excited about things that are coming up.

There being no further comments this portion of the meeting was closed.

ADJOURNMENT

There being no further business to come before the Council the meeting adjourned at 9:22 P.M.

LORENE VITEK
CITY CLERK

RESOLUTION NO.: 102 - 2017

OF

APRIL 24, 2017

**A RESOLUTION APPOINTING ADAM C. POLLICK AND
MARLON M. RAMOS TO FILL VACANCIES ON THE BOARD OF DIRECTORS OF THE
CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY**

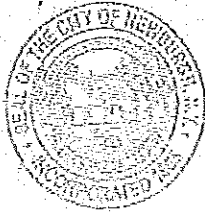
WHEREAS, the City of Newburgh Industrial Development Agency has notified the City Council of two vacancies on its Board of Directors and has recommended two candidates to fill those vacancies; and

WHEREAS, the City Council has determined that appointing two members to the Board of Directors of the City of Newburgh Industrial Development Agency is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individuals be and are hereby appointed as members of the Board of Directors of the City of Newburgh Industrial Development Agency:

Adam C. Pollick
Marlon M. Ramos; and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately.



City of Newburgh
INDUSTRIAL DEVELOPMENT AGENCY

83 Broadway
Newburgh, NY 12550
ida@cityofnewburgh-ny.gov

TBL: (845) 569-7369

March 20, 2017

RECEIVED
3/24/17

Mayor Judy Kennedy
Members of the City Council
City of Newburgh
83 Broadway
Newburgh, NY 12550

RE: City of Newburgh Industrial Development Agency
Board Vacancies

Dear Mayor, Council Members, and City Manager:

Please be advised that there are two vacancies on the Agency's board as former board members Jimmy Mera and Richard Bedrosian have resigned. It should be noted that Mr. Bedrosian has served on the City of Newburgh Industrial Development Agency since 2008 and was instrumental in working for the re-certification of Agency by the Authorities Budget Office. Mr. Mera served a short time; however, his input was valuable and useful.

Consistent with IDA policy, public notification of the vacancies was made in the press and on our website; candidates were invited to submit their resumes and indicate their interest in serving on the Board.

On January 18 and March 6 the Governance Committee interviewed the candidates and discussed their interest in serving on the IDA. Prior to the interviews, the candidates were asked to carefully review the Duties and Responsibilities of Board Members (enclosed) and York State legislation regulating industrial development agencies.

On March 6th, following recommendation of the Governance Committee, the members of the Agency voted to recommend Adam Pollick and Marlon Ramos for Council approval. Their resumes are attached.

Therefore, consistent with General Municipal Law, Article 18A Section 913, the IDA respectfully requests that the City Council review the candidates' resumes and approve their appointment.

Sincerely,


Joshua L. Smith

Chairman

cc: City Manager, Council Members

CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY

Board of Directors Duties and Responsibilities

Purpose:

The purpose of this Statement is to set forth the standards of conduct and responsibilities of the City of Newburgh Industrial Development Agency (the "Agency") Board of Directors in furtherance of efficient operations so as to promote and assist economic development in the City of Newburgh and fulfill the purposes of the Agency as set forth in the General Municipal Law.

Role and Expectations:

It is the responsibility of Board members to execute direct oversight of the Agency's Executive Director and other senior management in the effective and ethical management of the Agency. Board members are expected to understand, review, and monitor the implementation of fundamental financial and management controls and operational decisions of the Agency. In executing their role, Board members shall adhere to the fiduciary duties of care and loyalty which they owe to the Agency.

- a. **Duty of Care.** A Board member must perform his or her duties, including those duties as a member of any committee of the Board upon which he or she may serve, in good faith and with that degree of care which an ordinarily prudent person in a like position would use under similar circumstances.
- b. **Duty of Loyalty.** Board members are bound by their duty of undivided and unqualified loyalty to the Agency, a duty which encompasses good faith efforts to ensure that their personal profit is not at the expense of the Agency.
- c. Adopt policies and procedures as required by the Public Authorities Accountability Act of 2005 and 2009.
- d. Board members may exercise and fulfill these duties by:
 1. Understanding the Agency's role in the economic development community;
 2. Regularly attend and constructively participate in meetings of the Board and related committees;
 3. Reviewing and understanding the materials provided in advance of meetings and any other materials provided to the Board from time to time;
 4. Informing oneself prior to making decisions by utilizing material information reasonably available;
 5. Remaining reasonably accessible to the senior management on specific issues which may not require the attention of the entire Board but where an individual Board member's insights may be helpful;
 6. Review and monitor the implementation of financial and management controls;
 7. Members are required to sign the Fiduciary Duty Acknowledgement.

Board Member Conduct:

- a. Conflicts of Interest. Board members are required to conduct themselves in compliance with the conflict of interest requirements imposed upon members of industrial development agencies under Article 18A of the General Municipal Law and the requirements of the Agency's Code of Ethics.
- b. Personal Loans. Board members must refrain from accepting or approving any personal loan from the Agency.
- c. Decorum. Board members must not engage in conduct or make any public statement likely to prejudice the functions of the Agency or harm, defame, or otherwise bring discredit upon the Agency.
- d. Separation of Board and Management. No Board member may serve as the Agency's Executive Director or hold any other equivalent position while also serving as a Board Member.
- e. A Board Member or Board nominee:
 - is not, and in the past two years has not been, employed by the public authority or an affiliate in an executive capacity;
 - is not, and in the past two years has not been, employed by an entity that received remuneration valued at more than fifteen thousand dollars for goods and services provided to the public authority or received any other form of financial assistance valued at more than fifteen thousand dollars from the public authority;
 - is not a relative of an executive officer or employee in an executive position of the public authority or an affiliate; and is not, and in the past two years has not been, a lobbyist registered under a state or local law and paid by a client to influence the management decisions, contract awards, and rate determinations, or any other similar actions of the public authority or an affiliate.

Board Committees and Composition:

The Board of Directors is required to establish an Audit Committee, a Governance Committee, and a Finance Committee (for authorities that issue debt/bonds). Committee appointments are based on a board member's skills, profession, and/or career experiences. The committee structure suggests that Board appointees have experience or skills related to the tasks of each committee. Article 18A of the NYS General Municipal Law and proposed laws suggests that candidates for the board include representatives from government, law, environment, labor, school districts, and business.

- Governance Committee is to examine ethical and conflict of interest issues, perform board self-evaluations, and recommend changes to by-laws to the full Board.
- Finance Committee is to review proposals for the issuance of debt by the agency and make recommendations to the Board of Directors. It is suggested that the Financial Committee seek a person (membership on the Board is not a requirement) with experience in bond financing.
- Audit Committee is to manage the procurement of the auditors and supervise the audit process and make recommendations to Board of Directors.

Required Filings:

Board members are required by New York Public Authorities Law Section 2825 to file annual financial disclosure statements with the Orange County Board of Ethics. The completed financial disclosure form covering the immediately preceding calendar year must be submitted to the Orange County Board of Ethics on or before May 15 of each year.

Training:

- a. All Board members appointed on or after January 13, 2006 must participate in state-approved training within one year (or sooner) of appointment.
- b. All Board members must participate in continued training as may be required to remain informed of best practices, regulatory and statutory changes relating to the effective oversight of the management and financial activities of public authorities, and to adhere to the highest standards of responsible governance.
- c. All new appointees are required to participate in a staff presentation of the provisions of Article 18A of the NYS General Municipal Law.

Authorities Budget Office

Policy Guidance

No. 10-01 Date Issued: March 1, 2010

Supersedes: New

Subject: Acknowledgement of Fiduciary Duty

Statutory Citation: Public Authorities Law Section 2824(1)(h)

Provisions: Section 6(l) of Public Authorities Law, as amended by Chapter 506 of the Laws of 2009 ("The 2009 Public Authorities Reform Act" or "PARA"), requires the Authorities Budget Office (ABO) to "develop and issue" a written acknowledgement that all board members must execute as part of their duties and responsibilities under Section 2824 of Public Authorities Law. By signing this acknowledgement a board member is stating "that he or she understands his or her role and fiduciary responsibilities" as well as his or her "duty of loyalty and care to the organization and commitment to the authority's mission and the public interest."

Pursuant to PARA, every board member of a Public Authority is required to sign an acknowledgement of fiduciary duty at the time he or she takes the oath of office. The effectiveness of the acknowledgement will be deemed applicable throughout the duration of such board member's term and/or for as long as such director continues to serve in such capacity. Board members appointed to their positions prior to the effectiveness of PARA and the implementation of this new requirement are required to execute an acknowledgement by May 1, 2010.

Authorities Budget Office Policy Guidance: The primary responsibility of a board member is to understand the mission and public purpose of the Authority and to act in the best interests of the Authority, its mission, and the public. The intent of this written acknowledgement is to reaffirm the importance of this duty to board members.

The ABO is directing all state and local public authorities to use the attached acknowledgement form to satisfy this statutory requirement. Public authorities are to maintain signed copies of the acknowledgement throughout the official term of each active board member. State and local authorities will also be expected to certify as part of the Annual Report submission that these statements were executed in accordance with Section 2824 of Public Authorities Law. The failure to execute this acknowledgment will be considered a failure to comply with the requirements of Public Authorities Law. The failure to act in accordance with the principles stated in this acknowledgment can be considered a breach of fiduciary duty and could result in a recommendation that the board member be sanctioned.

A board member is to sign a new acknowledgement document at the start of each new term to which the board member is appointed.

Acknowledgement of Fiduciary Duties and Responsibilities

As a member of the Agency's Board of Directors, I understand that I have a fiduciary obligation to perform my duties and responsibilities to the best of my abilities, in good faith and with proper diligence and care, consistent with the enabling statute, mission, and by-laws of the Agency and the laws of New York State. The requirements set forth in this acknowledgement are based on the provisions of New York State law, including but not limited to the Public Authorities Reform Act of 2009, Public Officers Law, and General Municipal Law. As a member of the board of directors:

I. Mission Statement

I have read and understand the mission of the Agency; and the mission is designed to achieve a public purpose on behalf of the State of New York. I further understand that my fiduciary duty to this Agency is derived from and governed by its mission.

I agree that I have an obligation to become knowledgeable about the mission, purpose, functions, responsibilities, and statutory duties of the Agency and, when I believe it necessary, to make reasonable inquiry of management and others with knowledge and expertise so as to inform my decisions.

II. Deliberation

I understand that my obligation is to act in the best interests of the Agency and the People of the State of New York whom the Agency serves.

I agree that I will exercise independent judgment on all matters before the board.

I understand that any interested party may comment on any matter or proposed resolution that comes before the board of directors consistent with the laws governing procurement policy and practice, be it the general public, an affected party, a party potentially impacted by such matter or an elected or appointed public official. However, I understand that the ultimate decision is mine and will be consistent with the mission of the Agency and my fiduciary duties as a member of the Agency's Board of Directors.

I will participate in training sessions, attend board and committee meetings, and engage fully in the board's and committee's decision-making process.

III. Confidentiality

I agree that I will not divulge confidential discussions and confidential matters that come before the board for consideration or action.

IV. Conflict of Interest

I agree to disclose to the board any conflicts, or the appearance of a conflict, of a personal, financial, ethical, or professional nature that could inhibit me from performing my duties in good faith and with due diligence and care.

I do not have any interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of my duties in the public interest.

Signature: _____

Print Name: _____

Authority Name: City of Newburgh Industrial Development Agency

Date: _____ of _____, 20____

RESOLUTION NO.: 103 - 2017

OF

APRIL 24, 2017

A RESOLUTION AUTHORIZING THE EXECUTION OF
A LICENSE AGREEMENT RENEWAL FOR THE USE OF CLASSROOM SPACE
LOCATED AT 22 GRAND STREET FOR THE PURPOSE OF TRAINING
BY THE MOBILE LIFE SUPPORT SERVICES, INC.

WHEREAS, by Resolution No. 60-2013 of March 25, 2013, the City of Newburgh authorized a license agreement with Mobile Life Support Services ("MLSS") for the use of classroom space located at 22 Grand Street for the training purposes which include various CPR, First Aid and EMS Certification programs; and

WHEREAS, the term of the agreement was for two (2) years commencing on April 1, 2012 and terminating on March 31, 2015 with an annual license fee of \$40,000.00 per year; and

WHEREAS, by Resolution No. 100-2015 of April 27, 2015 the parties renewed the license agreement for an additional two year term commencing on April 1, 2015 and terminating on March 31, 2017; and

WHEREAS, the parties wish to renew the license agreement for an additional one year term commencing on April 1, 2017 and terminating on March 31, 2018; and

WHEREAS, the City Council has examined such license agreement, a copy of which is annexed hereto and made a part of this resolution, and determined it to be in the best interests of the City of Newburgh to enter into such license agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and is hereby authorized to execute and enter into the attached license agreement, in substantially the same form and with other terms as Corporation Counsel may require, on behalf of the City of Newburgh.

LICENSE AGREEMENT

This License Agreement, made this ____ day of _____, two thousand and seventeen, by and between the CITY OF NEWBURGH (hereinafter "City"), a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as owner of certain premises located at 22 Grand Street in the City of Newburgh, New York as "LICENSOR"; and MOBILE LIFE SUPPORT SERVICES, INC. ("hereinafter "Mobile Life"), a business corporation organized and existing under the laws of the State of New York having a mailing address at 3188 Route 9W, New Windsor, New York 12553 as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and using certain classroom space located at 22 Grand Street, Newburgh, New York as described on Schedule A attached hereto for training purposes;

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

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

First: Licensor hereby gives to Licensee and Licensee's officers, employees, and agents, upon the conditions hereinafter stated, the non-exclusive license or privilege of entering upon certain classroom space located at 22 Grand Street, Newburgh, New York, as described on Schedule A hereto attached hereto (the "Classroom Space"), for training purposes on an as-available basis, for a term of one (1) year commencing on April 1, 2017 and terminating on March 31, 2018. Such training shall include but not be limited to CPR, First Aid, and EMS Certification programs for the benefit of both City employees and involved residents (collectively "Training") as follows:

1. MLSS will provide 3 AEDs and wall mounts to be installed by the City in buildings located at 123 Grand Street, 88 Pierces Road and 22 Grand Street and will include Zoll AED Plus with lithium ion batteries, adult and pediatric pads;
2. At the City's election, MLSS will provide CPR training for designated City employees to include 25 AHA text books located at the Newburgh Fire Department with associated costs:
 - a. 25 books at \$15.00 per book
 - b. Pocket masks and cards at \$20.00 per employee
 - c. Instructors at \$40.00 per hour per instructor (3 hour class with 1 instructor per 6 students)

Second: Licensee agrees to undertake the Training in such manner as will fully comply with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: As consideration for this License, Licensee shall pay Licensors a license fee of \$40,000.00 per year, to be paid in quarterly payments of \$10,000.00 each on or before January 1, April 1, July 1, and October 1 of each year of this License Agreement, except that the first payment to be made hereunder shall be made on May 1, 2017. Licensors shall not charge Licensee any additional use or maintenance fees for the Classroom Space.

Fourth: Licensee shall notify the Licensors at least ten (10) days in advance of the date of each Training session that it requires the Classroom Room and the anticipated number of participants in such session. The Licensors shall evaluate the request for use of the Classroom Space and shall within two (2) business days advise Licensee whether it is available on such date. If the Classroom Space is not available on such date, Licensors shall provide Licensee with alternative dates. If none of such alternative dates are acceptable to Licensee, Licensee shall find other space for such Training session at no cost to the Licensors.

Fifth: Licensee shall maintain the Classroom Space in the condition it was found prior to each Training session.

Sixth: Third: In connection with the exercise of the license herein, Licensee agrees to hold Licensors harmless from any loss, cost, damages, lawsuit, damage to person or property, and the cost of litigation (including attorneys fees) caused solely by Licensee or its agents, servants or employees in the use of said licensing. After such access, Licensee to return the properties to substantially the same condition as existed prior to said access. Licensee shall, at its sole expense, keep and maintain a policy of commercial public liability insurance which shall include coverage for Licensee's actions upon the properties during the term of this Agreement. This insurance policy shall name Licensors as an additional insured and afford protection in limits of not less than \$2,000,000.00 for bodily injury or death in any one accident, and not less than \$500,000.00 for property damage. All insurance shall be effected under standard form policies, issued by insurers of recognized responsibility authorized to do business in the State of New York and having a national rating of A-9 or better, provided that, at Licensors's option, such coverage may be effectuated through a blanket policy of insurance so long as the risks in respect of the properties are separately scheduled or identified. Licensee has delivered to Licensors certificates of this insurance coverage and, not less than thirty (30) days prior to the expiration of the coverage, a certificate of the new policy accompanied by evidence reasonably satisfactory to Licensors of payment of premiums therefor. Licensee covenants, and this insurance coverage shall include, an agreement by the insurer that the policy shall not be canceled prior to the termination of this Agreement.

Remainder of this page intentionally left blank

THE CITY OF NEWBURGH
LICENSOR

By: _____
MICHAEL G. CIARAVINO, City Manager
Per Resolution No.

MOBILE LIFE SUPPORT SERVICES, INC.
LICENSEE

By: _____
SCOTT WOEBSE, Vice President COO

Approved as to Form:

KATHRYN MACK
City Comptroller

Approved as to Form:

MICHELLE KELSON
Corporation Counsel

Agreement for the Licensing
Of Classroom Space with the
City of Newburgh

Mobile Life Support Services (MLSS) from time to time requires available classroom space, within the confines of the City of Newburgh, to conduct various CPR, First Aid, and EMS Certification programs for the benefit of both City employees and involved residents. Under this license, MLSS would seek to compensate the City of Newburgh (CITY) for the use of any appropriate classroom space owned and operated by the CITY on an as-available basis, and both parties would agree as follows:

- MLSS would compensate the City of Newburgh in the amount of \$40,000.00 per year for the next two years, commencing April 1, 2011 and concluding March 31, 2013.
- MLSS will pay the licensing fee to the CITY in four (4) equal quarterly payments of \$10,000.00 each, with the first payment due April 1, 2011.
- MLSS will notify the CITY at least ten (10) days in advance of the required date that available classroom space will be required, and the anticipated number of participants that will be attending.
- The CITY will evaluate the request for classroom space, and determine what available classroom space it may have for use on the date(s) in question, and advise MLSS accordingly.
- Should the CITY not have available classroom space on the requested date in question they shall immediately notify MLSS, and efforts will be made to see if an alternative date is acceptable.
- Should MLSS be unable to reschedule the classroom session with the CITY, they will be required to make their own arrangements for suitable classroom space elsewhere with no cost to the CITY.
- MLSS shall maintain any leased classroom space in the condition it was found prior to their use, and will only conduct classroom activities that have been pre-approved by the CITY.
- Under this license, the CITY will not seek any additional use or maintenance fees from MLSS for the use of any classroom authorized by the CITY.

Agreed to

RESOLUTION NO. 100 - 2015

OF

APRIL 27, 2015

A RESOLUTION AUTHORIZING THE EXECUTION OF
A LICENSE AGREEMENT RENEWAL FOR THE USE OF CLASSROOM SPACE
LOCATED AT 22 GRAND STREET FOR THE PURPOSE OF TRAINING
BY THE MOBILE LIFE SUPPORT SERVICES, INC.

WHEREAS, by Resolution No. 60-2013 of March 25, 2013, the City of Newburgh authorized a license agreement with Mobile Life Support Services ("MLSS") for the use of classroom space located at 22 Grand Street for the training purposes which include various CPR, First Aid and EMS Certification programs; and

WHEREAS, the term of the agreement was for two (2) years commencing on April 1, 2012 and terminating on March 31, 2015 with an annual license fee of \$40,000.00 per year; and

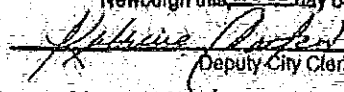
WHEREAS, the parties wish to renew the license agreement for an additional two year term commencing on April 1, 2015 and terminating on March 31, 2017; and

WHEREAS, the City Council has examined such license agreement, a copy of which is annexed hereto and made a part of this resolution, and determined it to be in the best interests of the City of Newburgh to enter into such license agreement.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and is hereby authorized to execute and enter into the attached license agreement, in substantially the same form and with other terms as Corporation Counsel may require, on behalf of the City of Newburgh.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held APR. 27, 2015 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 28th day of APR. 2015


Deputy City Clerk

RESOLUTION NO.: 104 - 2017

OF

APRIL 24, 2017

**A RESOLUTION DESIGNATING MOBILE LIFE SUPPORT SERVICES, INC.
AS THE DESIGNATED PROVIDER OF EMERGENCY MEDICAL SERVICES
FOR THE CITY OF NEWBURGH IN ACCORDANCE WITH THE TERMS OF
AN AGREEMENT BETWEEN THE PARTIES AND AUTHORIZING THE
CITY MANAGER TO EXECUTE A RENEWAL OF SAID AGREEMENT**

WHEREAS, by Resolution No. 73 - 2006 of April 10, 2006 the City of Newburgh entered into a contract with Mobile Life Support Services, Inc. ("MLSS") to provide Emergency Medical Services ("EMS") in and for the City of Newburgh; and

WHEREAS, by Resolution No. 68-2011 of March 28, 2011, the City of Newburgh renewed the contract with MLSS for an additional 2 year agreement; and

WHEREAS, by Resolution No. 59-2013 of March 25, 2013, the City of Newburgh renewed the contract with MLSS for an additional 2 year agreement; and

WHEREAS, by Resolution No. 99-2015 of April 27, 2015, the City of Newburgh renewed the contract with MLSS for an additional 2 year agreement; and

WHEREAS, the parties wish to designate MLSS as the provider of EMS for the City of Newburgh and renew the terms of said agreement for a one year term on condition that MLSS will continuously provide its resources sufficient to meet the EMS needs of the City of Newburgh and its citizens; and

WHEREAS, the City of Newburgh shall not be liable for any costs or expenses to MLSS in this regard; and

WHEREAS, a copy of such agreement is annexed hereto and made a part of this resolution; and

WHEREAS, the City Council has examined such agreement and determined it to be in the best interests of the City of Newburgh to enter into such agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute and enter into an agreement with Mobile Life Support Services, Inc. in the form attached hereto.

AGREEMENT FOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2017, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the "**CITY**," with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **MOBILE LIFE SUPPORT SERVICES, INC. ("MLSS")**, a firm with principal offices at 3188 Route 9W, New Windsor, New York 12553, hereinafter referred to as "**VENDOR**."

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the **SERVICES** identified in Schedule A, (the "**SERVICES**") which is attached to, and is part of this Agreement. **VENDOR** agrees to perform the **SERVICES** and/or supply the goods in accordance with the terms and conditions of this Agreement.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by **VENDOR** to **CITY** under the terms of this Agreement shall become the property of the **CITY**, unless otherwise provided for by the parties. As such, **CITY**, in its sole discretion, shall have the right to use, copy, disseminate and otherwise employ or dispose of such material in any manner as it may decide with no duty of compensation or liability therefore to **VENDOR** or to third parties. **VENDOR** shall have the affirmative obligation to notify **CITY** in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the **CITY**'s rights regarding same. **VENDOR** agrees to defend, indemnify and hold harmless the **CITY** for failing to notify **CITY** of same.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the **SERVICES** beginning April 1, 2017, and ending March 31, 2018.

ARTICLE 3. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 4. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any

interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

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

ARTICLE 5. INDEPENDENT CONTRACTOR

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

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

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

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

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

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

This agreement may be assigned by the CITY to any corporation, agency,

municipality or instrumentality having authority to accept such assignment.

ARTICLE 7. BOOKS AND RECORDS

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

ARTICLE 8. RETENTION OF RECORDS

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

ARTICLE 9. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable

under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

<u>Type of Coverage</u>	<u>Limit of Coverage</u>
Worker's Compensation	Statutory
Employer's liability or similar insurance	\$1,000,000 each occurrence
Automobile liability	\$1,000,000 aggregate
Bodily Injury	\$1,000,000 each occurrence
Property Damage	\$1,000,000 each occurrence
Comprehensive General Liability, including aggregate	\$1,000,000
Broad form contractual Liability, bodily injury and property damage	\$2,000,000 each occurrence
Professional liability (If commercially available for your profession)	\$1,000,000 aggregate \$2,000,000 each claim

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

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

To the extent it is commercially available, each policy of insurance shall be provided

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

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

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

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

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

ARTICLE 10. INDEMNIFICATION

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

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment,

representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 11. PROTECTION OF CITY PROPERTY

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

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

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

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

ARTICLE 12. CONFIDENTIAL INFORMATION

In the course of providing the SERVICES and/or goods hereunder, VENDOR may acquire knowledge or come into possession

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

ARTICLE 13. TERMINATION

The CITY may, by written notice to VENDOR effective six (6) months upon mailing and failure of VENDOR to cure within such six (6) month period, terminate this Agreement in whole upon the material default of VENDOR to comply with any of the terms or conditions of this agreement, or (ii) upon the VENDOR becoming insolvent or bankrupt.

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

ARTICLE 14. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the City Manager of the CITY, but must instead only be heard in the Supreme Court of the State of New York, with venue in Orange County.

ARTICLE 15. GOVERNING LAW

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

ARTICLE 16. ENTIRE AGREEMENT

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

ARTICLE 17. MODIFICATION

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

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

THE CITY OF NEWBURGH

MOBILE LIFE SUPPORT SERVICES,
INC.

BY: _____
MICHAEL G. CIARAVINO,
CITY MANAGER
Per Resolution No.

BY: _____
SCOTT WOEBSE
VICE PRESIDENT & COO

DATE: _____

DATE: _____

Approved as to Form:

KATHRYN MACK
City Comptroller

Approved as to Form:

MICHELLE KELSON
Corporation Counsel

SCHEDULE A
SCOPE OF SERVICES

PROPOSAL TO PROVIDE
**EMERGENCY MEDICAL
SERVICES,
RESPONSE AND TRANSPORT
FOR THE
CITY OF NEWBURGH**



SUBMITTED BY
**MOBILE LIFE SUPPORT
SERVICES, INC.**

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March 24, 2011

Mayor Nicholas Valentine, and
Members of the City Council
City Hall
83 Broadway
Newburgh, New York 12550

Dear Mayor Valentine and City Council Members:

This year Mobile Life Support Services will celebrate its 30th year of service to the City of Newburgh and communities throughout the Hudson Valley. Mobile Life Support Services was born on Dubois Street, and has continued to reinvest in itself and continued to grow, and has become a nationally recognized EMS agency of excellence. As a women-owned business, City of Newburgh property owner and taxpayer, I am extremely proud to be one of the City's success stories. I am also pleased that throughout the thirty years *we have never charged the City for the EMS coverage we provide, and we have no intention of doing so in the future.*

As our current contract expires on April 1, 2011, I would like to submit the attached EMS proposal for your consideration. This proposal is based upon a two (2) year agreement. I believe it will address any questions or concerns regarding our current and future performance as well as including some future initiatives including:

- A 911 Response Time *better* than the recognized national standard. If Mobile Life fails to achieve this standard, A penalty clause will be implemented.
- Creation of an Emergency Services Task Force
- Providing CPR training and defibrillators to the City in a Healthy Newburgh Program.
- Recruitment, training, and employment of eligible City residents for EMS careers.
- Becoming the lead sponsor for the annual Newburgh Night Out Against Crime.
- Detailed descriptions of the other ancillary services that we make available to the City.

I sincerely hope you will consider this proposal and grant us the opportunity to continue to serve the community where Mobile Life Support Services started three

decades ago. It might also be both helpful and educational for you to see first-hand the technology and people that are working behind the scenes to make sure that you have highly trained EMS professionals respond in a timely manner when and where you need them. I invite you to tour our facility at your convenience. Thank you.

In service,

Gayle Metzger RN, BA
President and CEO
Mobile Life Support Services, Inc.

Proposal to Provide

Emergency Medical Services
(EMS)

For the

City of Newburgh

Proposal to Provide
Emergency Medical Services (EMS)
For the City of Newburgh

Under this two (2) year proposal, Mobile Life Support Services (MLSS) would offer the City of Newburgh the following services that would provide a state-of-the-art, comprehensive Emergency Medical Service (EMS) Plan of coverage to the City and its residents *at no cost to the City*.

Emergency 911 EMS Coverage

MLSS will provide a minimum of two (2) fully equipped and staffed Paramedic Ambulances dedicated to covering all 911 EMS calls originating in the City of Newburgh twenty-four (24) hours a day. In addition, when emergency call volume arises that exceeds the ability of these units to respond without delay to a 911 call, additional on-duty Paramedic ambulances located in the City will be utilized to either respond to the scene or to standby to await additional calls.

Stand-by Coverage

MLSS will provide additional staffed Paramedic Units to be utilized on approved stand-by assignments within the City, and will not utilize the dedicated units for these assignments. In addition, MLSS will provide the resources of our *Special Operations Response Teams (SORT)* and *Tactical Emergency Medical Services (TEMS)* teams for deployment in the City without cost. Additional information on these units is covered later in this proposal. Standby Coverage might be for a single incident such as a working structure fire, or for City sponsored multi-day events at the waterfront, public safety emergency incidents, and events sponsored by local non-profit agencies. While MLSS will provide no-cost coverage to local community agencies for appropriate events they host that require EMS to be present, private for-profit concerns requiring such coverage will be billed for the cost of the required EMS coverage.

Response Time Criteria

MLSS does not delineate response time criteria on 911 EMS Emergency calls based upon the designations of ALS or BLS. Emergency (Code 3) responses all are held to the same response time criteria. MLSS does recognize the national guidelines of "ALPHA" response calls, which are non-life threats which do not require an emergency response, but do require medical evaluation and possible non-emergency ambulance transportation. This is done to minimize the risk to both EMS responders and the general public caused by an unnecessary emergency response. With this clarification to the RFP criteria, we propose the following:

- Response time: MLSS will adhere to a response time criteria of seven (7) minutes (defined as 0:07:59) in at least 90% of all emergency responses (excluding "ALPHA" responses). Said response time is from the assignment of the 911 call to MLSS until the arrival of a MLSS unit on the scene of the emergency call. This exceeds the nationally accepted response time criteria of eight (8) minutes (0:08:59)

- **Penalty:** MLSS agrees to compensate the City of Newburgh in the amount of \$1,000.00 per percentage point below the monthly 90% response time performance criteria of seven (7) minutes. For example: If the monthly response time performance averages only 88% of the 911 EMS calls, minus "ALPHA" responses, MLSS would pay the City a penalty of \$2,000.00 for that month.
- **Exceptions to response time and penalty commitments:** While MLSS has every intention to meet the criteria identified above, we will do so without putting either the MLSS staff or the citizens of the City of Newburgh at risk due to inappropriate emergency responses during weather conditions and situations beyond our control. This can include environmental issues such heavy rain, snow, ice, fog, or flooding conditions, or due to road closings or similar conditions affecting route of travel. Exceptions to the response time criteria will also apply to when the two (2) dedicated ambulances are already on 911 EMS calls in the City and additional units from our fleet will be reassigned to cover additional calls. Should the aforementioned conditions have a negative effect on the response time criteria or penalties, MLSS shall advise the City of the situation and petition for an appropriate exemption.
- **Response Time reporting and tracking:** While MLSS will submit a response time performance report each month for the determination of adherence to the response time criteria and for the assessment of penalties (if appropriate), the City may request the live-time documentation of any selected 911 responses in question. All MLSS ambulances are equipped with Automatic Vehicle Locators (AVL) and their movements are tracked live-time while being digitally recorded for archiving. In addition, communication between the Emergency Dispatch Center and the ambulances is also digitally recorded and archived.

Certifications:

MLSS is a certified Ambulance service under the New York State Department of Health's Bureau of Emergency Medical Services, and is credentialed by the Hudson Valley Regional Emergency Medical Services Council (HVREMSCO) as an Advanced Life Support Paramedic Service. All MLSS EMS Staff are certified by NYS at either the Emergency Medical Technician (EMT) or Emergency Medical Technician-Paramedic (EMT-P) level of care.

MLSS is also *Nationally Accredited by the Commission on the Accreditation of Ambulance Services (CAAS)*, and is the only privately owned service to qualify for this highest level of distinction in New York State. Additional information about CAAS is provided in this proposal.

2010 EMS CALL MAPPING

CITY OF NEWBURGH

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Proposal Pricing

Proposal Pricing:

Mobile Life Support Services would provide the dedicated E-911 Emergency Medical Services (EMS) for the City of Newburgh with no municipal fee or subsidy for the life of the agreement. The City of Newburgh would not be financially responsible for any uncollected patient invoices or bad debt, and will have no fiduciary responsibility in the housing or operation of the EMS services provided by Mobile Life Support Services.

That Mobile Life Support Services will provide documentation of system performance on a monthly basis and will provide administrative support to representatives of the City of Newburgh to continuously improve the services provided to the citizens of the City, and the preparedness of the City to handle all emergencies it may face.

This proposal also includes the continuation of our existing understanding that the transportation and treatment of anyone in the custody of the Newburgh Police Department and the transportation and treatment of any City officers and employees while at work shall be transported to the hospital at no expense to the City of Newburgh. MLSS reserves the right to bill the patient or their insurer as the financially responsible party for services rendered.

Penalties:

Mobile Life Support Services will pay the City of Newburgh a penalty in the amount of \$1,000.00 per percentage point per month that we fail to provide the nationally recognized response time performance of seven (7) minutes (0:07:59) in 90% of all 911 EMS emergency calls (excluding non-emergent "ALPHA" responses), as identified previously in this Proposal.

City of Newburgh Initiatives

City of Newburgh Initiatives

Mobile Life Support Services, as part of our continuing effort to support our local communities, would like to propose three specific initiatives crafted specifically for the City of Newburgh. These initiatives target the safety and health of those who live, work, and visit the City, and a few of the initiatives can also reduce expenditures the City now funds. All of these initiatives would require coordination between representatives of the City and MLSS, as follows:

Initiative: City of Newburgh Emergency Services Task Force

Under this initiative MLSS would propose that we work with the City leaders and the heads of the various City Emergency services to establish a Task Force that would meet at least monthly to discuss and plan for the effective delivery of all emergency services throughout the City. While MLSS through our SORT and TEMS teams provides emergency support services to the City Police and Fire Departments, a more comprehensive pre-plan for how emergency incidents are handled in the City would benefit all departments and the City collectively. This would aid in planning for large events to be held in the City; emergency conditions secondary to severe weather conditions, incidents of large public gatherings, or similar incidents and conditions.

Initiative: A Heart Healthy Newburgh

Under this initiative we would utilize a grant provided by Mobile Life Support Educational Resources (MLSER), Inc., a not-for-profit 501-C3 foundation started by MLSS for community education endeavors. The grant would be used to improve survivability of cardiac arrest victims in the City of Newburgh, and would include:

- The training of any/all City employees, designated by the City, in the current standards and techniques of performing Cardiopulmonary Resuscitation (CPR), and the use of an automated electronic defibrillator (AED) to defibrillate cardiac arrest victims.
- Outfitting of all trained personnel with individual pocket face-masks for use during CPR, which would protect them from any possible infection.
- The purchase and deployment of AED's into City owned and operated buildings and properties, subject to discussions with the City and the formation of a Healthy Newburgh Action Plan. This will be limited to one (1) AED per contract year.
- Recertification training of all CPR-AED Certified personnel every two years.
- MLSS would coordinate with St. Luke's Cornwall Hospital, the Greater Newburgh Health Center, and the American Heart Association for public education and awareness of Heart Disease and stroke related issues, and the need for good preventive health.

Initiative: Recruitment and Training of Eligible City Residents for Careers in EMS

Under this initiative MLSS would work with representatives of the City, Community Agencies, and Faith-Based Organizations, to identify qualified City residents as candidates to receive free EMS career training and eventual employment as a NYS certified Emergency Medical Technician (BMT). The elements of this specific initiative include:

- Identifying the various stakeholder organizations to participate in a committee for the purpose of the recruitment of qualified candidates.
- Interviewing and evaluating qualified City residents applying for the training opportunity.
- Enrollment of up to five (5) eligible candidates into the certified EMT programs conducted locally each semester by MLSS. This would include additional mentoring of identified students to help them to successfully meet all NYS requirements.
- Providing that the eligible candidates meet the criteria established, they will be hired as an intern at MLSS and receive compensation while they secure EMS experience assigned to a MLSS Ambulance team pending the completion of their NYS Certification process.
- Upon receiving their NYS EMT Certification, and providing all other MLSS employment qualifications are met, the candidate will be offered a full-time EMT position with MLSS. The successful candidate will be compensated as a NYS Certified EMT and receive a paid benefit package, including family health insurance, from MLSS.

Initiative: Lead Sponsor for the Newburgh National Night Out Against Crime

While MLSS has supported the National Night Out Against Crime throughout our service area, we were struck by the plight that the planners faced in 2010. It appeared that the event may have had to be scaled down or possibly cancelled when they were faced with a dramatic reduction in donations used to fund the event. While MLSS stepped in as the lead sponsor on an emergent basis in 2010, we are proposing that, in addition to the other charitable organizations we support in the Newburgh Community, that we will dedicate the funds necessary to be the lead sponsor for the event for the duration of our partnership with the City as their EMS provider. MLSS will coordinate with the planners of the event to establish the required amount to budget for funding each year. We recognized a similar problem a number of years ago, seeing the funding difficulties faced by the Greater Newburgh YMCA and their Camp Robbins. It led us to become a corporate supporter for the YMCA, and today we remain a leading corporate sponsor for the Greater Newburgh YMCA. We view these as investments in the youth of Newburgh.

ADDITIONAL INFORMATION

Company Information

- Corporate Profile; Administrative Staff; Table of Organization
- National Accreditation by the Commission on Accreditation of Ambulance Services (CAAS)
- Mobile Life Support Services Emergency Communication Center
- Special Operations Response Team (SORT)
- Tactical Emergency Medical Services (TEMS) Team
- NYSP Lifeguard Air Rescue
- Mobile Life Support Services Educational Services
- Continuous Quality Improvement (CQI) Program
- References



MobileLife Support Services, Inc.



Corporate Profile

The following information sheet will help to familiarize you with Mobile Life Support Services, Inc., and provide you with relevant information about the scope of the services provided.

Legal Corporate Name: Mobile Life Support Services, Inc.

Corporate Headquarters: 3188 Route 9W
New Windsor, New York 12553

Contact Information: Telephone: (845) 562-4368
Fax: (845) 562-4055
E-Mail: Mail@Mobilelife.com
Website: www.Mobilelife.com

Type of Business: Commercial Paramedic Ambulance Service

Certified by: New York State Department of Health Bureau of EMS

National Accreditation: The Commission on Accreditation of Ambulance Services (CAAS)

Owner: Gayle Metzger RN, President and CEO

Founded: 1981 By Gayle and Rick (deceased) Metzger in Newburgh, N.Y..

Area of Operation: Orange, Ulster, Dutchess, and Rockland Counties

Current Employment: 374 Full and Part Time Staff

Emergency Vehicles: 60

Emergency Stations: 21 (See attached map)

Services Provided: Comprehensive EMS Operations and Training

- ☐ 911 Emergency Paramedic Ambulance (47 Ambulances)
- ☐ Paramedic First Response Services (5 Response Units)
- ☐ Emergency and Non-Emergency Ambulance Transportation (Hospitals & Nursing Facilities)
- ☐ Special Operations Response Team (SORT) (3 Units)
- ☐ Tactical Emergency Medical Services (TBMS) Team
- ☐ HAZMAT Response with Orange and Ulster County
- ☐ Helicopter Medevac with NYSP Aviation (*LIFEGUARD-17*)
- ☐ Emergency Communications Center (Secondary 911 PSAP)
- ☐ Leased staffing of Volunteer Ambulance Services

- ☐ Special Event EMS Planning and Operations
- ☐ Disaster Planning and Training Programs
- ☐ Emergency Medical Services Training Division
- ☐ Community CPR and First Aid Training
- ☐ Medical Billing Services

Communities Served:

Provides Primary 911 Services to the following communities:

- ☐ City of Newburgh
- ☐ City of Middletown
- ☐ City of Kingston
- ☐ Village of Fishkill
- ☐ Village of Wappingers Falls
- ☐ Town of Newburgh (New Hamburg Ambulance District)
- ☐ Town of Fishkill (Ambulance District No. 1)
- ☐ Town of Lloyd
- ☐ Town of Marlborough
- ☐ Town of Ulster
- ☐ Town of Wawayanda
- ☐ Town of Rosendale
- ☐ Town of Otisville/Mt. Hope

Provide Paramedic and Mutual Aid Services to the following communities:

- ☐ Town of Newburgh
- ☐ Town of Cornwall
- ☐ Town of Highlands
- ☐ Town of Montgomery
- ☐ Town of Crawford
- ☐ Town of Wallkill
- ☐ Town of Goshen
- ☐ Town of Hamptonburgh
- ☐ Town of Chester
- ☐ Village of Florida
- ☐ Town of Monroe
- ☐ Town of Woodbury
- ☐ Town of Fishkill
- ☐ Town of East Fishkill
- ☐ Town of Marlborough
- ☐ Town of New Paltz
- ☐ Town of New Windsor
- ☐ Town of Plattekill
- ☐ Town of Rochester
- ☐ Hamlet of Wallkill
- ☐ Town of Shawangunk

Yearly Call Volume:

Over 70,000 calls per year

Mobile Life Support Services Administrative Team

The following is a brief list of the MLSS Administrators. An addendum has been included which includes a more expansive bio on each Administrator that we use in our Staff Orientation Program, as well as our current Organizational Chart.

Gayle Metzger	President and Chief Executive Officer
Scott Woebse	Vice-President and Chief Operating Officer
Edward Horton	Vice President of Staff Development
Timothy Scannell	Chief Financial Officer
Andrew La Marca	Director of Business Development
Kevin Hayes	Director of Logistics
Richard Miller	Director of Operations
William Jeffries	Director of Staff Development

Note: These eight Administrators have a total of 163 years of experience with Mobile Life Support Services, and collectively over 200 years in the EMS Industry.



Kevin Hayes

Kevin started his emergency services career with the Coldenham Fire Department which sponsored him in his original EMT course. He was trained at Horton Hospital under the instruction of Andy LaMarca. He joined Mobile Life in July 1987 as an EMT and in 1988 graduated from the Dutchess Community College Paramedic Program. He also worked as a Respiratory Therapist at St. Luke's Hospital. Kevin progressed through the ranks of Mobile Life serving as a Dispatcher, Paramedic, Senior Paramedic and Paramedic Supervisor. In 1993 Kevin was promoted to Assistant Director of Field Operations and then to Director of Field Operations in 2000. Since 2002 Kevin has been functioning as the Director of Logistics, overseeing the information technology, equipment, vehicles and the company's infrastructure. Kevin resides in Montgomery and is the proud father of 2 daughters. Kevin can be reached at 845-562-4368 ext. 208 or khayes@mobilelifed.com

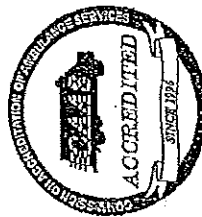


Richard Miller

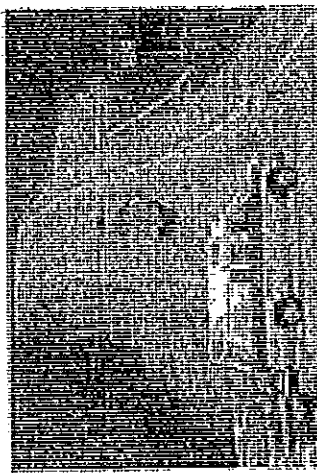
Rich first joined the Mobile Life team in 1988 as an EMT. Having inherited a penchant for clinical excellence from his father (who has been a Paramedic since 1965) Rich spent many years as a clinician, educator and manager of emergency medical systems. Currently, Rich is the Director of Field Operations for MLSS. As such he is responsible for day to day management and coordination of the MLSS system. Before being promoted to Director of Field Operations he previously served as a Paramedic Field supervisor and Assistant Director of Operations for MLSS. He is the proud father two young children and resides in Montgomery. Rich can be reached at 845-562-4368 ext. 246 or rmiller@mobilelifed.com



Mobile Life Support Services, Inc.
Corporate Headquarters
3188 Route 9W
New Windsor, NY 12553



Mobile Life Support Services



Gayle MacIntyre

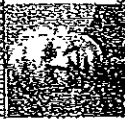
Chief Executive Officer
Scott Woehse
VP /Chief of Operations
Edward Horton
VP of Staff Development
Timothy Scannell
Chief Financial Officer
Andrew LaMarca
Director of Business Development
Kevin Hayes
Director of Logistics
Richard Miller

Tel: 845-562-4368



Gayle Metzger

Gayle Metzger first became an EMT in 1976 with the New Paltz Rescue Squad. She loved the field of EMS and began working for a private ambulance company as well. In 1980 she married Rick Metzger and took a Level III Critical Care Technician class. In 1981 she and Rick incorporated Mobile Life Support. Gayle established the billing department, did most of the creative work (including design of the MLSS patch and Paramedic patch) dispatched, and was the "first crew out" most days and almost every night of the week. Gayle holds an AA degree in Social Science from Ulster Community College, a BS in Psychology from SUNY New Paltz and an RN from Dutchess Community College. She is the author of "Kid-Care, What to do until the Ambulance Arrives" for parents and babysitters, and in 1987 she authored and coordinated a program for Paramedics titled "Mobile Intensive Care Paramedic" which taught Paramedics many Critical Care Nursing skills. The program, in a modified form, is still being taught today. In 1989, upon Rick's sudden death, she took over as President and CEO of Mobile Life Support Services, Inc. She lives in Montgomery with her dad and 2 bloodhounds, Jonah and Dixie. She can be reached at 862-4368 ext. 203 or GMetzger@mobilelifesupport.com or on www.mylss.com/mobilelifesupport.com



Scott Woebse

Scott is the Vice President/Chief Operations Officer and a member of the Board of Directors of Mobile Life. As Gayle's "right hand" he oversees all operational aspects of Mobile Life. He first joined the Mobile Life team in 1985 as a Paramedic. Before assuming his current post of Chief of Operations, he previously served as a Supervisor, Director of All-Medical Services, and Director of Human Resources for MLSS. Scott pioneered Advanced Life Support in the New Paltz area of Ulster County and has a long and distinguished history of leadership in EMS throughout the Hudson Valley. He spearheaded the first EMS Flight and Air Rescue Program with the New York State Police in 1984 and continues to provide operational oversight to the Lifeguard Air Rescue program in the Hudson Valley. An expert in system status management, Scott has been instrumental in billing advanced procedures, system status and resource allocation to the forefront of EMS in the Hudson Valley. Scott resides in New Paltz with his wife and two teenage children. Scott can be reached 845-562-4368 ext. 206 or woebse@mobilelifes.com.



Edward Horton

Ed Horton is the Vice President in charge of Staff Development for Mobile Life Support Services, Inc. In this capacity, he is a member of the MLSS Board of Directors and is administratively responsible for the areas of Human Resources, Quality Improvement and EMS Education. He is also the designated Controlled Substances Agent. Prior to joining the MLSS management team in 1987, he held various administrative and clinical positions in the public, hospital-based, not-for-profit and private sectors of EMS. Ed is a NYS EMS CIC and Regional Faculty member. He is a certified instructor of ACLS, PALS, PHTLS and AMLS. He is actively involved with the Hudson Valley Regional EMS Council and has held various officer positions with that organization since 1980. He is the 1987 recipient of the New York State EMS Council's EMS Leadership Award. He holds a NYSDOH certificate as an EMT-Paramedic and has a Bachelor of Science degree in Nursing and is licensed as a Registered Professional Nurse in the State of New York. He has been involved in EMS since 1974. Ed can be reached at 845-562-4368 ext. 242 or ehorton@mobilelifes.com.



Timothy Scannell

Born and raised in the Hudson Valley, Tim started his EMS career as a member of the Philipstown VAC in 1986. He joined Mobile Life as an EMT in 1983 after graduating from Northeastern University and working two years at Bankers Trust Co. in New York. He has held various positions at MLSS including Paramedic, Flight Paramedic, Field Supervisor, and Comptroller. He has been Chief Financial Officer since 2006. He is responsible for all financial aspects of Mobile Life Support. Specifically, he serves as Trustee for the 401k plan, is responsible for the billing office, participates in contract design and negotiation, and manages Mobile Life's insurance policies and banking relationships. Tim resides in the Hamlet of Walikill with his wife Jennifer and daughters Samantha and Sydney. Tim can be reached at 845-562-4368 ext. 222 or tscannell@mobilelifes.com.



William Jeffries

William began his EMS career as a junior volunteer at the age of 16. While attending college at SUNY New Paltz, he worked nights as an EMT for MLSS to pay for tuition. He completed Paramedic training at Dutchess College where he now holds an Adjunct Faculty position. Will "grew up" in the Mobile Life system serving in the positions of EMT, Paramedic, Flight Paramedic, and Field Supervisor from 1995-2002. Will spent two years serving as the Regional Training Coordinator for the Hudson Valley. He has also previously held management positions



Andy LaMarca

Andy LaMarca started his career in EMS by helping to form a volunteer ambulance service in Staten Island in 1972 even before he became an EMT. He was trained as an EMT, EMT instructor, and subsequently as Paramedic at Brooklyn Downtown Hospital in their first Paramedic Course, before becoming the EMS Director there in 1977. In 1979 he became the Pre-Hospital Emergency Care Coordinator to run both the Ambulance Service and all EMS Programs at Horton Hospital. In 1981, MLSS agreed to assimilate the Horton Ambulance into its operations and opened its Middletown Station. Andy became the Director of Development and a Paramedic Supervisor at MLSS. Andy is a NYS Regional Faculty Member for the Department of Health, and a longstanding BOJSA/ACSPALS instructor, faculty member, and volunteer for the AHA. He is a Delegate from the Orange County EMS Council, the Hudson Valley Regional EMS Council, and is the HVREMSCO Delegate at the New York State Emergency Medical Services Council (SEMSCO), where he is the Chair and serves on a number of Committees and Technical Advisory Groups (TAGs). Andy is the current Chairman of the United New York Ambulance Network (UNYAN) which represents the commercial ambulance services in NYS. Andy lives in Greenville (Orange County), has been married to his wife Nancy for 32 years, and has two grown children. Andy can be reached at 845-562-4368 ext. 205 or alamarca@mobilelifes.com

In Quality Assurance, Operations, and Training in NYC. In the fall of 2006, Will returned to his roots at MLSS and became the newest and youngest member of the administrative team. As Director of Staff Development, Will assists the two Vice Presidents in numerous projects, specifically he's responsible for hiring, personnel management, quality improvement, benefits coordination, policy development and orientation of new staff. William can be reached at 845-562-4368 ext. 224 or wjdiffies@mobilelifes.com.

1225



National Accreditation

In 1995 the Administration of Mobile Life Support Services decided to voluntarily undergo the outside evaluation of the Commission on Accreditation of Ambulance Services (CAAS). Universally recognized in the EMS industry, CAAS Accreditation epitomizes the "Gold Standard" in the delivery of EMS in the United States and Canada. In order to be considered for National Accreditation, each service must ensure that they document and submit all of their internal policies and procedures that cover for example: ...

- Corporate Organization
- State Certifications
- EMS Operations
- Quality Improvement
- Education and staff development
- Communication Center Operations
- Response Time Performance
- Community Involvement

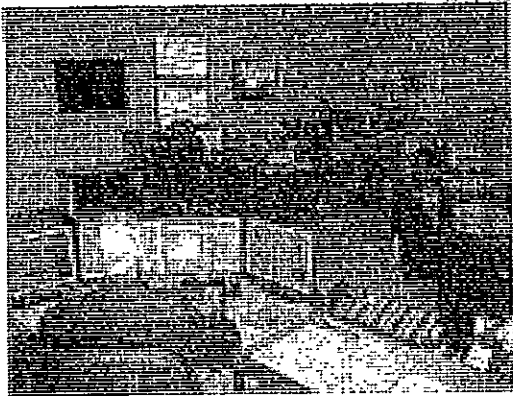


Once this application reaches the CAAS reviewers, they thoroughly analyze each aspect of the applicant's response, and if acceptable they will schedule a three (3) day on-site audit with a team of independent CAAS reviewers. The typical CAAS audit team is comprised of a Medical Doctor specializing in Emergency Medicine, an EMS Administrator, and a third reviewer with a background in finance and accounting. During their on-site audit the reviewers dictate what they wish to review and who they wish to speak with. Typically they will select EMS staff at random to ensure they are cognizant of the company's policies and procedures, and will meet with the company's Medical Director to verify his/her involvement and oversight. They also interview local hospital representatives, other emergency service agencies, and municipal representatives to evaluate the applicant's overall performance. The review team is not allowed to provide any indication to the applicant of the overall results of the audit, but instead present their findings to the CAAS Board of Commissioners for review. Periodically throughout the year the Board reviews these findings and renders a decision on whether to Accredite the agency or not.

In 1996 we received notice that we were granted National Accreditation, which at that time was only granted to less than 100 EMS agencies. Every three years we must re-apply and undergo the same process. We are proud to say that we have maintained the "Gold Standards" of CAAS ever since we received it, scoring a perfect score without any deficiencies in our last review. There are still only 120 EMS Agencies CAAS accredited.

Our staff is proud to wear the CAAS logo on our uniforms and to display the Accreditation seal on our vehicles. More importantly, those we serve have the assurance of knowing that they are being cared for by some of the best EMS professionals throughout the United States and Canada, and by a company that strives for excellence.

Emergency Communications Center (ECC)



Mission

The MLSS Emergency Communication Center (ECC) is responsible for the coordination and dispatching of all MLSS ambulances and emergency response teams to both Emergency 911 EMS calls and to non-emergency requests for service. The ECC is a secondary Public Service Answering Point (PSAP) for the Orange County 911 Communication Center, and is linked via telephone and radio to both the Ulster and Dutchess County Emergency Communication Center.

Equipment

The MLSS ECC is configurable to support up to seven (7) dispatchers at their own individual dispatch desks. They use a Computer Aided Dispatch (CAD) system that tracks critical dispatch information, data, and response times. Each station is equipped to operate on multiple VHF and UHF radio frequencies and landlines. The ECC is equipped with both battery back-up and an automatic emergency generator capable of supplying uninterrupted power and with a bank of cellular telephones that can be immediately utilized should the landline telephones experience service interruptions. The ECC transmits dispatch information to the responding crew via radio, while simultaneously transmitting the call information to the responding crew's portable computer, which is used to generate the electronic patient care record. Each ambulance is equipped with its own internet WiFi that enables this data transmission between the ECC and ambulance, and also enables the ambulance to transmit medical information and patient EKG data to the receiving hospital.

The ECC is equipped with a digital recording system that records all telephone and radio traffic that passes through the dispatch center, and archives it for future retrieval if necessary. The ECC is also able to track all on-duty units by means of their automatic vehicle locator (AVL) system, which provides the live-time tracking and status of every MLSS emergency vehicle in operation, and project them on each Dispatchers computer monitor as well as on a large map in the ECC. This uses satellite global positioning system technology and updates itself every six (6) seconds.

The ECC also utilizes the nationally approved Priority Medical Dispatching System to provide pre-arrival emergency medical instructions to a 911 caller in order to assist patients until the arrival of the ambulance.

Special Operations Response Team (S.O.R.T.)



Mission

To provide specialized emergency medical support for the following types of incidents:

- Multiple Casualty Incidents (MCI)
- HAZMAT Responses
- Fire ground Firefighter Rehab
- Mass Gathering Events (Planned/Unplanned)
- Medical Facility Evacuations

Equipment

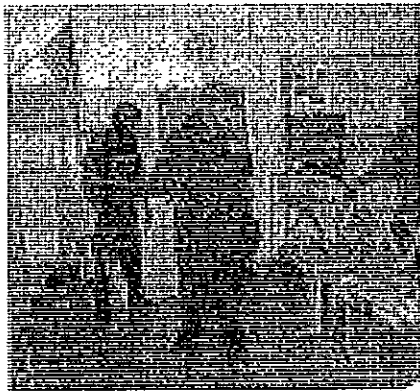
MLSS operates three (3) SORT vehicles, currently deployed for response in the Cities of Newburgh, Middletown, and Kingston. Should MLSS be designated as the EMS responder for the City, a SORT unit will be stationed in the City of Newburgh. Each SORT vehicle is equipped with:

- Bulk medical and trauma supplies
- Portable stretchers and backboards
- Portable chairs
- Portable tents
- Fluid/electrolyte replacement solutions
- Drinking water
- Ice chests
- Cooling/misting fans
- Blankets and towels
- Portable radios
- Extra oxygen tanks

Personnel

MLSS has trained in excess of 75 SORT team members, available for 24/7 emergency recall, to operate the SORT vehicles, supplies, and equipment. SORT members carry MLSS electronic pagers that can be utilized to dispatch them directly to the scene of an incident if necessary, or to one of the MLSS emergency stations to secure additional supplies or vehicles should such be necessary.

Tactical Emergency Medical Services (TEMS) Team



Mission

To provide Advanced Life Support (ALS) Emergency Medical Care to Law Enforcement officers and the general public when deployed in support of:

- Special Weapons and Tactics (SWAT) Teams
- Special Entry Teams
- Active shooter situations
- Hostage situations
- High Risk Warrant Execution/Searches

Equipment

Each TEMS Paramedic Team member is equipped with ballistic body armor and a ballistic helmet, along with an abbreviated set of ALS supplies and equipment. The equipment is designed for portability and mobility, and specifically targets the treatment of traumatic/ballistic injuries. The equipment and supplies are selected to allow the TEMS team to provide ALS care for an extended time period should they be unable to safely evacuate casualties while under fire.

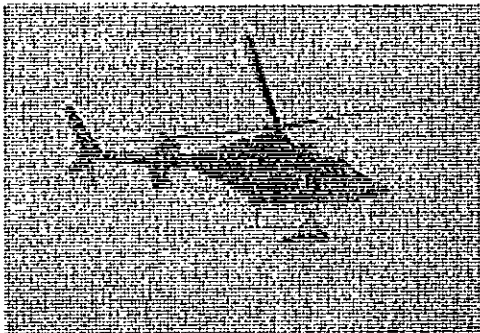
Personnel

Prospective MLSS TEMS team members must meet eligibility requirements covering experience as a paramedic, clinical proficiency, and supervisory references, before undergoing multiple internal interviews. Candidates that are selected are either enrolled in a Federally approved TEMS Training program, or if that is not available, by an in-house TEMS training program utilizing the national curriculum. TEMS team members participate in monthly drills, and can be recalled while off-duty for an active deployment.

TEMS team members are unarmed, and can only function at the direction of the law enforcement team they are deployed to support.

Note: The MLSS TEMS team already has an agreement and with the City of Newburgh Police Department, and has deployed with them numerous times.

Lifeguard Air Rescue



Mission

To provide emergency on-scene advanced life support medical treatment of critically ill or injured patients, and to evacuate them by helicopter directly to a tertiary care hospital. This cooperative program, which we initiated in 1994, utilizes the New York State Police Helicopters and pilots stationed at Stewart International Airport, and Flight Paramedics provided by Mobile Life Support Services. In addition to providing routine medevac services, Lifeguard is equipped with a hoist that the Flight Paramedics can use to rescue and extricate patients in environments where the helicopter cannot land. Lifeguard is also tasked to provide standby logistics and medical support during special operations and events. One of five (5) such programs statewide, the Stewart-based program is the most active.

Equipment

The NYSP utilize a twin engine Bell 430 as the primary Lifeguard unit, and utilize a second single engine Bell 407 as a backup craft. Each is outfitted with a full set of ALS equipment along with a hoist and evacuation devices. The helicopters are equipped with forward looking infrared (FLIR) systems to aid them during night flights and limited visibility situations, and aids them in being able locate individuals on the ground.

Personnel

Potential Mobile Life Support Flight Paramedic candidates must meet stringent prerequisites covering experience; skills proficiency; assessment skills; ability to work under pressure; and then must pass two mandatory interviews by a review team. Before receiving Flight Training, each candidate must be vetted by the New York State Police, and if approved can then be put into the training and orientation programs. Flight Paramedics are then scheduled to cover all scheduled hours of operation of Lifeguard and are physically located at the NYSP Aviation unit at Stewart International Airport, available for immediate response.

Mobile Life Support Services EMS & Community Education Division



Mission

The MLSS Education Division has three primary missions:

- A. To provide on-going MLSS staff education and certifications.
- B. To provide high-quality EMS education and certification to local EMS, Police, and Fire Departments who require such training.
- C. To provide Community based programming in First Aid, CPR, and numerous health and safety related subjects.

Accreditations

The MLSS Education Division is credentialed by the following agencies to conduct programming:

- A. The New York State Department of Health Bureau of EMS:
 - Certified First Responder (CFR) Original and Refresher Programs
 - Emergency Medical Technician (EMT) Original and Refresher Programs
 - Emergency Medical Technician-Intermediate (EMT-I) Original and Refresher Programs
 - Emergency Medical Technician-Critical Care (EMT-CC) Original and Refresher Programs
 - Emergency Medical Technician-Paramedic (EMT-P) Refresher Program Only.
 - Continuing Medical Education (CME) Refresher Training – Conventional and Internet Based Programs
- B. The American Heart Association
 - Basic Life Support (BLS) CPR – All original and refresher programs
 - First Aid and CPR – All original and refresher programs
 - Advanced Cardiac Life Support (ACLS) Original and Refresher Programs
 - Pediatric Advanced Life Support (PALS) Original and Refresher Programs
- C. The National Association of Emergency Medical Technicians (NAEMT)
 - Pre-Hospital Trauma Life Support (PHTLS)
 - Advanced Medical Life Support (AMLS)

D. Coaching Systems: Coaching the Emergency Vehicle Operator (CEVO)

Personnel

The MLSS Education Division is comprised of over forty (40) instructors and instructor trainers, credentialed to teach either individual or multiple certification level programs. Each year they train over 500 members of local emergency service agencies, and over 1100 members of the community. Many of the instructors are full-time Paramedics and Emergency Medical Technicians with MLSS and their EMS experience greatly adds to their efficacy as instructors.

Continuous Quality Improvement (CQI) Program

Mobile Life Support Service is committed to providing the highest quality of emergency patient care, and a key element of that commitment is to ensure that we closely monitor our overall quality through a number of key indicators, or benchmarks. These benchmarks have been established and monitored over the years, and has led to continuous service improvements that continue today. Some of the benchmarks we monitor are:

- Response time performance
- Patient contact time
- Medical assessments
- Adherence to medical protocols and treatment
- Advanced Life Support skills proficiency
- Controlled substance utilization and documentation
- Medical control contact

The MLSS Medical Director, Anthony Ruvo M.D., and Associate Medical Director, Anuj Vohra, provide system-wide oversight for our Quality Improvement Committee and our full time Quality Improvement Coordinator. The QI Committee meets weekly, and is comprised of MLSS Paramedics, Emergency Medical Technicians (BMT), Administrators, and the QI Coordinator, and provides a peer review on all calls. The QI Coordinator is responsible for the daily review and monitoring of all calls, and to formulate remediation plans to address any specific or general area of concern identified in the CQI process.

In 2009, MLSS implemented an electronic patient recordkeeping system, which takes live-time data transmitted from the MLSS crews in the field by hand held computers. This data is immediately accessible by the QI Coordinator, and the electronic records enable MLSS to analyze system and individual performance to identify any corrections that need to be enacted, or any continuing medical education (CME) that our staff may require to provide the highest quality of patient care.

References



Mobile Life Support Services, Inc.



References -- Corporate

John Klassen, Assistant VP
M & T Bank
56 Route 17K
Newburgh, New York 12550
(845) 562-8554

Thomas DiGiovanni, Partner
Vanacore, DeBenedictine, DiGiovanni
& Weddell, LLP
11 Racquet Road
Newburgh, New York 12552-9228
(845) 567-9000

Trish Fisher, President and CEO
Greater Newburgh Y.M.C.A.
377 Broadway
Newburgh, New York 12550
(845) 562-1088

Allan Atzrott, President and CEO
St. Luke's Cornwall Hospital
70 Dubois Street
Newburgh, New York 12550
(845) 568-2222

John Fracasse, Assistant VP
Orange County Trust Company
376 Windsor Highway
Vails Gate, New York 12584
(845) 568-5501

Richard Drake, Esq., Senior Partner
Drake, Loeb, Heller, Kennedy, Gogerty,
Gaba, and Rodd
555 Hudson Valley Avenue
New Windsor, New York 12553
(845) 561-0550

Dr. John D'Ambrosio
Orange County Chamber of Commerce
30 Scott's Corner Drive
Montgomery, New York 12549
(845) 457-9700

References — Municipalities

Mayor Joseph De Stefano
City of Middletown
16 James Street
Middletown, New York 10940
(845) 346-4100

Mayor James Sottile
City of Kingston
420 Broadway
Kingston, New York 12401
(845) 331-0080

Mayor Nicholas Valentine
City of Newburgh
83 Broadway
Newburgh, New York 12550
(845) 569-7310

Supervisor John Ward
Town of Wallkill
600 Route 211 East
Middletown, New York 10940
(845) 692-7832

Mr. John Karge
Village of Wappingers Falls
2628 South Avenue
Wappingers Falls, New York 12590

Supervisor Patricia Myers
Town of Newburgh
1 Overocker Road
Newburgh, New York 12603
(845) 485-3600

Supervisor Robert Gallagher
Town of Rosendale
P.O. Box 423
Rosendale, New York 12472
(845) 658-3159

Mayor James Miccio
Village Trustee Steve LaDue
Village of Fishkill
1095 Main Street
Fishkill, New York 12524
(845) 897-4430
(845) 656-3369

Supervisor Ray Constantino
Town of Lloyd
12 Church Street
Highland, New York 12528
(845) 691-2144

Councilman Rick Affuso
Town of Marlborough
1650 Route 9W
P.O. Box 305
Milton, New York 12547
(845) 795-2220

Supervisor Joan Pagonis
Town of Fishkill
807 Route 52
Fishkill, New York 12524

References – Emergency Services

Fire Services

Fire Chief Sam Barone
Middletown Fire Department
(845) 343-4169

Fire Chief Richard Salzmänn
Kingston Fire Department
(845) 331-1959

Chief Daniel Bassanese
Highland Fire District
25 Milton Avenue
Highland, New York
(845) 691-2421

Dean Scofield
Fire Chief
Protection Engine Co.
1032 Main St.
Fishkill, New York 12524
(845) 896-6613

Kyle Pottenburgh
Fire Marshall
IBM East Fishkill
2070 Rt. 52
Bldg 308
Hopewell Junction, New York 12533
(845) 894-2392

Fire Chief Sam Appa
Ulster Hose Company No. 5
(845) 339-1280

Fire Chief Christopher Barnhart
Rosendale Fire Department
(845) 658-9220

John Paraskeva
Chairman
East Fishkill Fire District
2052 Route 52
Hopewell Junction, New York 12533
(845) 226-1652

Law Enforcement

City of Middletown Police Department
2 James Street
Middletown, New York 10940
(845) 343-3151

Chief David Ackert
Town of Lloyd Police Department
25 Milton Avenue
Highland, New York
(845) 691-6102

Carl E. DuBois, Sheriff
Orange County Sheriff's Office
110 Wells Farm Road
Goshen, New York 10924
(845) 291-4033

Major Edward Raso
Station Commander, NYSP Troop F
55 Crystal Run Road
Middletown, New York 10941
(845) 344-5300

Major Robert Kreppin
New York State Police Aviation
739 Albany Shaker Road
Latham, New York 12110
(518) 242-4500

County Emergency Managers

John Murphy
Coordinator
Dutchess County Department of
Emergency Response
392 Creek Road.
Newburgh, New York 12602
(845) 486-208

Walter Koury, Commissioner
Orange County Emergency
Management
22 Wells Farm Road
Goshen, New York 10924
(845) 615-0400

John Horan
Orange County Fire Coordinator
Orange County Fire Training Center
9 Training Center Lane
New Hampton, New York 10958
(845) 374-1900

Arthur Snyder, Director
Ulster County Emergency
Management
238 Golden Hill Drive
Kingston, New York
(845) 331-7000

References – Hospitals

Orange Regional Medical Center
60 Prospect Avenue
Middletown, New York 10940
(845) 343-2424

Jonathan Schiller
Vice President of Administration

Wayne Becker
Vice President of Special Projects

John Bilancione
EMS Outreach Coordinator

St. Francis Hospital and Health Centers
241 North Road
Newburgh, NY 12601
(845) 483-5000

Robert Savage
President and CEO

Nancy DeWitt
Director of Trauma Services

St. Luke's Cornwall Hospital
70 Dubois Street
Newburgh, New York 12550
(845) 561-4400

Alan Atzrott
President and CEO

Kevin Ronk
Vice President of Support Services

Barbara Hermance
E.D. Nursing Director

Northern Dutchess Hospital
6511 Springbrook Avenue
Rhinebeck, New York 12572
(845) 876.3001

Anne Nelson
Vice President of Patient Services

RESOLUTION NO.: 105 - 2017

OF

APRIL 24, 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
AN AGREEMENT WITH THE NEW YORK STATE DEPARTMENT
OF ENVIRONMENTAL CONSERVATION FOR REIMBURSEMENT OF
ADDITIONAL COSTS INCURRED BY THE CITY OF NEWBURGH
AS A RESULT OF PROVIDING AN ALTERNATE SOURCE OF DRINKING WATER**

WHEREAS, perfluorooctane sulfonic acid (PFOS) has been detected in the City of Newburgh's water supply at levels in excess of the Environmental Protection Agency's recently released lifetime health advisory level; and

WHEREAS, it has been determined by Legislative findings under Article 15 of the Environmental Conservation Law (ECL) that the State has the sovereign power to regulate and control the water resources of the State; and

WHEREAS, in recognition of power under ECL § 15-0105.5, the use of water for domestic and municipal purposes shall have priority over all other purposes; and

WHEREAS, there is a need to provide a temporary alternate source of drinking water to residents of the City of Newburgh, which has access to New York City's Catskill Aqueduct as a backup source of drinking water; and

WHEREAS, by Resolution No. 204-2016 of August 8, 2016, the City Council approved Contract No. C010219 between the Department of Environmental Conservation and the City of Newburgh for the reimbursement of the costs of the water which also was approved by the New York State Comptroller's office in August of 2016; and

WHEREAS, as a result of the necessity to obtain the alternate source of drinking water, the City of Newburgh has incurred additional costs over and above the actual cost of the water; and

WHEREAS, after fully examining all of its internal capabilities and thoroughly investigating possible alternative approaches, the Department of Environmental Conservation has determined that reimbursing the City of Newburgh for such additional cost can best be accomplished through a separate Contract; and

WHEREAS, the City Council of the City of Newburgh has determined that entering into a Contract with the Department of Environmental Conservation for reimbursement of the additional costs not covered by Contract No. C010219 associated with providing a temporary alternate source of drinking water to City residents through the New York City Catskill Aqueduct is in the best interest of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter a Contract with the New York State Department of Environmental Conservation for reimbursement for the additional expenses incurred by the City of Newburgh associated with providing a temporary alternate source of drinking water to City residents through the New York City Catskill Aqueduct not covered by Contract No. C010219.

**NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONTRACT C0 _____**

THIS CONTRACT is entered into by and between the New York State Department of Environmental Conservation (hereinafter referred to as the Department), having offices at 625 Broadway, Albany, New York 12233 and the City of Newburgh (hereinafter referred to as Newburgh), having offices at 83 Broadway, Newburgh, New York 12550.

WITNESSETH:

WHEREAS, perfluorooctane sulfonic acid (PFOS) has been detected in Newburgh's water supply at levels in excess of the Environmental Protection Agency's (EPA) recently released lifetime health advisory level; and,

WHEREAS, it has been determined by Legislative findings under Article 15 of the Environmental Conservation Law (ECL) that the State has the sovereign power to regulate and control the water resources of the State; and,

WHEREAS, in recognition of power under ECL §15-0105.5, the use of water for domestic and municipal purposes shall have priority over all other purposes; and,

WHEREAS, in order to provide a temporary alternate source of drinking water to residents of Newburgh; Newburgh has accessed New York City's Catskill Aqueduct as a backup source of drinking water; and,

WHEREAS, payment for the costs of the water are outlined in a prior contract Between the Department and Newburgh, executed and approved by the New York State Comptroller's office in August of 2016; and,

WHEREAS, as a result of the necessity to obtain the alternate source of drinking water, the City of Newburgh has incurred additional costs over and above the payment of the actual cost of the water; and,

WHEREAS, The Department has determined after fully examining all of its internal capabilities and thoroughly investigating possible alternative approaches that repayment of the expenses of the City of Newburgh associated with the additional allowable costs can best be accomplished through a Contract.

NOW, THEREFORE, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

ARTICLE 1: SCOPE

- A. The Department agrees to pay the Newburgh documented and Department approved actual costs of certain additional expenses incurred by the City of Newburgh in response to the PFOS contamination in the City of Newburgh drinking water as a result of the discharges from the Air National Guard at Stewart International Airport. Payment shall be based upon Article 2 of this

Contract.

ARTICLE 2: PAYMENT

- A. The Department shall pay to Newburgh and Newburgh shall accept from the Department as compensation for the actual costs incurred under this agreement and directly associated with the PFOS contamination in the City of Newburgh drinking water an amount not to exceed \$500,000.00.
- B. Newburgh shall submit invoices to the Department quarterly, with supporting documentation and certification by the appropriate financial officer of Newburgh demonstrating the actual costs incurred and paid by Newburgh during the previous quarter for the allowable costs described in the attached Schedule A Allowable Costs. The Department will review and approve the supporting documentation and reimburse Newburgh for the allowable costs incurred and paid by Newburgh.
- C. The Department will authorize payment within 10 days of receipt of invoices and supporting documentation submitted per paragraph D and Schedule A of this article. The Department will make best efforts to arrange payment within 30 days of receipt of those invoices and supporting documentation.
- D. All invoices must contain the proper certification of the Financial Officer of Newburgh attesting that the expenditures were properly made in accordance with all applicable laws and regulations and in accordance with Schedule A; including but not limited to procurement guidelines and cost justifications required in General Municipal Law.
- E. Newburgh will submit requests for payment, together with supporting documentation, to the Department. Request for payment must be submitted within 45 days of the end of each State fiscal year which is March 31. Failure to comply with this request or notify the Department in writing prior to March 31st regarding billing problems shall operate as a waiver by Newburgh for reimbursement by the Department.
- F. If the term of this Contract encompasses more than one State fiscal year, Newburgh shall incur no costs hereunder in subsequent fiscal years without the express written authority of the Department.
- G. Payments for expenditures incurred under this contract will be rendered electronically to Newburgh unless payment by paper check is expressly authorized by the Commissioner of the Department (Commissioner), in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. Newburgh shall comply with the Office of the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the Comptroller's website at www.osc.state.ny.us/epay/index.htm, or by e-mail at epayments@osc.state.ny.us. Newburgh acknowledges that it will not receive payment under this

Contract if it does not comply with the Office of the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

ARTICLE 3: TERM

- A. The term of this Contract shall be from June 1, 2016 to December 31, 2018 The Contract shall be effective upon approval by the Office of the State Comptroller.
- B. This Contract may be extended for a maximum of two one-year periods upon the mutual written consent of both parties and the approval of the Office of the State Comptroller.
- C. Amendments other than exercising the term options above must be in writing and submitted to the Attorney General and the Office of the State Comptroller for approval.

ARTICLE 4: NOTICES

Wherever it is provided in this Contract that notice shall be given or other communications sent to the Department or Newburgh, such notices or communications shall be delivered or sent by First Class Mail to:

Department:

Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway
Albany, NY 12233-7014
Telephone Number: (518) 402-9662
E-Mail: george.heizman@dec.ny.gov

Newburgh:

Kathryn Mack
City of Newburgh Comptroller
83 Broadway
Newburgh, NY 12550
Telephone Number: (845) 569-7360
E-Mail: kmack@cityofnewburgh-ny.gov

Christine Chale
Rodenhausen Chale LLP
20 Spring Brook Park
Rhinebeck NY 12572
(845) 516-4323
(845) 516-4528 fax

ARTICLE 5: LIABILITY

Newburgh shall be responsible for all damage to life and property due to activities of Newburgh, its subcontractors, agents, or employees, in connection with its Services under this Contract, and this obligation is in no way limited by the enumeration of insurance coverages hereunder. Further, it is expressly understood that Newburgh shall indemnify and save harmless the Department, its officers, employees, agents, and assigns in accordance with the provisions of Appendix B, Clause II.

Nothing in this Article or in this Contract shall create or give to third parties any claim or right of action against Newburgh or the State of New York beyond such as may legally exist irrespective of this Article or this Contract.

ARTICLE 6: DEFAULT AND TERMINATION

- A. The Department shall have the right to postpone, suspend, abandon, or terminate this Contract, and such actions shall in no event be deemed a breach of Contract. In any of these events, the Department shall make settlement with Newburgh upon an equitable basis as determined by the Department, which shall fix the value of the work which was performed by the Newburgh prior to the postponement, suspension, abandonment, or termination of the Contract.
- B. The State shall have the right to terminate this Contract for:
- 1) unavailability of funds
 - 2) cause

- a) If the Department determines that Newburgh has breached a material term of this Contract, it shall issue a written notice, providing Newburgh with 10 days to correct the defect. If Newburgh fails to correct the defect within this time period, or fails to make a good faith effort to do so as determined by the Department, the Department may terminate this Contract for cause.

3) convenience

- a) If the termination is for the convenience of the Department, and is not brought about as a result of unsatisfactory performance on the part of Newburgh, the Department shall pay for the allowable costs incurred up to the date of termination.

ARTICLE 7: STANDARD CONTRACT CLAUSES

Newburgh will be required to comply with all of the mandatory New York State and Department contracting provisions contained in the following two attached documents:

Appendix A - Standard Clauses for All New York State Contracts;
Appendix B - Standard Clauses for All NYSDEC Contracts.

ARTICLE 8: ENTIRE CONTRACT

This Contract consists of the following documents in the following order of precedence.

1. Appendix A
2. Appendix B
3. The Contract (including Schedule A)

ARTICLE 9: AFFIRMATIVE ACTION REQUIREMENTS

Newburgh must make good faith efforts to subcontract an overall goal of 0% of the contract amount to Minority and Women Owned Business Enterprises (MWBE's). Newburgh must make good faith efforts to employ 10% minority group members and 10% women for a portion of any workforce hours required to perform the work under this contract. Appendix B further defines the M/WBE and EEO provisions required by Executive Law, Article 15A.

ARTICLE 10: INSURANCE CONSIDERATIONS

Newburgh agrees to procure and maintain at its own expense and without expense to the Department Worker's Compensation Insurance and Disability Benefits by insurance companies licensed to do business in the State of New York, covering all operations under this Contract.

Newburgh shall furnish a certificate or certificates showing that it has complied with the Worker's Compensation and Disability Benefits requirements of this Article detailed below. The certificate or certificates shall provide that:

- Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the Department.
- Worker's Compensation and Disability Benefits certificates shall name the New York State Department of Environmental Conservation, Division of Environmental Remediation, Bureau of Program Management, 625 Broadway, Albany, NY 12233-7012, as certificate holder.
- This Contract shall be void and of no effect unless Newburgh procures the required insurance policies and maintains them until acceptance/completion of the work, whichever event is later.
- Newburgh shall require that any subcontractors hired, carry insurance with the same provisions as provided herein. Newburgh will maintain the certificate or certificates for all subcontractors hired as part of Newburgh's records.

The Department has reviewed the scope of work being accomplished under this contract and has determined that it will rely on the standard operating procedures and good business practices of Newburgh with respect to securing all appropriate types and amounts of liability insurance and appropriate endorsements. The Department waives its standard requirements for liability insurance certificates, endorsements, and supporting documentation for this Contract.

The following types of insurance are required for this Contract:

1. Workers' Compensation:

For work to be performed in New York State, Newburgh shall provide and maintain full New York State (NYS listed in item 3a of the policy's Information Page) coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

If the agreement involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act and/or Jones Act policy as applicable must be provided. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	FORM TITLE
C-105.2	Certificate of Workers' Compensation Insurance (September 2007, or most current version)
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12/	Certificate of Workers' Compensation Self-Insurance

GSI-105.2	
CE-200	Certificate of Attestation of Exemption (when Contractor meets the requirements.)

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier.

*Please note that ACORD forms are **NOT** acceptable proof of New York State Workers' Compensation Insurance coverage.*

Additional information can be obtained at the Workers' Compensation website:
<http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>

2. **Disability Benefits:**

For work to be performed in New York State, Newburgh shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Department of Environmental Conservation and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

FORM #	FORM TITLE
DB-120.1	Certificate of Insurance Coverage under the New York State Disability Benefits Law
DB-155	Certificate of Disability Self-Insurance
CE-200	Certificate of Attestation of Exemption (when Contractor meets the requirements.)

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier.

*Please note that ACORD forms are **NOT** acceptable proof of New York State Disability Benefits Insurance coverage.*

Additional information can be obtained at the Workers' Compensation website:
<http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>

ARTICLE 11: SEVERABILITY

If any part of this Contract is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Contract, and the remaining

parts of this Contract shall be enforced as if the invalid, illegal or unenforceable part were not contained therein.

ARTICLE 12: FORCE MAJEURE

Neither party shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of lands or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes or the delay or failure to perform by any subcontractor by reason of any cause or circumstances beyond the reasonable control of such subcontractor.

ARTICLE 13: COMPLIANCE WITH LAWS

Newburgh agrees to comply with the provisions of the Labor Law and all State and Federal laws, local statutes, ordinances, and regulations that are applicable to the performance of this Contract.

SIGNATURE PAGE

IN WITNESS WHEREOF, this Contract has been duly executed by the parties hereto on the day and year appearing following their respective signatures.

Agency Certification: "In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this Contract."

NEWBURGH SIGNATURE
By:
Print Name:
Title:
Dated:

DEPARTMENT SIGNATURE	
By:	
Print Name:	
Title:	
Dated:	

ATTORNEY GENERAL SIGNATURE
Approved as to Form:
Dated:

COMPTROLLER SIGNATURE
Approved: Thomas P. DiNapoli State Comptroller
Dated:

Newburgh Acknowledgement

State of _____)
) ss.:
County of _____)

On the _____ day of _____ in the year _____, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Notary Public

Schedule A
Allowable Cost Categories

- 1) Legal Services (directly associated with contamination)
- 2) Engineering Services
- 3) Contractual Services
- 4) Labor (force account)
- 5) Utilities
- 6) Equipment
- 7) Other Allowable Costs including such things as public outreach costs, and costs that do not fit within the above categories but fall within legitimate Department approved expenses associated with the Article 1: Scope.

Reimbursement of all of the above costs are subject to the same documentation requirements and the Department discretion to review and approve as set forth herein.

STANDARD CLAUSES FOR NYS CONTRACTS

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

1. EXECUTORY CLAUSE. In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

2. NON-ASSIGNMENT CLAUSE. In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this

contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

5. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of

any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

8. INTERNATIONAL BOYCOTT PROHIBITION. In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

9. SET-OFF RIGHTS. The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this

contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

(a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00,

whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts 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. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall 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; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment

opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

14. GOVERNING LAW. This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

15. LATE PAYMENT. Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

17. SERVICE OF PROCESS. In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.

In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

20. OMNIBUS PROCUREMENT ACT OF 1992. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development
Division for Small Business
Albany, New York 12245
Telephone: 518-292-5100
Fax: 518-292-5884
email: opa@esd.ny.gov

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.newnyccontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

21. RECIPROCITY AND SANCTIONS PROVISIONS.

Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW. If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded

the contract, the Department of Civil Service and the State Comptroller.

24. PROCUREMENT LOBBYING. To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not

limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

APPENDIX B

Standard Clauses for All New York State Department of Environmental Conservation Contracts

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department").

I. Postponement, suspension, abandonment or termination by the Department:

The Department shall have the right to postpone, suspend, abandon or terminate this contract, and such actions shall in no event be deemed a breach of contract. In the event of any termination, postponement, delay, suspension or abandonment, the Contractor shall immediately stop work, take steps to incur no additional obligations, and to limit further expenditures. Within 15 days of receipt of notice, the Contractor shall deliver to the Department all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans and shop drawings. In any of these events, the Department shall make settlement with the Contractor upon an equitable basis as determined by the Department which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension or termination of the contract.

II. **Indemnification and Hold harmless** The Contractor agrees that it will indemnify and save harmless the Department and the State of New York from and against all losses from claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recovered against it by reason of any omission or tortious act of the Contractor, its agents, employees, suppliers or subcontractors in the performance of this contract. The Department and the State of New York may retain such monies from the amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like, which is asserted against the Department and/or the State of New York.

III. Conflict of Interest

(a) Organizational Conflict of Interest. To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the Department.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may,

without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the Department. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Department, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) Personal Conflict of Interest: The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the Department immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The Department will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract, that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the Department which will advise the Contractor of the appropriate action to be taken.

(3) Unless waived by the Department, the Contractor shall certify annually that, to the best of the Contractor's knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the Department. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the Department. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York State Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) Remedies - The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Appendix or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has

developed the statement of work or the solicitation package

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Department.

If this is a contract for work related to action at an inactive hazardous waste site, the following paragraph shall apply to those Contractors whose work requires the application of professional judgment: It does not apply to construction contracts.

(f) Due to the scope and nature of this contract, the Contractor shall observe the following restrictions on future hazardous waste site contracting for the duration of the contract.

(1) The Contractor, during the life of the work assignment and for a period of three (3) years after the completion of the work assignment, agrees not to enter into a contract with or to represent any party with respect to any work relating to remedial activities or work pertaining to a site where the Contractor previously performed work for the Department under this contract without the prior written approval of the Department.

(2) The Contractor agrees in advance that if any bids/proposals are submitted for any work for a third party that would require written approval of the Department prior to entering into a contract because of the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk, and no claim shall be made against the Department to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

IV. Requests for Payment All requests for payment by the Contractor must be submitted on forms supplied and approved by the Department. Each payment request must contain such items of information and supporting documentation as are required by the Department, and shall be all-inclusive for the period of time covered by the payment request.

V. **Compliance with Federal requirements** To the extent that federal funds are provided to the Contractor or used in paying the Contractor under this contract, the Contractor agrees that it will comply with all applicable federal laws and regulations, including but not limited to those laws and regulations under which the Federal funds were authorized. The Contractor further agrees to insert in any subcontract hereunder, provisions which shall conform substantially to the language of this clause.

VI. **Independent Contractor** The Contractor shall have the status of an independent contractor. Accordingly, the Contractor agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim to be, an officer or employee of the Department by reason of this contract. It further agrees that it will not make any claim, demand or application to the Department for any right or privilege applicable to an officer or employee of the Department, including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

VII. **Compliance with applicable laws**

(a) Prior to the commencement of any work under this contract, the Contractor is required to meet all legal requirements necessary in the performance of the contract. This includes but is not limited to compliance with all applicable federal, state and local laws and regulations promulgated thereunder. It is the Contractor's responsibility to obtain any necessary permits, or other authorizations. By signing this contract, the Contractor affirmatively represents that it has complied with said laws, unless it advises the Department otherwise, in writing. The Department signs this contract in reliance upon this representation.

(b) During the term of this contract, and any extensions thereof, the Contractor must remain in compliance with said laws. A failure to notify the Department of noncompliance of which the Contractor was or should have been aware, may be considered a material breach of this contract.

VIII. **Dispute Resolution** The parties agree to the following steps, or as many as are necessary to resolve disputes between the Department and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual ("DAI") within twenty days of receipt of that decision.

(b) Upon receipt of the written appeal, the DAI, will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.

(1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or

(2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or

(3) Make a determination on the record as it exists.

(c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee ("CRC") within twenty days of receipt of that decision.

The designated individual to hear disputes is:

Laura Zeppetelli, Bureau Director

(Name and Title)

NYS Dept of Env. Conservation - Remediation

625 Broadway, 12th FL, Albany, NY 12233-7012

(Address)

(518) 402-9764

(Telephone)

The designated appeal individual to review decisions is:

Michael Ryan, Asst. Division Director

(Name and Title)

NYS Dept. of Env. Conservation - Remediation

625 Broadway, 12th FL, Albany, NY 12233-7011

(Address)

(518) 402-9706

(Telephone)

The Chair of the Contract Review Committee is:

Department of Environmental Conservation

Nancy W. Lussier Chair

Contract Review Committee

625 Broadway, 10th Floor

Albany, NY 12233-5010

Telephone: (518) 402-9228

(d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and the Office of General Counsel, will take one of the following actions, or a combination thereof, with written notice to the Contractor.

(1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or

(2) Adopt the decision of the DAI; or

(3) Consider the matter for review by the CRC in accordance with its procedures.

(e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC's established contract dispute resolution guidelines. The proceeding will provide the Contractor with an opportunity to be heard.

(f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Assistant Commissioner for Administration who shall render the final DEC determination.

(g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.

(h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.

(i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.

(j) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC: Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the Department's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the Department's determination.

(k) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

IX. Labor Law Provisions

(a) When applicable, the Contractor shall post, in a location designated by the Department, a copy of the New York State Department of Labor schedules of prevailing wages and supplements for this project, a copy of all re-determinations of such schedules for the project, the Workers' Compensation Law Section 51 notice, all other notices required by law to be posted at the site, the Department of Labor notice that this project is a public work project on which each worker is entitled to receive the prevailing wages and supplements for their occupation, and all other notices which the Department directs the Contractor to post. The Contractor shall provide a surface for such notices which is satisfactory to the Department. The Contractor shall maintain such notices in a legible manner and shall replace any notice or schedule which is damaged, defaced, illegible or removed for any reason. Contractor shall post such notices before commencing any work on the site and shall maintain such notices until all work on the site is complete.

(b) When appropriate, contractor shall distribute to each worker for this Contract a notice, in a form provided by the Department, that this project is a public work project on which each worker is entitled to receive the prevailing wage and supplements for the occupation at which he or she is working. Worker includes employees of Contractor and all Subcontractors and all employees of suppliers entering the site. Such notice shall be distributed to each worker before they start performing any work of this contract. At the time of distribution, Contractor shall have each worker sign a statement, in a form provided by the Department, certifying that the worker has received the notice required by this section, which signed statement shall be maintained with the payroll records required by the following paragraph (c).

(c) Contractor shall maintain on the site the original certified payrolls or certified transcripts thereof which Contractor and all of its Subcontractors are required to maintain pursuant to the New York Labor Law Section 220. Contractor shall maintain with the payrolls or transcripts thereof, the statements signed by each worker pursuant to paragraph (b).

(d) Within thirty days of issuance of the first payroll, and every thirty days thereafter, the Contractor and every subcontractor must submit a transcript of the original payroll to the Department, which transcript must be subscribed and affirmed as true under penalty of perjury.

X. Offset In accordance with State Law, the Department has the authority to administratively offset any monies due it from the Contractor, from payments due to the Contractor under this contract. The Department may also (a) assess interest or late payment charges, and collection fees, if applicable; (b) charge a fee for any dishonored check; (c) refuse to renew certain licenses and permits.

XI. Tax Exemption Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

XII. Litigation Support In the event that the Department becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Compensation will be negotiated and based on rates established in the contract, or as may otherwise be provided in the contract.

XIII. Equipment Any equipment purchased with funds provided under this contract, shall remain the property of the Department, unless otherwise provided in the contract. The Contractor shall be liable for all costs for maintaining the property in good, usable condition. It shall be returned to the Department upon completion of the contract, in such condition, unless the Department elects to sell the equipment to the Contractor, upon mutually agreeable terms.

XIV. Inventions or Discoveries Any invention or discovery first made in performance of this Contract shall be the property of the Department, unless otherwise provided in the contract. The Contractor agrees to provide the Department with any and all materials related to this property. At the Department's option, the Contractor may be granted a non-exclusive license.

XV. Patent and Copyright Protection
If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.

(a) The Contractor shall, at its expense, defend any suit instituted against the Department and indemnify the Department against any award of damages and costs made against the Department by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright or other proprietary right; provided the Department gives the Contractor:

(1) prompt written notice of any action, claim or threat of infringement suit, or other suit, and

(2) the opportunity to take over, settle or defend such action at the Contractor's sole expense, and

(3) all available information, assistance and authority necessary to the action, at the Contractor's sole expense.

(4) The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the Department fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

(1) procure for the Department the right to continue using the same item or parts thereof;

(2) modify the same so that it becomes non-infringing and of at least the same quality and performance;

(3) replace the item(s) or parts thereof with noninfringing items of at least the same quality and performance;

(4) if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

(c) In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the Department to the Contractor for defense and indemnification pursuant to this Article, the Department shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York in writing and shall specify to what

extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Department and State of New York and secure a continuance to permit the State of New York to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the Department and State shall have.

(d) The Contractor shall, however, have no liability to the Department under this Article if any infringement is based upon or arises out of: (1) compliance with designs, plans, or specifications furnished by or on behalf of the Department as to the items; (2) alterations of the items by the Department; (3) failure of the Department to use updated items provided by the Contractor for avoiding infringement; (4) use of items in combination with apparatus or devices not delivered by the Contractor; (5) use of items in a manner for which the same were neither designed nor contemplated; or (6) a patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct or indirect interest by license or otherwise.

(e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

XVI. Force Majeure The term Force Majeure shall include acts of God, work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war rebellion, sabotage or the like. If a failure of or delay in performance by either party results from the occurrence of a Force Majeure event, the delay shall be excused and the time for performance extended by a period equivalent to the time lost because of the Force majeure event, if and to the extent that:

(a) The delay or failure was beyond the control of the party affected and not due to its fault or negligence; and

(b) The delay or failure was not extended because of the affected party's failure to use all reasonable diligence to overcome the obstacle or to resume performance immediately after such obstacle was overcome; and

(c) The affected party provides notice within (5) days of the onset of the event, that it is invoking the protection of this provision.

XVII. Freedom of Information Requests The Contractor agrees to provide the Department with any records which must be released in order to comply with a request pursuant to the Freedom of Information Law. The Department will provide the contractor with an opportunity to identify material which may be protected from release

and to support its position.

XVIII. Precedence In the event of a conflict between the terms of this Appendix B and the terms of the Contract (including any and all attachments thereto and amendments thereof, but not including Appendix A), the terms of this Appendix B shall control. In the event of a conflict between the terms of this Appendix B, and the terms of Appendix A, the terms of Appendix A shall control.

XIX. Article 15-Requirements

PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES

(a) General Provisions

(1) The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

(2) The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the "Department", to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

(3) Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.

(b) Contract Goals

(1) For purposes of this procurement, the Department hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises ("MWBE") participation, (based on the current availability of qualified MBEs and WBEs).

(2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address;

<https://ny.newnycontracts.com>

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

(3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

(c) Equal Employment Opportunity (EEO)

(1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A:

(i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO 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.

(ii) The Contractor shall submit an EEO policy statement to the Department within seventy two (72) hours after the date of the notice by Department to award the Contract to the Contractor.

(iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8.

(iv) The Contractor's EEO policy statement shall include the following language:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- c. The Contractor shall request each employer Department, 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 employer Department, 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.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- e. EEO Contract Goals for the purposes of this procurement, the Department hereby establishes a goal of 10% Minority Labor Force Participation, 10% Female Labor Force Participation.

(2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

(3) Workforce Employment Utilization Report Form ("Workforce Report")

- (i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
- (ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

- (iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

- (2) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(d) MWBE Utilization Plan

- (1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.
- (2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- (3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Waivers

- (1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

(4) If the Department, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that Contractor is failing or refusing to comply with the Contract goals and no waiver has been issued in regards to such non-compliance, the Department may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

(f) Quarterly MWBE Contractor Compliance Report

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the Department by the 10th day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

(g) Liquidated Damages - MWBE Participation

(1) Where Department determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.

(2) Such liquidated damages shall be calculated as an amount equaling the difference between:

- (i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- (ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the

Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

(h) Forms

The following forms referenced in Article XVIII 3-A-3, 3B, 3C and 5A can be found at
<http://www.dec.ny.gov/about/48854.html>

TABLED

RESOLUTION NO.: 106 - 2017

OF

APRIL 24, 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH RIVER REALTY SERVICES, INC.
FOR REAL ESTATE BROKERAGE SERVICES**

WHEREAS, on December 23, 2016 the City of Newburgh issued a Request for Proposals for Real Estate Brokerage Services; and

WHEREAS, a total of six (6) proposals were duly received and opened on January 25, 2017; and

WHEREAS, the proposals have been reviewed by the necessary and appropriate staff; and

WHEREAS, upon such review of the submitted proposals it has been determined that River Realty Services, Inc. provided a proposal that was consistent with the needs of the City, has a firm understanding of the local real estate market and have proven successes with distressed property, and proposed the most economic commission; and

WHEREAS, this Council has reviewed the attached proposal and has determined that entering into a contract for real estate brokerage services with River Realty Services, Inc. is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a Master Listing Agreement with River Realty Services, Inc., in substantially the same form as annexed hereto with terms and conditions approved by the Corporation Counsel, for real estate brokerage services.

MASTER LISTING AGREEMENT Cover Page

This Master Listing Agreement (the "Agreement") is entered into by and between the City of Newburgh ("City" or "Seller"), and the party identified below as "Brokerage Firm" ("Brokerage Firm" or "Broker"). Capitalized terms that are used in this Agreement, but not defined contextually, will have the meanings ascribed to them in Section 14 (Definitions).

Effective Date of Agreement: _____

Brokerage Firm Information

Name of Entity: RIVER REALTY SERVICES, INC.

Name of Individual signing on behalf of Entity:	LEE A. RAPHAEL	Brokerage Firm is a (check one):	Sole Proprietorship
Title:	BROKER/OWNER	☒ Corporation	
Address:	117 EXECUTIVE DRIVE, SUITE 100, NEW WINDSOR, NEW YORK 12553	☐ Limited Liability Company	
Telephone:	845-564-2800	☐ General Partnership	
Mobile:	914-474-8146	☐ Limited Partnership	
Fax:	845-564-0700	☐ Other (Describe _____)	
Email:	LRAPHAEL@riverrealty.com	State in which Brokerage Firm's Business Entity was formed:	NY
Brokerage Firm should receive legal notices under this Agreement (check one):	Yes No	Brokerage Firm's Federal Tax ID Number:	30-0488660
		City of Newburgh Point of Contact	
		Name:	
		Title:	
		Address:	83 Broadway
			Newburgh, NY 12550
		Telephone:	
		Mobile:	
		Fax:	
		E-mail:	

[SIGNATURE PAGE FOLLOWS]

MASTER LISTING AGREEMENT Signature Page

By the signatures of their duly authorized representatives below, both parties acknowledge the value and sufficiency of the consideration for entering into this Agreement and agree to be bound by its terms.

CITY OF NEWBURGH

83 Broadway
Newburgh, NY 12550

By: _____
Name of Authorized Signatory: Michael G. Ciaravino
Title: City Manager
Date:
Per Res. No.

BROKERAGE FIRM: RIVER REALTY SERVICES, INC.

By: _____
Name of Authorized Signatory: Lee A. Raphael
Title: BROKER/OWNER
Date:

**MASTER LISTING AGREEMENT
General Terms and Conditions**

RECITALS

WHEREAS, the City of Newburgh is the owner of real property (the "Properties");

WHEREAS, Broker is in the business of listing and selling real property and providing certain brokerage and asset management services on behalf of owners of real property; and

WHEREAS, City of Newburgh is in need of such services in relation to the City's ownership of the Properties;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Parties –

This Agreement is entered into by and between Broker and the City of Newburgh, as seller, of each of the Properties identified by the City of Newburgh in the manner described below.

2. Effective Date –

This Agreement is effective as of the date indicated as the "Effective Date" on the Cover Page of this Agreement or, in the event that no date is so indicated, as of the latest date of a party to execute this Agreement (the "Effective Date").

3. Term –

The term of this Agreement shall commence on the Effective Date and continue for a period of (1) one year or until terminated as provided in Section 6 (Termination).

4. Services –

A. Property Assignments.

The City of Newburgh may assign Properties to Broker prior to listing the Properties for sale (each, a "Property Assignment" and, collectively, the "Property Assignments") by emailing the broker the address of the property as well as the SBL (section, block and lot).

Broker agrees to perform certain Services with respect to each of the Property Assignments, which such Services include: the issuance of broker price opinions.

B. Property Listings.

The City of Newburgh will offer to list Properties with Broker for sale, from time to time, by issuing one or more listing supplements to this Agreement (each, a "Listing Supplement" and, collectively, the "Listing Supplements") identifying the Properties in connection with which Broker will perform the Services.

Broker will indicate its acceptance of a Property listing: (i) by commencing performance under the applicable Listing Supplement and (ii) returning a signed copy of the Listing Supplement, via

e-mail or fax, to the City of Newburgh.

Each Listing Supplement that has been accepted by Broker is incorporated herein by this reference. Each Property identified in such a Listing Supplement is referred to herein as a "Property Listing."

C. Delegation of Authority from Broker to Listing Agents to Accept Property Assignments and Property Listings on Behalf of Broker.

Broker may identify Listing Agents who are working on Broker's behalf to negotiate and arrange real estate sales. Listing Agents may be identified by Broker through the Broker's own, internal Property Assignment System or other electronic platform or non-electronic means designated for such purpose by the Broker. Broker acknowledges and agrees that all such Listing Agents are authorized to: (1) act on its behalf with respect to the acceptance of Property Assignments and Property Listings under sub-sections (A) and (B) above; and (2) act on its behalf with respect to the management of such assignments and listings through the sale process; each Property Assignment and Property Listing accepted by any such Listing Agent shall be deemed to have been accepted by Broker hereunder.

D. Exclusivity.

City of Newburgh employs Broker as its sole exclusive agent for the sale of the Properties it has or will have, or will acquire title to, identified in the Listing Supplements.

E. Listing Period.

Broker has the exclusive right to sell a Property during the listing period set forth in the applicable Listing Supplement or any subsequent extension thereof, unless the Listing Supplement or the Agreement is terminated early pursuant to Section 6 (Termination; Expiration).

The initial listing period set forth in a Listing Supplement may be extended by the City of Newburgh in its sole discretion for any period of time.

F. Price.

Each Property will be offered for sale at the price listed in the applicable Listing Supplement, on terms and conditions that are satisfactory to City of Newburgh.

G. Performance.

(1) Broker's Responsibilities Concerning Property Listings. Broker covenants and agrees to perform the Services in accordance with the following requirements.

(a) Listing the Property. Broker agrees to use due diligence to find a buyer for each Property, including: (i) listing Property with all other brokers on a co-brokerage basis; (ii) using the most appropriate multiple listing service available to Broker; and (iii) cooperating with other brokers. The City of Newburgh expressly authorizes Broker to sign a multiple listing agreements.

5. Commissions and Fees –

A. City-Owned Sales Channel.

The City of Newburgh agrees to pay Broker a total sales commission of (5_ %) of the sales price or \$2500, whichever is greater, with respect to each Property Listing as set forth in the Listing Supplement if, during the listing period, the Property is sold to a buyer on the terms stated in this Agreement, or, if within six months of end of the listing period or the earlier termination of this Agreement pursuant to section 6 below, the Property is sold to a Buyer with whom the Broker or a cooperating Broker negotiated or to whom the Property is offered or shown during the listing period to a Buyer on the terms set forth in this Agreement.

Commissions will be paid on a per Property basis from the proceeds of the sale of the Property at settlement. Any such fee shall be paid if and only if: (A) a valid and enforceable closing of the sale of the Property occurs and the sale is funded; (B) the commission is reflected on the HUD-1 settlement statement for the Property; and (C) the Newburgh City Council has adopted a resolution approving the sale and said sale is confirmed by resolution of the City Council.

6. Termination; Expiration –

A. Termination of Agreement.

The City of Newburgh or Broker may terminate the Agreement at any time with or without Cause upon written notice to the other party, effective on the date specified in such notice or 30 days from the date of delivery as set forth in paragraph 12.

B. Termination or Expiration of Listing Supplement or Property Listing

Listing Supplements will expire on the date specified in the Listing Supplement, unless a Property identified in the Listing Supplement is under contract (subject to an Offer) on the expiration date, in which case the Listing Supplement shall remain in effect until: (x) a valid and enforceable closing of the sale of the Property occurs and the sale is funded, or (y) the local form of Purchase Agreement / Addenda comprising the Offer terminate or expire as provided therein.

7. Warranties –

Broker makes the representation, warranties and covenants contained in the subsections below to City of Newburgh as of the Effective Date of this Agreement. Representations, warranties and covenants that, by their nature or context, may reasonably be understood to be continuing obligations of Broker shall be deemed to be remade and effective on a continuous and uninterrupted basis throughout the term of the Agreement.

A. Corporate Status; Licensing.

Broker represents, warrants and covenants to City of Newburgh:

(i) if Broker is an entity, that it is a duly organized, validly existing and in good standing under the laws of the state in which it is organized;

(ii) its execution, delivery and performance of this Agreement: (a) if Broker is an entity, has been authorized by all necessary corporate action; (b) do not violate the terms of any law, regulation, or court order to which Broker is subject, or the terms of any material agreement or statutory restriction to which Broker or any of its assets are subject; and (c) are not subject to the consent or approval of any third party;

(iii) this Agreement is the valid and binding obligation of Broker, enforceable against Broker in accordance with its terms;

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(iv) that it: (a) is licensed, qualified and in good standing as a real estate broker in each state or jurisdiction where a Property subject to a Listing Supplement is located; (b) has all other licenses that are necessary to carry on its business as now being conducted; and (c) will provide a copy of all such licenses and certificates of good standing to City of Newburgh upon request;

(v) Broker has secured and will continue to maintain during the term of this Agreement all federal, state and/or local permits, licenses, regulatory approvals and registrations required to render the Services described herein, including, without limitation, registration with the appropriate taxing authorities for remittance of taxes; and

(vi) Broker is not subject to any pending or threatened litigation or governmental action which could interfere with Broker's performance of its obligations hereunder.

The person who executes this Agreement and all related documents on behalf of Broker represents and warrants to the City of Newburgh that he or she is a duly authorized agent of Broker with the requisite power and authority to bind Broker to the terms of this Agreement.

B. Performance.

In performing its obligations under this Agreement, without limiting any other warranty hereunder, Broker represents, warrants and covenants to the City of Newburgh:

(i) all work will be performed in a professional and workmanlike manner with the reasonable care that would be taken by qualified, competent and experienced real estate brokers and real estate asset managers;

(ii) all work will be performed in accordance with the standards set forth in this Agreement and all applicable industry standards and practices;

(iii) Broker has the requisite personnel, competitive alliances, and financial and physical resources necessary to provide and to fully perform the Services under this Agreement; and

8. Insurance --

During the Term of this Agreement (and, to the extent that any insurance is carried on a claims made basis, for such period thereafter that claims may be legally made with respect to occurrences during the Term) and in any event prior to commencement of Services under this Agreement, Broker will have and maintain in force, at Broker's expense, no less than the types and amounts of insurance coverage described below.

- (1) Workers' Compensation insurance with coverage applicable in all states in which services are to be performed with limits in accordance with the statutory requirements and all applicable Laws of each such state, and Coverage B – Employer's Liability Coverage, including occupational disease, with a limit of not less than \$1,000,000 per accident.
- (2) Commercial General Liability Insurance covering Broker's operations, with limits acceptable to Seller, but with combined single limits for bodily injury, personal injury and property damage not less than \$2,000,000, with Seller named as an additional

insured and including coverage as follows:

- Commercial General Liability (Comprehensive Form)
 - Broad Form Contractual Liability
 - Independent Contractors (if any part of the services contemplated herein is performed by an independent contractor)
 - Broad Form Property Damage
 - Personal Injury
- (3) Automobile insurance including coverage for owned, non-owned and hired vehicles in the amount of \$1,000,000 per occurrence for bodily injury and property damage.
- (4) Professional Liability/E & O Insurance in the amount of \$1,000,000, including coverage for errors and omissions caused by Broker's negligence in the performance of its duties under this Agreement.
- (4) All insurance that Broker is required to maintain under any applicable Laws.

9. Limitation of Liability –

IN NO EVENT SHALL EITHER PARTY, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR AFFILIATES BE LIABLE TO THE OTHER PARTY WITH RESPECT TO THIS AGREEMENT, OR FOR ANY ACT OR OMISSION OCCURRING IN CONNECTION WITH THIS AGREEMENT, FOR LOST PROFITS, LOSS OF BUSINESS OR ANY OTHER INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES OF ANY NATURE OR UNDER ANY LEGAL THEORY WHATSOEVER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF WHETHER OR NOT THE DAMAGES WERE REASONABLY FORESEEABLE.

10. Independent Contractor –

A. Independent Contractor.

Broker shall at all times be and act as an independent contractor of The City of Newburgh and, as such, no law, agreement or other arrangement that has the effect of conferring benefits upon officers or employees of the City of Newburgh shall be applicable to Broker or Broker Personnel in connection with the Services. Broker Personnel will be, and will remain at all times, employees or independent contractors of Broker (or Subcontractor, as the case may be) and shall not be deemed to be employees of The City of Newburgh for any purpose whatsoever. As between the City of Newburgh and Broker, Broker shall be solely responsible for the safety and supervision of Broker's employees and payment of wages, salaries and other amounts due such employees in connection with this Agreement and shall be responsible for all taxes, reports and other obligations respecting employees required by law.

11. Compliance with Laws –

In its performance of this Agreement, Broker shall fully comply with all applicable federal, state and local laws, including, without limitation: (a) all anti-discrimination, anti-retaliation and wage-payment laws; (b) all debt collection laws; and (c) all laws that prohibit discrimination in housing, lending and their related activities, including, without limitation, the Fair Housing Act at 42 USC §3601 et. seq., the Equal Credit Opportunity Act at 15 USC §1691 et. seq. and the Family Medical Leave Act.

12. Notices –

All material communications and legal notices relating to this Agreement shall be given, as follows: (a) in the case of the City of Newburgh to the party listed on the Cover Page as the "City of Newburgh of Contact" with a copy to Corporation Counsel; (b) in the case of Broker, to (i) the party identified by Broker as the recipient of legal notices on the Cover Page, or (ii) if no party has been identified as the recipient of legal notices on the Cover Page, the party identified on the Cover Page as the "Broker of

Record," or (c) in either case, such other point of contact designated in writing by a Vice President or more senior officer of the party. All such communications and notices shall be in writing, addressed to the parties at the addresses set forth on the Cover Page, or the latest known valid address of the parties, and shall be considered received: (a) when personally delivered; (b) when delivered by commercial overnight courier with verification receipt; (c) when sent by confirmed facsimile; or (d) three (3) days after having been sent, postage prepaid, via certified mail, return receipt requested.

13. Miscellaneous –

A. Complete Agreement.

The complete Agreement between the parties consists of the Cover Page, the Signature Page, the General Terms and Conditions and all other documents incorporated into the Agreement by reference; the complete Agreement referenced in the preceding clause supersedes all prior agreements, representations and understandings between the parties with respect to Services performed under this Agreement.

B. Amendments.

Except as otherwise provided in this Agreement, all amendments and modifications to the Agreement or any Listing Supplement issued hereunder must: (a) be in writing and executed by authorized representatives of both parties.

C. Assignment.

Broker may not assign its rights or obligations under this Agreement to any party without the prior written consent of the City of Newburgh. Without limiting the generality of the foregoing, Broker shall not assign, co-list, or refer any Property Listing to any individual outside of its own organization without the prior written consent of the City of Newburgh.

D. Governing Law; Attorneys' Fees.

This Agreement and performance hereunder shall be governed by the laws of the State New York. Any and all disputes between the parties that cannot be settled by mutual agreement shall be resolved solely and exclusively in the courts located within the County of Orange, New York. Both parties consent to the jurisdiction and venue of such courts and irrevocably waive any objections thereto.

In any litigation by which one party either seeks to enforce its rights under this Agreement (whether in contract, tort, or both) or seeks a declaration of any rights or obligations under this Agreement, the parties shall bear their own attorney fees, and costs and expenses incurred and the parties hereby waive any right or claim for the award of statutory attorneys' fees.

E. Survival.

Sections 5 (Commissions and Fees); 6 (Termination; Expiration), 8 (Insurance), 9 (Limitation of Liability), 10 (Independent Contractors), 12 (Notices), 13 (Miscellaneous), 14 (Definitions) and any other provisions of this Agreement that contemplate their continuing effectiveness shall survive termination of this Agreement.

F. Severability.

If any provision of this Agreement shall be held invalid for any reason, then such provision shall be severed from the remaining provisions of this Agreement and shall not affect the validity or enforceability of the other provisions of this Agreement.

G. Caption References and Headings.

All Section headings in this Agreement are for convenience or reference only and are not intended to define or limit the scope of any provision of this Agreement.

H. Construction.

Notwithstanding the general rules of construction, both the City of Newburgh and Broker acknowledge that both parties were given an equal opportunity to negotiate the terms and conditions contained in this Agreement, and agree that the identity of the drafter of this Agreement is not relevant to any interpretation of the terms and conditions of this Agreement.

14. Definitions

The following are definitions of capitalized terms used in this Agreement. Documents that are incorporated by reference may include additional defined terms for the purposes of the specific document.

"Agreement" means the Cover Page, the Signature Page(s), the General Terms and Conditions, the Listing Supplements and all other documents incorporated into the Agreement by reference.

"Broker" means the party to be charged under this Agreement with fulfilling all of the terms and conditions set forth herein. The authorized signatory of the Broker may be the Broker of Record or the Managing Broker.

"Broker of Record" means an individual who is licensed to operate, and is responsible for the overall management and control of, a real estate brokerage business. The Broker of Record may, but is not required to, delegate certain management duties to a Managing Broker.

"Broker Personnel" means the Broker, whether or not such party is an individual or a business entity, and the employees, independent contractors and Subcontractors of Broker.

"Cover Page" means the introductory page(s) to this Agreement containing information about Broker and its affiliates.

"Effective Date" means the date this Agreement becomes effective; the Effective Date is identified in Section 2.

"Listing Agent" means an individual who operates under the supervision of the Broker of Record or the Managing Broker, if the management duties of the Broker of Record were delegated to the Managing Broker, to negotiate and arrange real estate sales.

"Listing Supplement(s)" means the supplement(s) issued by the City of Newburgh from time to time, identifying Properties subject to Services to be performed by Broker under this Agreement, as modified and amended from time to time.

"Managing Broker" means an individual who is responsible for exercising the rights conferred on the Broker, supervising the performance and activities of the Broker Personnel and generally controlling and conducting the Broker's real estate business. The Managing Broker and the Broker of Record may, but are not required to be, the same individual. If different, the Broker of Record may delegate its management duties to a Managing Broker.

"Purchase Agreement" means a standard real estate purchase agreement form for the area in which a Property is located.

"City-Owned Sales Channel" means the retail sales channel utilized by the City of Newburgh manage and dispose of Properties directly through Broker.

"Services" means tasks performed or to be performed by Broker under this Agreement, including the property valuation, listing and marketing Services.

"Signature Page" means the page that is executed by the City of Newburgh and Broker to indicate their intent to accept and be bound by the terms and conditions of this Agreement; the Signature Page may consist of multiple pages if executed by the parties in counterparts.

Listing Supplement

Date:

Lee A. Raphael
River Realty Services, Inc.
117 Executive Drive, Suite 100
New Windsor, NY 12553

Dear Lee:

The City of Newburgh, referred to throughout this document as the "Seller", grants you sole right and authority to sell this property during the listing period subject to the terms and conditions of the current City of Newburgh Master Listing Agreement.

Listed Property

Address:

County: Orange
Type of Property:
City of Newburgh Property ID:

Listing Terms and Conditions:

Listing Price:

List Start Date:

List End Date:

Conditions: Purchase of the property will be by cash at the closing or on terms acceptable to the Seller.

Commission and Bonus:

Total Broker Commission Percentage: 5%

Listing Agent Commission Percentage: 2.5%

Buyers Agent Commission Percentage: 2.5%

Minimum Listing Commission Amount: \$1250.00

Minimum Buyers Agent Commission Amount: \$1250.00

Listing Agent Bonus:

Listing Agent Bonus Expiration Date:

Buyer Incentive Amount:

Special Instructions:

MLS Listing Instructions:

Enter the listing in your local MLS and retain a copy of the listing in your files.

The terms of this letter supersede and replace the terms of any prior letter granting authority to sell this property.

Acknowledged Broker / Agent _____

Date _____

RESOLUTION NO.: 107 - 2017

OF

APRIL 24, 2017

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 10 VAN NESS STREET (SECTION 29, BLOCK 5, LOT 25) AND
12 VAN NESS STREET (SECTION 29, BLOCK 5, LOT 26)
AT PRIVATE SALE TO JOSEPH A. BONURA FOR THE AMOUNT OF \$2,500.00

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 10 Van Ness Street and 12 Van Ness Street, being more accurately described as Section 29, Block 2, Lots 25 and 26, respectively, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase these properties 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 properties to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following properties to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to THE CITY OF NEWBURGH, such sums are to be paid on or before July 28, 2017, being approximately ninety (90) days from the date of this resolution; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchaser</u>	<u>Purchase Price</u>
10 Van Ness Street	29 - 5 - 25	Joseph A. Bonura	\$2,500.00
12 Van Ness Street	29 - 5 - 26		

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

10 Van Ness Street, City of Newburgh (29-5-25)
12 Van Ness Street, City of Newburgh (29-5-26)

STANDARD TERMS:

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid school taxes for the tax year of 2016-2017, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2016-2017, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.
6. Notice is hereby given that the properties are vacant and unoccupied. The parcels are being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the properties and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
7. Notice is hereby given that the properties lie within the East End Historic District as designated upon the zoning or tax map. The parcels are being sold subject to all provision of law applicable thereto

and it is the sole responsibility of the purchaser to redevelop such parcels so designated in accordance with same.

8. The purchaser shall combine both parcels (10 Van Ness Street and 12 Van Ness Street, being more accurately described as Section 29, Block 5, Lots 25 and 26, respectively) into one lot of record within one (1) year of the date of conveyance.
9. 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.
10. 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.
11. 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. Properties 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. Properties 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.
12. 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 July 28, 2017. Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. 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.
13. 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.
14. 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.
15. Conveyance shall be by quitclaim deed only, containing a description of the properties 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 properties is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**

16. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject properties, 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 properties. 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.
17. The description of the properties 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.
18. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.
19. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the properties 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 properties. The purchaser agrees that neither he/she nor his/her assigns shall convey the properties 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 properties and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 108 - 2017

OF

APRIL 24, 2017

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORANGE
FOR THE SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM TO
PROVIDE YOUNG PEOPLE TO WORK FOR THE CITY OF NEWBURGH
FOR THE SUMMER OF 2017**

WHEREAS, the County of Orange is once again offering a Summer Youth Employment and Training Program for the purpose of providing meaningful work experience for participants; and

WHEREAS, the City of Newburgh wishes to apply for 14 youth participants; and

WHEREAS, the City of Newburgh Recreation Department and the Department of Planning and Development have expressed an interest in using this program to provide summer jobs for young people and service to the City of Newburgh; and

WHEREAS, this Council finds that entering into the attached agreement with Orange County for this purpose is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement and other necessary documents with the County of Orange in order to participate in the Summer Youth Employment and Training Program which provides young people to work in the City of Newburgh for the Summer of 2017.

**SUMMER YOUTH EMPLOYMENT PROGRAM
WORKSITE AGREEMENT**

Worksite# _____

Worksite Name: City of Newburgh

Allotted Slots: 14

This Summer Youth Employment Program Worksite Agreement ("Agreement") is entered into as of this 3 day of July, 2017, by and between the County of Orange ("County"), a municipal corporation, by and through its Employment & Training Administration ("ETA"), with its principal offices located at 18 Seward Avenue, Middletown New York ") and

City of Newburgh located at
83 Broadway, Newburgh, NY 12550 ("Worksite").

The Worksite shall implement the Summer Youth Employment Program ("SYEP") in accordance with the provision of this Agreement commencing July 3, 2017 and ending close of business on August 4, 2017 unless extended, in writing, by the mutual agreement of the parties hereto ("Term").

This Agreement includes the following incorporated attachments:

- Schedule A – Worksite Supervisor(s)
- Schedule B – SYEP Participant Job Duties
- Schedule C – Secretary of the US Department of Labor SCANS Criteria.

In addition, ETA shall deliver to Worksite a copy of the New York State Department of Labor Child Labor Laws, which are incorporated into this Agreement by reference.

Worksite has requested, and the County will place, SYEP youth participants ("SYEP Participants") for meaningful work experience employment with the Worksite.

The terms and conditions of the SYEP Participant placements are as follows:

I. COUNTY RESPONSIBILITIES

County, by and through its ETA, shall:

- A. Monitor and evaluate SYEP Participants assigned to Worksite.
- B. Monitor Worksite to determine its compliance with the terms and conditions of this Agreement, and recommend any corrective action necessary to continue this Agreement.

- C. Pay the wages of SYEP Participants assigned to Worksite and maintain all earnings, social security, and tax records related thereto.
- D. Procure and maintain Worker's Compensation coverage for SYEP Participants.
- E. Have no liability under this Agreement to Worksite, any SYEP Participant, or anyone else beyond the funds appropriated and available for this Agreement. This Agreement is made subject to and limited by the County's receipt of federal funds sufficient to sustain a county-wide program SYEP. County does not assume any financial responsibility to sustain a SYEP Participant in the event federal funds are not available.

II. WORKSITE RESPONSIBILITIES

Worksite shall:

- A. Specify any and all supervisors who may have signatory authority for SYEP Participant's timesheets in Schedule A.
- B. Provide 14 jobs for SYEP Participants during the Term, which jobs shall be in accordance with the statement of duties specified in Schedule B.
- C. Neither ask for, nor accept any monetary consideration for providing the services described herein.
- D. To the extent required by Article 15 of the New York State Executive Law (also known as the Human Rights Law) and all other applicable New York State and federal statutory, regulatory and constitutional non-discrimination provisions, including, but not limited to, Title VI of the Civil Rights Act of 1964 (P.L. 88-352), all as may be as amended, Worksite will not discriminate against any SYEP Participant because of race, creed, color, sex (including gender identity or expression), national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status.
- E. Ensure that the work experience of SYEP Participants is in accordance with the program objectives of the SYEP, which, among other things, is to provide youth with a real work experience that will enhance their skills, as outlined in Schedule C, and foster the development of good work habits.
- F. Ensure a safe and healthy work environment for SYEP Participants.
- G. Take all necessary measures to provide skill training wherever possible and, to the maximum extent practicable, contribute to the occupational development, upward mobility, and employability of the SYEP Participants. Worksite acknowledges that most SYEP Participants are unskilled.

- H. Provide sufficient work to occupy the SYEP Participants during work hours and sufficient equipment and/or materials to enable SYEP Participants to carry out the work assignments.
- I. Provide full-time adult supervision of assigned SYEP Participants ensuring that there is at least one adult supervisor for every twelve (12) SYEP Participants.
- J. Maintain adequate attendance records in accordance with "Participant Time and Attendance Procedures" as established by ETA. Timesheets must be signed by both the Worksite supervisor and the SYEP Participant.
- K. Send all supervisors of SYEP Participants to participate in a brief Supervisor's Orientation at a time and location scheduled by ETA.
- L. Provide ETA staff with a written schedule of work hours for each SYEP Participant, which schedule(s) are hereby incorporated into this Agreement by reference.
- M. Notify ETA immediately of any injury and/or accident involving a participant and, for other than injuries and/or accidents, report to ETA any incidents or problems encountered by SYEP Participants and advise ETA of SYEP Participant who could benefit from special counseling as soon as practicable, given the severity of the incident or problem.
- N. Comply with all applicable New York State and Federal child labor laws, rules and regulations, including, but not limited to, the Workforce Investment Act of 1998 and regulations promulgated thereunder ("WIA"), all as may be amended.
- O. Grant authorized ETA staff, representatives of the Local Workforce Investment Board, and representatives of any State or Federal agencies administering funds under WIA, at all reasonable times, access to and the right to visit, unannounced, Worksite locations to monitor the service provided by Worksite under this Agreement.
- P. Comply with Federal and New York State laws, rules and regulations prohibiting sectarian, partisan or religious services, counseling, proselytizing instruction, or influence to SYEP Participants. WIA funds shall not be used for the promotion of any religious activity or utilized for any religious purposes. The County retains the exclusive right and authority to determine whether or not the Worksite is, and remains, in compliance with this provision.
- Q. By its signature below, Worksite hereby acknowledges that if it is negligent in carrying out the terms and conditions of this Agreement, it may not be used in the SYEP at a future date, and/or will be held financially responsible for costs deemed illegal by auditors or monitors. These remedies, if effected, shall not constitute the sole or exclusive remedies afforded County, nor shall it constitute a waiver of the County's right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity, or pursuant to this Agreement.

III. GENERAL PROVISIONS

- A. Termination. The County may, by written notice to Worksite effective immediately, terminate this Agreement in whole, or in part, or remove any SYEP Participant from any Worksite location, at any time (1) for the County's convenience; (2) upon the failure of Worksite to comply with the terms or conditions of this Agreement or any federal, state or local law, rule or regulation, including WIA; (3) in the event the federal funds supporting the SYEP are discontinued; or (4) upon bankruptcy, insolvency or closure of Worksite.
- B. Independent Contractor. In performing the services under this Agreement Worksite shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the County. In accordance with such status as an independent contractor, Worksite covenants and agrees that neither it nor its employees or agent will hold themselves out as, nor claim to be officers or employees of the County, or of any department, agency or unit thereof by reason hereof, and that it will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the County.
- C. Subcontracting/Assignment. Worksite shall not assign any of its rights, interest, or obligations under this Agreement, or subcontract any of the services to be performed by it under this Agreement. Worksite shall not reassign SYEP Participants to another Worksite location without the written permission of ETA.
- D. Pay-to Play. Pursuant to Section 10 of the County's "Pay-to-Play Local Law", (Local Law No. 13 of 2013, as amended) the regulatory and penalty provisions of the Pay-to-Play Local Law are incorporated by reference. A copy of the law may be requested from County's Department of General Services.
- E. Indemnification.
1. To the fullest extent permitted by law, Worksite shall defend, indemnify and hold harmless County and its officers, employees, contractors, agents, assignees and other representatives, from and against any and all claims, liabilities, expenses, costs, losses, damages and causes of action (including without limitation, reasonable attorneys' fees and costs of litigation and/or settlement) arising out of, directly or indirectly, the services performed and/or goods provided pursuant to this Agreement by Worksite or its officers, directors, members, partners, employees, SYEP Participants, contractors, agents, assignees or other representatives.
 2. Without limiting the foregoing, to the fullest extent permitted by law, Worksite specifically agrees to defend, indemnify and hold County harmless against claims, including claims by Worksite's customers and/or subcontractors, based on infringement of copyright, patent, trade secret, trademark, libel, slander, or invasion of privacy, arising out of, directly or indirectly, the services performed and/or goods provided by Worksite its officers, directors, partners, members, employees, contractors, agents, assignees or other representatives pursuant to this Agreement.

3. In the event that any claim is made or any action is brought against County arising out of, in connection with or otherwise relating to this Agreement either within or without the scope of Worksite's duties, obligations or applicable industry standards, or those of any of Worksite's respective officers, directors, partners, members, employees, contractors, agents, or other representative's; then County shall have the right to withhold further payments hereunder, for the purpose of set-off, in sufficient sums to cover the claims, liabilities, expenses, costs, losses, damages or causes of action. This remedy, if effected, shall not constitute the sole or exclusive remedy afforded County, nor shall it constitute a waiver of that the County's right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity, or pursuant to this Agreement.

F. General Release. The acceptance by Worksite or its assignees of the final payment under this Agreement (whether based on invoice, judgment of any court of competent jurisdiction, administrative or any other means) shall constitute and operate as a general release to County from any and all claims of Worksite arising out of the performance of this Agreement.

G. Set-Off Rights.

1. County shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, County's right to withhold for the purposes of set-off any monies otherwise due to Worksite:
 - a. under this Agreement;
 - b. under any other agreement or contract with County, including any agreement or contract for a term commencing prior to or after the term of this Agreement; or
 - c. from County by operation of law.
2. County also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to County for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.
3. These remedies, if effected, shall not constitute the sole or exclusive remedies afforded the County, nor shall it constitute a waiver of that the County's right to claim damages or otherwise refuse payment or to take any other action provided for by law, in equity, or pursuant to this Agreement.

H. Disputes. Except as otherwise provided by this Agreement, any dispute concerning this Agreement, which is not disposed of by the mutual consent of the parties hereto, shall be decided by the ETA or by its duly authorized representative for final resolution. Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed to in writing by the County Executive, or his or her designee, but must instead only be heard in the Supreme Court of the State of

New York, with venue in Orange County or, if appropriate, in the federal District Court with venue in the Southern District of New York, White Plains division.

- I. Modification. County reserves the right to update or change the provisions of this Agreement as conditions require, including, but not limited to for compliance with New York State or Federal laws or regulations. All modifications to this Agreement shall be in writing and executed by both parties. If Worksite does not agree to a modification necessary for compliance with New York State or Federal laws or regulations, this Agreement shall be deemed terminated, as of the date compliance with the subject law or regulation is required.
- J. Governing Law. This Agreement shall be governed by the laws of the State of New York, without giving effect to choice of law provisions. Worksite shall render all services under this Agreement in accordance with applicable provisions of all Federal, New York State and Local laws, rules and regulations as are in effect at the time services are rendered.
- K. Business Authorization and Registration; Service of Process. Worksite shall be properly authorized and registered to do business as required by the laws of the state of New York applicable to Worksite's business entity type. Regardless of the propriety or legality of Worksite's business authorization and registration status, as a condition of contract, Worksite shall agree to service of process as follows: In addition to the methods of service allowed by New York's Civil Practice Law and Rules, Worksite consents to service of process upon it by registered or certified mail, return receipt requested, to the address indicated in this Agreement. Service shall be complete upon Worksite's actual receipt of process, or upon County's receipt of the return by the United States Postal Service as refused or undeliverable. Worksite shall immediately notify County, in writing, via registered or certified mail, return receipt requested, of each change or address to which service of process can be made. Service by County to the last known address shall be sufficient.
- L. Notice.
 - 1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:
 - a. via certified or registered United States mail, return receipt requested;
 - b. by personal delivery;
 - c. by overnight delivery service with a nationally recognized carrier (e.g. FedEx, UPS); or
 - 2. The parties agree to mutually designate individuals as their respective representative for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems, and/or for dispute resolution. Notices shall be addressed as follows or to such different addresses as the parties may from time to time designate in accordance with subdivision 4 below:

County

Name: Orange County Employment & Training Administration

Title: Stephen Knob, Director

Address: 18 Seward Avenue, Middletown, NY 10940

Phone Number: (845) 346-3630

Worksite

Name: City of Newburgh

Title: Deidre Glenn, Director of Planning and Development

Address: 83 Broadway, Newburgh, NY 12550

Phone Number: (845) 569-7383

3. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein.
4. The parties may, from time to time, specify any new or different contact person or address in the United States as their address for purpose of receiving notice by notifying County, in writing, via registered or certified mail, return receipt requested, of each change.

M. Binding Effect.

This Agreement shall be binding upon the parties hereto and their respective successors and assigns.

N. Severability.

If any part, term or provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations arising under such provisions, but the remainder of this Agreement shall be interpreted so as to carry out the intent of the parties in an equitable manner.

Q. Compliance.

1. Worksite and its officers, directors, partners, members, employees, contractors, agents, assignees or other representatives shall at all times comply with all applicable New York state and federal laws and regulations in the performance of this Agreement.
2. Worksite understands that it may be necessary for County to submit to governmental agencies or to a court of law part of or all of the data, analyses and/or conclusions developed in the performance of the Scope of Work as well as certification, payment applications or other documentation certified and/or signed by Worksite or its officers,

directors, partners, members, employees, contractors, agents, assignees or other representatives. Worksite is aware that there are significant state and/or federal civil and criminal penalties for submitting false information, including the possibility of fines and imprisonment. Worksite is responsible for such penalties resulting from false information submitted by Worksite or its officers, directors, partners, members, employees, contractors, agents, assignees or other representatives and shall, to the fullest extent permitted by law, defend, indemnify and hold harmless County and its officers, employees, contractors, agents, assignees and other representatives, from and against any and all claims, liabilities, expenses, costs, losses, damages and causes of action (including without limitation, reasonable attorneys' fees and costs of litigation and/or settlement) arising out of, directly or indirectly, the submission of any false information by Worksite or its subcontractors.

R. Waiver.

No covenant, condition or undertaking contained in this Agreement may be waived except by the written agreement of the parties. Forbearance or indulgence in any form by either party in regard to any covenant, condition or undertaking to be kept or performed by the other party shall not constitute a waiver thereof and, until complete satisfaction or performance of all such covenants, conditions and undertakings, the other party may be entitled to invoke any remedy available under this Agreement, despite any such forbearance or indulgence.

S. Entire Agreement.

This Agreement sets forth the entire agreement between the parties with regard to the subject matter hereof, and supersedes all prior representations, agreements and understandings, written or oral.

IN WITNESS WHEREOF, the parties have signed this Agreement on the date(s) below written:

WORKSITE

Signature of Authorized Official

Print Name

Title

Date

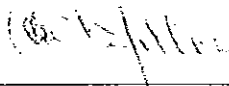
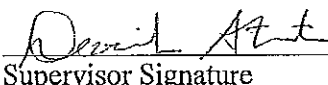
COUNTY OF ORANGE

Steven M. Neuhaus
County Executive

Date

SCHEDULE A - WORKSITE SUPERVISOR(S)

If any representative of the Worksite, other than the signatory of this Agreement will be signing youth timesheets for the Worksite, please have each supervisor sign below and specify their Worksite:

1.  Thomas Miller 4/1/2017
Supervisor Signature Print Name Date
Planning Department City Hall 233 Borough St. Newark, NJ
Worksite Location
2.  Derrick Stanton 4/1/2017
Supervisor Signature Print Name Date
City of Newburgh Recreation Department
Worksite Location
3. _____
Supervisor Signature Print Name Date

Worksite Location
4. _____
Supervisor Signature Print Name Date

Worksite Location
5. _____
Supervisor Signature Print Name Date

Worksite Location

SCHEDULE B – SYEP Participant Job Duties

Office Clerk:

Basic Office Practice: Computer Skills, Filing, Typing, Answer Phones, etc.

Junior Camp Counselor:

Under the direction of the Camp Director, the Jr. Camp Counselor is responsible for the direct supervision of camp participants in a seasonal camp setting. Maintain positive relationships with parent and other staff. Performs other duties as assigned.

Camp – Swimming Pool Aide:

This position is responsible for performing a variety of roles as needed at the swimming pool facility including cashier, concession worker, top-of slide attendant and errand runner.

Camp- Jr. Recreation Laborer:

Assist regular maintenance staff in keeping park areas, ground, buildings and facilities clean by picking up and performing proper disposal of trash, recyclables and compostable debris. Perform grounds maintenance including mowing and weed whipping and care for flowers beds and hedges. Maintain athletic fields and natural areas. Perform custodial work in park buildings and facilities including cleaning restrooms. Support the delivery of program and events by providing maintenance t support to recreation staff that meets the needs and demands of the program and events. Perform and foster an environment of safe work practices and report safety issues promptly to appropriate staff.

SCHEDULE C -- Secretary of the US Department of Labor SCANS Criteria

THE SECRETARY'S COMMISSION ON ACHIEVING NECESSARY SKILL (SCANS)

What skills will prepare our youth to participate in the modern workplace? What skill levels do entry-levels jobs require? In 1990, the Secretary of the Department of Labor, establishment the Secretary's Commission on Achieving Necessary Skill (SCANS)

WHAT ARE WORKPLACE SKILLS?

To find meaningful work, youth need to master certain workplace skill, SCANS calls these essential "foundation skill" and "competencies".

Workers use foundation skills-academic and behavioral characteristics-to build competencies on.

Foundation skills fall into three domains:

- **Basic Skill**-reading, writing, speaking, listing, and knowing arithmetic and mathematical concept;
- **Thinking Skills**-reasoning, making decisions, thinking creatively, solving problems, seeing things in the mind's eye and knowing how to learn; and
- **Personal Qualities**-responsibility, self-esteem, sociability, self-management, integrity and honesty.

Competencies, however, more closely relate to what people actually do at work. The competencies the SCANS has identified fall into five domains:

- **Resources** - identifying, organizing, planning, and allocating time, money, materials, and workers
- **Interpersonal Skills** - negotiating, exercising leadership, working with diversity, teaching others new skills, serving clients and customers, and participating as a team member.
- **Information Skill** - using computer to process information and acquiring and evaluating, organizing, and maintaining, and interpreting and communicating information
- **Systems Skill** - understanding systems, monitoring and correcting system performance, and improving and designing systems; and
- **Technology Utilization Skills** - selecting technology, applying technology to a task, and maintaining and troubleshooting technology

RESOLUTION NO.: 109 - 2017

OF

APRIL 24, 2017

A RESOLUTION AMENDING RULES OF ORDER AND PROCEDURE
FOR THE COUNCIL OF THE CITY OF NEWBURGH
FOR THE YEAR 2016

WHEREAS, by Resolution No. 47-2016 of February 22, 2016, the City Council of the City of Newburgh adopted for use Rules of Order and Procedure for City Council meetings; and

WHEREAS, this Council finds that amending such Rules and Order of Procedure is in the best interests of the City of Newburgh;

NOW, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby amends the 2016 the Rules of Conduct and Procedure as set forth in the copy attached hereto and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that this Resolution shall take at the next Council meeting subsequent to its adoption.

City of Newburgh City Council
Rules of Order and Procedure

Rule I: General Rules of Procedure

A. The presiding officer shall preserve order and decorum and shall decide questions of order, subject to an appeal by motion to the City Council; the appeal to be taken without debate. The presiding officer may, if (s)he so desires, present motions and resolutions to the City Council, and (s)he may debate on any question which is being considered by it.

B. When a question is under consideration, no motion shall be entertained except as herein specified, which shall have precedence in the following order:

1. Motion for clarification, or to request reversal of ruling of the presiding officer, or limiting or extending discussion;
2. Recess the session;
3. Lay on table;
4. Postpone to a meeting of a certain date;
5. Refer to work session;
6. Amend;
7. Call the previous question, to be asked as follows: "Shall the main question be put now?" If answered in the negative, the main question remains before the Council.

C. A motion to lay a question on the table shall be decided without amendment or debate, and a motion to postpone shall be decided without debate.

D. A motion to adjourn shall always be in order and shall be decided without debate.

E. Every member desiring to speak shall address the presiding officer. All council members shall confine him/herself to the question under debate and avoid personalities. A member once recognized shall not be interrupted when speaking.

F. No question or motion shall be debated or put, unless it is seconded. It shall then be stated by the presiding officer.

G. A motion to reconsider any action taken by the Council may be made on the day such action was taken, either immediately during the session or at a recessed or adjourned session. Such motion must be made by a member on the prevailing side, but may be seconded by any member. The motion is subject to debate. This rule shall not prevent any member of the Council from making or re-making the same or any other motion at a subsequent meeting of the Council.

H. No member of the Council shall by conversation or otherwise delay or interrupt the proceedings or the peace of the Council nor disturb any member while speaking or refuse to comply with these rules, or the orders of its presiding officer. The Presiding Officer, subject to appeal by motion to the Council, may direct a member who is acting in violation of this section to leave the meeting or call for a recess or adjournment.

I. As the sergeant-at-arms of the meetings, the Police Chief shall carry out all order and instructions given by the presiding officer, for the purpose of maintaining order and decorum at the meetings, subject to an appeal by motion, to the Council.

J. Any motion may be withdrawn by the maker before it has been amended or voted upon, but in such case any other member may renew the motion at that time.

Rule II. Order of Business

A. The Order of Business shall be in conformity with section 20-3 of the Code of Ordinances.

B. The Order of Business may be departed from by majority vote of the members present.

Rule III. Voting

A. The order of voting shall be by alphabetical order of the last name of each Council member with the Mayor voting last.

B. All votes shall be by roll call. It shall be the duty of the City Clerk to enter on the minutes the names of the members voting for or against the question. Once a question has been put and the vote is being taken, the members of the Council shall confine themselves to voting and shall not resume discussion or make further comments on the question.

C. Every resolution or motion must be seconded before being put to a vote. An abstention, silence or absence shall be considered a negative vote for the purposes of determining the final vote on a matter.

D. No resolution, ordinance or local law may be introduced at a meeting unless the resolution, ordinance or local law has been considered at a work session of the Council prior to the Council meeting or is listed on the written agenda for said meeting. Notwithstanding the foregoing, by majority vote, an emergency item concerning the public health, safety or welfare not discussed at work session or appearing on the written agenda may be introduced, considered, and voted upon.

Rule IV. Executive Session

Whenever the Council shall determine to transact business in an executive session, it shall do so in accordance with the provisions of the New York State Open Meetings Law. All executive sessions shall be commenced at the public meeting. Proposals, discussions, statements and transactions in executive session are intended to be and shall be held and maintained in confidence and shall not be disclosed. The presiding officer shall direct all persons except members and designated officers and employees of the City to withdraw.

Rule V. Participation of City Manager and Staff

The City Manager shall be permitted to address the Council and participate in discussions. Heads of Departments shall be permitted to address the Council. Any other City officer or employee shall be permitted to address the Council with permission of the presiding officer, subject to an appeal by motion to the City Council, the appeal to be taken without debate.

Rule VI. Suspension of the Rules

In order to hear persons other than members of the City Council, the Mayor, and members of City staff, it shall be necessary to pass a motion suspending the rules of order. A motion to suspend the rules may be made at any time during the meeting and shall be decided without debate. Any such person speaking shall confine himself/herself to the subject and shall spend not longer than three (3) minutes, unless the time is extended by the presiding officer. This rule shall not apply to public hearings.

Rule VII. Guidelines for Public Comment

A. The public shall be allowed to speak only during the Public Comment period of the meeting or at such other time as the presiding officer may allow, subject to appeal by motion to the Council.

B. Speakers must adhere to the following guidelines:

1. Speakers must be recognized by the presiding officer.
2. Speakers must step to the front of the room.
3. Speakers must give their name, street name without number and organization, if any.
4. Speakers must limit their remarks to 5 minutes on a given topic. The City Clerk shall keep a record of the time and shall inform the presiding officer when the 5 minutes has expired.
5. Speakers may not yield any remaining time they may have to another speaker.

6. Council members may, with the permission of the presiding officer, interrupt a speaker during their remarks, but only for the purpose of clarification or information.
7. All remarks shall be addressed to the Council as a body and not to any specific member or to staff.
8. Speakers shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. No profanities shall be used. No personal, slanderous, boisterous remarks shall be made. Council members, the Mayor and staff shall be treated with respect. The presiding officer, subject to appeal by motion to the Council, or the Council, may, by majority vote, request that the presiding officer direct that a speaker violating this provision or any other rule yield the floor and in the event the speaker fails to obey, (s)he may be escorted from the meeting by the sergeant-in-arms.
9. Interested parties or their representatives may address the Council by written communications. Written communications shall be delivered to the Clerk or their designee. Speakers may read written communications verbatim.

C. Members of the public not speaking shall observe commonly accepted rules of courtesy and decorum. They shall not annoy or harass others or speak when another speaker is being heard by the Council.

Rule VIII. Use of Recording Equipment

All members of the public and all public officials are allowed to audio or video record public meetings. Recording is not allowed during executive sessions. The recording should be done in a manner which does not interfere with the meeting. The presiding officer, subject to appeal by motion to the Council, may make the determination that the recording is being done in an intrusive manner, taking into consideration, but not limited to, brightness of lights, distance from the deliberations of the Council, size of the equipment, and the ability of the public to still participate in the meeting. If the presiding officer makes the determination that the recording is intrusive and has the effect of interfering with the meeting, (s)he may request an accommodation to avoid the interference and if not complied with, may ask the individual to leave the meeting room.

Rule IX. Rules for Public Hearings

The following rules shall apply to a legally required public hearing held before the City Council:

- (a) Speakers shall sign-in with the Clerk in writing prior to the beginning of the hearing by providing their name, street name without number, and organization, if any. Individuals arriving after the commencement of the hearing shall be permitted to register upon arrival as long as the Chairperson has not closed the hearing.

- (b) The Presiding Officer shall recognize each speaker, in the order listed on the sign-in sheet, when the hearing is commenced. Speakers shall identify themselves, their street name and organization, if any, prior to the remarks.
- (c) Speakers must limit their remarks to five (5) minutes. Remarks shall be addressed only to the hearing issues. Speakers may not yield any remaining time they may have to another speaker. The City Clerk shall time speakers and advise the presiding officer when the time has expired.
- (d) All remarks shall be addressed to the Council as a body and not to any individual member thereof.
- (e) Speakers shall observe the commonly accepted rules of courtesy, decency, dignity and good taste. Any loud, boisterous individual shall be asked to leave by the Presiding Officer and may be removed at the request of the Presiding Officer, subject to appeal by motion to the Council. Speakers addressing issues outside the scope of the hearing shall be asked to cease their comments.
- (f) Interested parties may address the Council by written communication. The statements may be read at the hearing, but shall be provided to all Council members and entered in the minutes of the hearing by the City Clerk.
- (g) The City Clerk shall include in the minutes of the hearing the name, address and organization, if any, of each speaker, a summary of the remarks, and written statements submitted to the Council.

Rule X. Work Sessions

There shall be regular work sessions of the Council to be held each Thursday preceding a Monday evening Council meeting. The work sessions shall be held at 6:00 p.m. in City Hall, 83 Broadway, Third Floor Council Chambers, unless the Council by majority vote cancels or changes the time or place of such session. The Rules IV, V, VI, and VIII of the Rules of Order of the Council shall apply to all work sessions. Work Session items requiring the preparation of a resolution, ordinance or local law shall be submitted to the City Manager's office no later than close of business on Wednesday in the week before the work session. Discussion items for work sessions shall be submitted to the City Manager's office no later than noon on the Friday immediately preceding the work session. The 2016 Council Meeting schedule is attached to these Rules and Order of Proceedings.

Rule XI. Robert's Rules of Order

In the event any question in procedure shall arise that is not provided for by these rules, then, in that event, Robert's Rules of Order, Newly Revised, 10th Edition, shall be followed.

Rule XII. Adoption of Ordinances

Provided the proposed adoption of an ordinance has been placed on an agenda for a meeting of the Council at which the public is afforded the opportunity to comment on agenda items before Council action, a formal public hearing will not be conducted prior to the adoption of such ordinance, unless otherwise required by federal, state, or local law, ordinance, rule or regulation.

This rule shall not be construed to prevent the Council from holding a public hearing on any ordinance at its discretion, provided a majority of the members of the Council in attendance at a meeting, upon a motion or resolution duly introduced, vote to conduct such public hearing.

Date Adopted: May 14, 2001

Amended: February 25, 2002 (Rule XII added)

January 10, 2014 (Rule IV)

February 22, 2016

April 24, 2017 (Rule VII(B) amended)

ORDINANCE NO.: 8 - 2017

OF

APRIL 24, 2017

AN ORDINANCE AMENDING SECTION 20-3 ENTITLED "ORDER OF BUSINESS"

BE IT ORDAINED by the City Council of the City of Newburgh that Section 20-3 of the Code of Ordinances is hereby amended to read as follows:

Section 1. Section 20-3. Order of Business.

The business of the Council shall be conducted in the following order:

- A. Roll call.
- B. Approval of minutes of previous meeting.
- C. Communications.
- D. Public hearings.
- E. Public comments regarding any matter of City business ~~report of City Manager and items of old business and new business.~~
- F. Comments from the Council.
- G. Report of City Manager.
- H. Old business.
- I. New business.
- ~~J. Public comments regarding general matters of City business.~~
- ~~K.~~ J. Further comments from the Council.

Section 2. This Ordinance shall take effect at the next City Council meeting subsequent to its adoption.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

TABLED

RESOLUTION NO.: 110 - 2017

OF

APRIL 24, 2017

A RESOLUTION ADOPTING THE CITY OF NEWBURGH
CYBER/ELECTRONIC AND TELEPHONIC COMMUNICATIONS POLICY

WHEREAS, by Resolution No. 225-2011 of November 14, 2011, the City Council of the City of Newburgh adopted the City of Newburgh Cyber/Electronic and Telephonic Communications Policy; and

WHEREAS, the City of Newburgh Cyber/Electronic and Telephonic Communications Policy has been revised and updated; and

WHEREAS, the City Council finds that adopting the revised the City of Newburgh Cyber/Electronic and Telephonic Communications Policy is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby adopts the City of Newburgh Cyber/Electronic and Telephonic Communications Policy, a copy of which is attached hereto and made a part of this Resolution; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately.

CITY OF NEWBURGH

CYBER/ELECTRONIC AND TELEPHONIC COMMUNICATIONS POLICY

PREAMBLE AND PURPOSE

THE CITY OF NEWBURGH ("CITY") ELECTRONIC COMMUNICATIONS SYSTEMS, INCLUDING ELECTRONIC DEVICES, E-MAIL AND THE INTERNET, AND THE CITY'S TELEPHONIC COMMUNICATIONS SYSTEMS ARE ESSENTIAL TO THE PROFESSIONAL CONDUCT OF CITY BUSINESS. CITY EMPLOYEES, VOLUNTEERS AND AGENTS HAVE A LEGAL AND ETHICAL OBLIGATION TO USE SUCH SYSTEMS IN A PRODUCTIVE AND RESPONSIBLE MANNER. IT IS IMPERATIVE THAT CITY EMPLOYEES READ AND UNDERSTAND THE CITY POLICY WITH RESPECT TO ELECTRONIC AND TELEPHONIC COMMUNICATIONS AND ADHERE TO IT. EMPLOYEES WHO VIOLATE THIS POLICY ARE SUBJECT TO POTENTIAL DISCIPLINARY ACTION, SUBJECT TO APPLICABLE LAWS AND COLLECTIVE BARGAINING AGREEMENTS, UP TO AND INCLUDING TERMINATION. THIS POLICY IS NOT INTENDED TO NOR SHALL IT MODIFY OR AFFECT IN ANY MANNER ANY PROCEDURES, POLICIES, USAGES OR OTHER OFFICIAL OPERATION OF ANY EMERGENCY COMMUNICATIONS SYSTEMS OR DEVICES USED BY ANY CITY EMERGENCY RESPONSE AGENCY. IN THE CARRYING OUT OF OFFICIAL DUTIES, NO EMPLOYEE HAS OR SHALL EXPECT PRIVACY WITH RESPECT TO ANY USAGE OF SUCH CITY SYSTEMS. ACCESSING PERSONAL DATABASES, ACCOUNTS OR OTHER CONTACTS UNRELATED TO CONDUCTING THE BUSINESS OF THE CITY, IS PROHIBITED.

1. DEFINITIONS.

CITY ~ As used herein and unless otherwise specified shall mean the City of Newburgh, New York.

BUSINESS USE ~ City-provided electronic devices that allow access to the Internet and electronic communication systems that are the property of the City and are provided to facilitate the effective and efficient conduct of City business. Users permitted access to the Internet and electronic communication systems to assist in the performance of their jobs. Each agency or department of the City shall follow this policy establishing with specificity the work-related purposes for which such equipment and access are provided.

ELECTRONIC COMMUNICATION SYSTEMS ~ System used as a means of sending and receiving messages electronically, including but not limited to e-mail, text messages, instant messages, multimedia messages or voice mail.

ELECTRONIC DEVICE ~ Includes televisions, DVD players, laptops, desktop computers, mobile phones, iPods, iPads, cameras, printers and radios. An electronic device is a device that accomplishes its purpose electronically. Electronic devices include mobile devices as further defined in this Policy.

EMPLOYEE ~ An officer, official, employee, agent, contractor or volunteer working for the City of Newburgh.

INTERNET ~ An international network of independent computer systems. The World Wide Web is one of the most recognized means of using the Internet.

INTRANET ~ A network of City-owned computer systems and electronic devices accessible only to City employees.

MOBILE DEVICE - A type of Electronic Device that has at least one network connection interface, non-removable and/or removable storage, and is portable, including but not limited to smartphones, Personal Digital Assistants (PDAs), tablets, laptops, smart watches and wearable devices.

PERSONAL USE ~ Personal use means use that is not job-related. Personal use is prohibited if it:

- interferes with the user's productivity or work performance or with any other employee's productivity or work performance;
- adversely affects the efficient operation of the electronic device or system;
- violates any provision of this policy, any supplemental policy adopted by the agency supplying the Internet or electronic communication systems, or any other policy, regulation, law or guideline as set forth by local, State or Federal law.

PORTABLE STORAGE DEVICE ~ A storage device that is capable of being physically transported, including but not limited to USB/flash drives/thumb drives, external hard drives, tapes, CDs, DVDs and cameras.

TELECOMMUNICATIONS SYSTEM(S); COMPUTER/ELECTRONIC NETWORK ~ One or more electronic devices that can store, provide access to, transmit, receive and/or share information, typically connected by cable, data line, or satellite link, including personal computers ("pc's,"), mobile devices, including but not limited to iPads and other tablets, laptop computers, personal data assistants (PDAs), word-processors or any other type or kind of device connected to or used in conjunction with the telecommunications or telephone systems of the City of Newburgh, including but not limited to any telephone or computer equipment or electronic device, phone cards, copiers, facsimiles, printers, modems, projectors, audio and video equipment and other such devices and equipment; which are owned, leased, rented, borrowed or otherwise possessed or used by the City of Newburgh.

TELEPHONE SYSTEM; TELEPHONE COMMUNICATIONS Two or more telephones or telephone-like devices employed by employees, volunteers and agents of the City of Newburgh to communicate and transmit information.

USERS ~ All employees and agents of the City who use a City agency's telephonic or computer and/or other electronic communication systems and electronic and mobile devices. NOTE: City departments which give consultants, contract personnel or other non-employees such as volunteers or interns access to the agency's telephonic or computer or other electronic communication systems shall require such individuals to abide by this policy.

2. PERSONAL USE OF CITY PROPERTY, FACILITIES AND EQUIPMENT PROHIBITED.

a. All electronic and telephonic communication systems and all communications and information transmitted by, received from, or stored in these systems are the property of the City and, as such, are to be used solely for City-related purposes. The use of any software or business equipment, including, but not limited to, the City's e-mail system, City's intranet, the Internet, telecopiers, electronic devices, facsimiles, modems, telephones, mobile devices, and copy machines for private purposes is prohibited.

b. Employees using City property, electronic devices or equipment for personal purposes do so at their own risk. Employees are not permitted to use a password, code, access a file or retrieve any stored communication unless authorized to do so or unless they have received prior clearance from the City Manager and their department head after approval from the Information Systems Manager. Elected Officials need only obtain permission from the Information Systems Manager. All passwords are City property and must not be shared with any unauthorized person. The Information Systems Manager shall establish passwords and encryptions keys for exclusive use of elected officials to which only the elected official shall have access. No employee may use a pass code or voice-mail access code that has not been issued or approved by the City, or that is unknown to the City. City business may be conducted using only City electronic devices, mobile devices and equipment. Use of any other electronic devices or mobile devices requires *written* consent of the Information Systems Manager and the authorized Department Head. Elected officials need only obtain permission from the Information Systems Manager.

c. Privacy Expectations: City employees do not have a right, nor should they have an expectation, of privacy while using City-provided electronic devices and mobile devices at any time, including accessing the City's Intranet, Internet and using e-mail and voice communications. To the extent that Elected Officials and employees wish that their private activities remain private, they should avoid using the City-provided electronic device or mobile device for personal use. By acceptance of the City-provided electronic device, employees provide their consent to disclosing and/or monitoring of device usage, including the contents of any files or information maintained or passed-through that device subject to the City's collective bargaining obligations, and avoid connecting personal devices to the City's internet/intranet systems. By use of a City-provided electronic device, Elected Officials are expected to comply with the City's Cyber/Electronic

Telephone Communication Policy rules for acceptable use of such electronic devices as set forth in paragraphs 2, 3, 6 and 7 of this Policy. The Information Systems Manager may access the electronic devices issued to Elected Officials to determine compliance with this policy and to comply with Freedom of Information Law requests and legitimate discovery requests arising out of administrative, civil, or criminal proceedings.

3. IMPROPER E-MAIL AND INTRANET/INTERNET USE PROHIBITED

a. Improper use of the City's e-mail system and any other electronic and telephonic communication, including the Intranet/Internet, is prohibited. Examples of improper conduct include, but are not limited to:

- Transmitting offensive images, offensive jokes or remarks.
- Transmitting messages that can reasonably be interpreted as threatening, intimidating, coercive, discriminatory or harassing.
- Requesting dates and/or sexual favors, or making personal or sexual remarks to others or transmitting same.
- Any use that can reasonably be interpreted as demeaning, defamatory or abusive of any individual or group.
- Any use which would violate or tend to violate the privacy rights of any individual.
- Any use which is or may tend to be in violation of any licensing or other contract or agreement pertaining thereto binding the City.
- Any use that is disruptive or offensive to others or creates, encourages or permits a hostile work environment.
- Any use involving obscene, pornographic or prurient material.
- Any use promoting or advancing the interests of any candidate for public office or any political organization.
- Any use during which the user remains anonymous or uses a false or misleading name or identity.
- Any use which promotes or advances a private commercial business or interest.
- Any private or personal use of hardware or software which is the property of the City, on City premises or elsewhere.

- Any use that is fraudulent, illegal or contrary to City policies, or leads to liability or harms or would tend to harm the status, stature or image of the City, or would tend to or does expose the City to legal liability or penalty; or to significant or unusual or unnecessary costs or expenses.

4. RIGHTS OF CITY CONCERNING USE OF CITY FACILITIES, EQUIPMENT, ELECTRONIC DEVICES AND DATA.

- To ensure that the use of electronic and telephonic communications systems and City property and/or equipment is consistent with the City's legitimate business interests, authorized representatives of the City may monitor the use of such equipment from time to time. This includes monitoring Intranet/Internet usage of any kind. This may also include listening to stored voice-mail messages and the ability to conduct GPS monitoring with electronic devices subject to the City's collective bargaining obligations.
- The City reserves the right, at any time and for any purpose, to monitor, review, audit, intercept, access, delete, use and disclose all files, documents, telephonic messages, e-mail messages, sites, messaging systems, chat rooms, blogs, news outlets or other communications, created, received, sent or stored over the telephone, e-mail computer or other electronic systems of the City. Employees should understand that personal passwords, access codes, and hard disk drives should not be used; and do not in any manner alter these City rights, nor do they create any employee privacy rights or expectations. The City may monitor employee use of City equipment at any time at its discretion, with or without notice to the employee subject to its collective bargaining obligations. Employees should further understand that deleting or erasing material from the system might not in fact remove the material from the system.
- Employees may not share or disclose passwords issued or provided by the City or used by the City to any unauthorized person or use such passwords for any unauthorized purpose.
- The City owns any data used or created during working hours and working time and/or using City-owned electronic devices and equipment and on any personal electronic device or equipment when used for work-related tasks. Data may not be removed from the workplace and/or stored on personal electronic devices without the express written permission of the department head, Information Systems Manager and the City Manager. Copying data includes any replication of data, taking photographs or any other electronically displayed information.

5. CITY'S RIGHT TO AMEND ITS POLICY AND RULES.

The City may adopt and revise this policy and rules appertaining thereto as it may deem appropriate and necessary from time to time, as authorized by law. The City will adequately post revisions, but it is the user's responsibility to ensure that his/her use of the City of Newburgh computing and communication resources conforms to current policy.

6. SPECIAL INTERNET AND E-MAIL CONSIDERATIONS

- a.
 - (i) The City provides access to the Internet to some of its employees based upon the responsibilities of their position. The Internet represents a useful tool for the City in conducting its business, but like any other tool, it must be used properly. For purposes of this policy, the Internet includes any public electronic data communications network.
 - (ii) Internet e-mail offers capabilities similar to other e-mail systems, except that correspondents may be external to the City. External e-mail messages may carry one or more attachments. An attachment may be any kind of data file, such as a word processing document, spreadsheet, software program, or graphic image.
 - (iii) Just as the City has an official Internet web site, so do other organizations. Most public web sites are "read only," meaning that they permit a person who visits the site to read material posted on the web site but not to leave a message. Other web sites permit visitors to establish continuing contact by leaving a message (the electronic equivalent of leaving your business card or a telephone message). The owner or operator of a private web site may record the information that a connection was made from the City. This can have important consequences to the City.
- b.
 - (i) Any and all use of the Internet and/or e-mail may be conducted solely in accordance with the terms and conditions of this Policy and Rules.
- c.
 - (i) No Violation of Copyright. Many of the materials on the Internet are protected by copyright. Even though they may seem to be freely accessible, many of the intellectual property laws which apply to print media still apply to software and material published on the Internet. Employees are permitted to print out web pages and to download material from the Internet for informational purposes as long as the purpose for such copying is directly related to City business and as long as such copying falls into the category of "fair use" which is the term used to describe a legal standard defining what the law does and does not allow. Copying or disseminating material that is copyrighted is prohibited. Employees having any questions regarding such materials should contact the Corporation Counsel for guidance in advance of such copying.
 - (ii) There are Federal and State laws which protect the rights of persons who originate creative works. Such works can include writings, artwork, graphics, humor, music and so on. Any employee using such material without the permission of the owner may be in violation of such laws and may expose themselves and the City to liability. Such use, which would tend to or would result in a violation of the copyright, patent, trademark or any other laws, rules or regulations of the United States or of the State of New York; or would tend to or would expose the City to liability for same, is prohibited.

- (iii) As a general rule, employees may not forward, distribute, copy, re-publish, download, upload elsewhere or incorporate into another work, material retrieved from a web site or other external system. Very limited or "fair use" may be permitted by law in certain circumstances. Any employee desiring to reproduce or store the contents of a screen or Web site should contact the Corporation Counsel to ascertain whether the intended use is permissible.

d. Use of the Internet and/or World Wide Web includes all restrictions, which apply generally to the use of the City's e-mail and other electronic devices and telephonic equipment, as noted above. In addition, the following rules apply with respect to Internet usage:

- (i) No Downloading of Non-Business Related Data. The City does not allow the download of files from the Internet. However, if a need to download files arises, an employee must receive prior permission from both his/her department head and from the City Information Systems Manager. Elected Officials need only obtain permission from the Information Systems Manager.
- (ii) No Downloading of Application Programs. The City does not permit the download or installation on City electronic devices or mobile devices of application software from the Internet. The City does not permit the downloading of any program or information which may infiltrate, damage, alter, interfere with or otherwise harm the proper functioning of City systems; or which is unrelated to the conduct of City business. Such software may not only contain embedded viruses, but also is untested and may interfere with the functioning of standard City applications.
- (iii) No Participation in web-based Surveys without Authorization. When using the Internet with City equipment during the employee(s) workday, the user implicitly involves the City in his/her expression. Therefore, users should not participate in web or e-mail based surveys, interviews or chat rooms without authorization or permission of the department head.
- (iv) No use of Subscription-based Services without Prior Approval. Some Internet sites require that users subscribe before being able to use them. Users should not subscribe to such services without the authorization of their department head and the City Manager after approval from the Information Systems Manager. Elected Officials need only obtain permission from the Information Systems Manager.
- (v) Remote Access to any systems of the City. Remote access to any systems of the City without proper advance authorization by the Information Systems Manager and the department head is prohibited. Elected officials may request remote access to their City systems and accounts from the Information Systems Manager.

7. SECURITY PRECAUTIONS.

a. The Information Systems Manager has overall responsibility for establishing the security standards for City-issued electronic and mobile devices. The Information Systems Manager will:

- (i) Procure all City of Newburgh-owned electronic and mobile devices for City of Newburgh issuance and approve the types of personally owned devices that will be used.
- (ii) Assure that City of Newburgh issued electronic and mobile devices are available for staff members with job functions that are mission critical to City of Newburgh operations, or that protect the safety and security of City of Newburgh staff.
- (iii) Provide for the distribution, operation, and administrative support of issued electronic and mobile devices.
- (iv) Maintain an inventory of City of Newburgh electronic and mobile devices by serial number, user's office, user's name, and service start/end dates.
- (v) Maintain an inventory of licenses for City of Newburgh owned software installed on each City of Newburgh-owned electronic and mobile device.
- (vi) Establish and maintain security configurations for all City-issued electronic and mobile devices, including patching and upgrading of software/firmware.
- (vii) Establish a timetable for replacement of obsolete City-issued electronic devices and equipment and mobile devices.
- (viii) Establish security standards for electronic devices issued to the elected officials to maintain separate email and electronic device accounts and passwords for each elected official which cannot be linked or otherwise shared with other elected officials or employees.

b. To increase security, users shall take all necessary and appropriate measures to protect all City systems, electronic devices and equipment and the data and information which is stored therein and accessed and used thereby. Such measures shall include but not be limited to the following:

- (i) Users should log off of computer or electronic systems or take other appropriate precautions when electronic devices are not in use for a significant period of time.
- (ii) Passwords and user accounts must not be "shared" with any unauthorized individual. Passwords may not be saved in websites or associated keychains, on system hard drives, on personal devices or any other non-approved location.
- (iii) All anti-virus and other protective measures shall be employed at all times that City systems are in use.
- (iv) Careless, reckless, malicious or intentional damage to City systems is prohibited.
- (v) Any violations by employees or non-employees of any provision or part of this policy shall be reported immediately to the department head and the City Manager.

c. Rules for Use of Personal Computers, Mobile Devices and other Electronic Devices. City employees, agents and volunteers, **SHALL NOT**:

- (i) Load software (screen savers, tutorials, application software, hardware, freeware, open-source software, etc.) without prior written approval from your department head AND from the City's Information Systems Manager.
- (ii) Copy, download, lend or allow unauthorized use of or access to software owned and/or licensed for use by the City.
- (iii) Use, attach, load, apply, install or otherwise introduce into City systems personally owned and/or licensed software and/or hardware, including USB drives, mobile phones and devices and other personal equipment.
- (iv) Install hardware or hardware drivers; and **SHALL NOT** relocate computer equipment or electronic device or swap equipment from one electronic device to another.
- (v) Exchange, or themselves take or allow others to take computer equipment, electronic devices, portable storage devices, software or any other City-owned property off of City premises or move or remove any City property without permission of the department head or City Manager. Requests to use any City-owned equipment or materials off-site must be made in writing and must be approved in advance by both the department head and the Information Systems Manager. Elected officials may remove portable electronic devices and portable storage devices from City premises as needed for the performance of their official duties.
- (vi) Act such as to accept and use or allow others the acceptance and use of computer hardware or software from other sources without the advance written authorization from the department head and the Information Systems Manager.
- (vii) Turn off anti-virus protection or change settings pertaining thereto.
- (viii) Change system settings (Network Neighborhood, Device Setup, E-mail Server options, Control Panel Regional Settings, etc.) or modify (delete or rename) system files/programs/shortcuts (My Computer, Network Neighborhood, Microsoft Word, etc.) from the main desktop screen.
- (ix) Act so as to use or allow others the use of e-mail and Internet browsing for other than City business.
- (x) Download from the Internet or open e-mail attachments that are ".exe" files unless the source, sender and/or originator has been properly verified.

- (xi) Use the Internet inquiry/download for inappropriate or improper content.
 - (xii) Use media, such as portable storage devices, unless they have been checked for viruses by authorized and qualified City staff. Portable storage devices will be scanned automatically for viruses upon connection to City computers and electronic devices.
 - (xiii) Share electronic device or mobile device passwords or access codes with any unauthorized person(s) at any time. Electronic device or mobile device passwords are not to be stored or posted in any publicly accessible area nor kept among private office possessions in a manner that could lead to their exposure even with substantial effort and ingenuity. Information concerning or to the effect that any unauthorized person(s) know a password or access code(s) or other confidential information must be reported to the department head and to the City Manager immediately. Elected officials need only report unauthorized access to passwords and/or other confidential information to the Information Systems Manager. The City may require periodic changes of passwords at its discretion.
 - (xiv) Fail to check any and all portable storage devices or other media devices inserted into a computer or other electronic device for viruses. All users are required to notify the City's Information Systems Manager, the department head and the City Manager immediately if a virus is detected.
 - (xv) Use or access any internet radio, television or other similar media station for any reason unrelated to city business or purposes.
 - (xvi) Use any instant messaging client(s) or services, such as but not limited to AOL Instant Messenger, Yahoo Messenger, MSN Messenger, Google Talk, Google Hangouts, iMessage or others, unless prior written permission has been given therefore by both the department head and City Manager.
 - (xvii) Use any free or promotional internet web-mail sites unless prior written approval is granted therefore by both the department head and the City Manager.
 - (xviii) Obtain prior authorization of the Information Systems Manager, department head and City Manager to alter or delete systems files.
- d. All City employees, agents and volunteers shall abide by the following:
- (i) All authorized work-related data files (documents, spreadsheets, etc.) must be saved on the server (F: drive, G: drive or Z: drive) folders and not on the PC, mobile device, portable device or other electronic equipment. Storing files on the electronic device and/or hard drives is done at the risk of lost data. It is not the

- responsibility of Information Services to restore this information if there is an electronic device, mobile device, portable device or PC failure.
- (ii) Abide by the applicable New York State law governing the use of mobile devices and/or smartphones while driving.
 - (iii) City electronic devices and/or equipment during non-working hours and may be used for work-related purposes in accordance with the other terms and conditions of this policy.
- e. Rules for Electronic Mail (E-mail & Internet):
- (i) The City's e-mail systems are City-owned property and are intended to be used for official City business only. All messages sent or received via e-mail are City property. It is against City policy to use e-mail for any unlawful endeavor.
 - (ii) Employer Rights ~ The City reserves and intends to exercise the right to access and disclose contents of e-mail messages for any purpose, including but not limited to:
 - Finding lost messages
 - Providing assistance when an employee is out of the office or otherwise unavailable
 - Evaluating the effectiveness of electronic mail
 - Complying with an investigation into suspected unlawful acts
 - Recovering from system failures or other emergencies
 - Investigating suspected breaches of security or violation of City policies.
- f. Usage Guidelines ~ All users shall exercise restraint when sending very large files, and shall not unnecessarily or inappropriately send messages to a large number of recipients, thereby wasting City network resources.
- g. When the City grants an employee an e-mail account, it is the responsibility of the employee to adhere to the following guidelines:
- (i) E-mail messages must not involve personal sales or solicitation; must not be associated with any outside business activity; and must not violate any other City policy or department rules and regulations.
 - (ii) Chain letters and/or messages are prohibited and may be illegal and must not be transmitted through City e-mail at any time.
 - (iii) Region-Wide E-mail Messages ~ E-mail sent to all members on a "Global Address List" generates a heavy burden on the computer systems and network that have to route and store them. In many cases global messages interrupt the work of a substantial number of people. All Global Address e-mail must be approved by the department head before it is sent.

h. Reporting of Security Violations: Any individual suspected of unauthorized use of e-mail should be reported immediately to the department head and to the City Manager.

i. Reporting Technical Issues: Technical assistance and support is handled by the City's IT Department. Employees will report technical issues affecting electronic devices and equipment including device malfunctions and loss of data, within one (1) hour or as soon as practical after discovering a technical issue, device malfunction or data loss to the IT Helpdesk by calling 569-7345 or by emailing ithelpdesk@cityofnewburgh-ny.gov. Employees will request assistance with electronic devices, equipment and data from the IT Helpdesk by calling 569-7345 or by emailing ithelpdesk@cityofnewburgh-ny.gov.

j. The City expects employees to protect their City-issued electronic devices and equipment from theft, damage, abuse and unauthorized use. Lost or stolen electronic devices or equipment shall be reported to the employee's department head, the IT Helpdesk by calling (845) 569-7345 or emailing ithelpdesk@cityofnewburgh-ny.gov and the Information Systems Manager within one (1) hour or as soon as practicable after the employee discovers the electronic device or equipment is missing. The Information Systems Manager will lock and disable the electronic device upon notification. A lost or stolen electronic device will be replaced a maximum of three times, subject to availability of electronic devices and funding. The City may discipline an employee or may seek reimbursement from the employee for the cost of the replacement of lost or stolen electronic device or equipment as permitted under this Policy and pursuant to applicable laws, rules, regulations and collective bargaining agreements.

8. COMPLIANCE (ENFORCEMENT FOR VIOLATION(S)):

a. Any violation(s) of this policy may result in potential disciplinary action, subject to applicable laws and collective bargaining agreements, pursuant to the City's Employee Disciplinary Policy up to and including termination. Other potential disciplinary actions may include but are not limited to:

- (i) Verbal and/or written counseling.
- (ii) Electronic devices will be "locked down" to run only authorized standard software or other limitations on electronic device use.
- (iii) Internet/Intranet access will be denied if improperly used.
- (iv) E-mail privileges may be revoked.

b. As a condition of employment and continued employment, employees are required to sign an "Electronic Communications and Telephone Communications Acknowledgment Form" attached to this policy and available from the City Manager's Office. New employees are required to sign this form on their first day of City employment.

c. Upon separation from the City, all employees are required to return all electronic devices and equipment issued by the City. The Information Systems Manager is responsible for the maintenance, protection or deletion of data contained on returned electronic devices and equipment. The Information Systems Manager is responsible for re-setting usernames and passwords. An employee's final paycheck will be held until all electronic devices and equipment are returned.

9. INTERPRETATION AND INTEGRATION

a. The City Manager, with the advice and in consultation with the Information Systems Manager and the Corporation Counsel, shall be responsible for official interpretation of this policy. Questions regarding the application of this policy should be directed to the Corporation Counsel.

b. This law and the policies, rules, terms and conditions hereof shall be interpreted and applied as provided under the laws of the United States and of the State of New York.

c. Should any part or portion of this policy be ruled invalid by any court or agency of competent jurisdiction, the remainder shall remain in full force and effect, as the sense thereof may permit.

d. Notwithstanding the above, nothing contained in this policy will supersede any relevant and/or applicable provision of any collective bargaining agreement to which the City is a party.

Acknowledgment to be signed by employee; user's responsibility.

I acknowledge that I have received a written copy of the Cyber/Electronic and Telephonic Communications Policy for the City of Newburgh. I understand the terms of this policy and agree to abide by them. I realize that the City of Newburgh security software may record and store for management use the electronic e-mail messages I send and receive, the Internet address of any site that I visit and any network activity in which I transmit or receive any type of file. I understand that any violation of this policy could lead to my dismissal from employment or even criminal prosecution.

Signature

Name (Printed)

Date

CYBER/ELECTRONIC AND TELEPHONIC COMMUNICATIONS
EMPLOYEE ACKNOWLEDGMENT FORM

I have read the City's "Cyber/Electronic and Telephonic Communications" policy and understand that I may bring any questions I have about the policy to my department head. I understand that any violation of the policy will subject me to potential disciplinary action, subject to applicable laws and collective bargaining agreements, up to and including termination.

I understand that all electronic communication systems and all information transmitted by, received from, or stored in these systems are the property of the City. I also understand that these systems, including the Internet, are to be used solely for job-related purposes and not for personal purposes, and that I have no expectation of privacy in connection with the use of the equipment or with the transmission, receipt, or storage of information in the equipment. I also understand the City strictly forbids using these systems for any unlawful purpose, including discrimination and/or harassment. I understand that I may not act in such manner as may intentionally, recklessly or carelessly cause harm or damage to City systems.

I agree not to use a password, code, access a file, or retrieve any stored communication unless authorized. I acknowledge and consent to the City monitoring my use of its devices and equipment, as well as personal devices and equipment to the extent that they use the City's intranet/internet, at any time at its discretion. Such monitoring may include printing and reading all e-mail entering, leaving, or stored in these systems, and listening to my voicemail messages in the ordinary course of business.

I understand that any violations of these rules, regulations and standards may be a violation of City policy, or of ethics, or of law. I agree to comply with these rules, regulations, standards and policy. Should I commit, or allow another to commit, any such violation, my privileges to use and access such systems may be restricted or revoked; and/or I may be subject to discipline up to and including termination, in addition to such other penalty as may be applicable under law, including but not limited to compensating and/or indemnifying the City for damages or loss.

Name of Employee (Print Name)	Name of Witness (Print Name)
Employee's Signature	Signature of Witness
Date	Date

PLEASE RETURN THIS FORM TO THE CITY CLERK AFTER SIGNING

RESOLUTION NO.: 111 - 2017

OF

APRIL 24, 2017

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
SATISFACTION OF JUDGMENT TO REAL CYBER, INC.
FOR PREMISES LOCATED AT 429 BROADWAY (SECTION 34, BLOCK 1, LOT 16)

WHEREAS, Judgment was rendered by the City Court of the City of Newburgh, Index No. HC 2015-57, dated June 5, 2015, in favor of the City of Newburgh against Real Cyber Inc. in the amount of \$32,000.00, which Judgment was docketed on June 8, 2015 and the Transcript of Judgment was filed in the Office of the Orange County Clerk on August 19, 2015 in Liber 8159, Page 1215; and

WHEREAS, Real Cyber Inc. has offered and the City has agreed to accept the sum of \$12,000.00 in full satisfaction of the terms of the Judgment and issue a Satisfaction of Judgment, a copy of which is annexed hereto;; and

WHEREAS, this Council has determined that executing said Satisfaction is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute the attached Satisfaction in connection with the Judgment rendered by the City Court of the City of Newburgh, Index No. HC 2015-57, for which Transcript of Judgment was filed in the Office of the Orange County Clerk on August 19, 2015 in Liber 8159, Page 1215 as affecting premises located at 429 Broadway (Section 34, Block 1, Lot 16).