



City of Newburgh Council Work Session
*Sesion de trabajo del Concejal de la
Ciudad de Newburgh*
March 22, 2018
6:00 PM

Council Meeting Presentations

1. Executive Session/ Sesión Ejecutiva
Collective negotiations pursuant to Article 14 of the Civil Service Law.

Proposed, pending or current litigation

*Negociaciones colectivas de acuerdo con el Artículo 14 de la Ley del
Servicio Civil.*

Litigación actual, propuesta o pendiente.
2. A Proclamation will be presented to Onita Boone recognizing her artistic
achievements throughout the United States
3. A Presentation of Women's History Month by Newburgh Free Academy
Students and Certificates of Appreciation to be presented for their efforts
(Councilman Torrance Harvey - Presentation by Newburgh Free Academy
Students)
4. Monthly Financial Report - February 2018
The Monthly Financial report will be presented at Monday's Council Meeting
by City of Newburgh Comptroller Katie Mack.

*El reporte financiero mensual será presentado en la Sesión General del
Concejal por la Contralor de la Ciudad de Newburgh Katie Mack.*

Work Session Presentations

5. A presentation by Arlene Murrain, Director of Programs for Planned
Parenthood regarding services to help treat Asthma
Planned Parenthood Presentation on Asthma. Community Clean up and
Ribbon Cutting Ceremony. (Councilwoman Hillary Rayford)
6. Newburgh Armory Unity Center Management Agreement Extension
Resolution authorizing the City Manager to execute a twenty-five year
extension to the management agreement between the City of Newburgh and
The Newburgh Armory Unity Center, Inc. (Mr. Kaplan)
7. SAFER Grant to retain Firefighters
District Director Joe Donat from Congressman Sean Patrick Maloney's office

will speak to the City Council regarding the SAFER Grant . (Councilman Jacobson)

8. Newburgh Rowing Club/ NFA License Agreement

Engineering/Ingeniería

9. Contract with Gorick Construction Company, Inc. for 215 First Street
Resolution authorizing the execution of a contract with Gorick Construction Co., Inc. for the emergency demolition of 215 First Street at a cost of \$104,448.00 and amending Resolution No: 333-2017, the 2018 Budget for the City of Newburgh, New York to fund the emergency demolition expenses (Jason Morris)

10. QUEST Proposal for NYSDOL Variance & Air Monitoring for Demolition of 215 First Street
Resolution authorizing the City Manager to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. (QUES&T) in the amount of \$7,790.00 for asbestos variance application and air monitoring services for the emergency demolition of 215 First Street (Jason Morris)

11. QUEST Proposal for asbestos & lead testing at City Hall
Resolution authorizing the City Manager to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. (QUES&T) for asbestos and lead testing services for City Hall at a cost of \$1,729.00 (Jason Morris)

Finance/Finanza

12. Donations for annual City events
Resolution authorizing the City Manager to accept donations in support of the City of Newburgh's annual Memorial Day and Fourth of July observances, National Night Out, The Annual International Festival and the Halloween event for 2018 (Michelle Kelson & Katie Mack)

13. Annual City events -- contracts for various performing artists and related services
Resolution authorizing the City Manager to enter into agreements with various parties to provide performing arts and relates services in connection with the City of Newburgh's annual Memorial Day and Fourth of July observances, National Night Out, The Annual International Festival and the Halloween event for 2018. (Michelle Kelson & Katie Mack)

14. Newburgh Illuminated 2018 -- City Co-Sponsorship
Resolution to continue sponsorship of the Newburgh Illuminated Festival. (Michelle Kelson & Katie Mack)

15. 2017 Final Year End Expense Budget Transfers
Resolution amending Resolution No: 310A-2016, the 2017 Budget for the City of Newburgh, New York for year end adjustments. (Katie Mack)

Planning and Economic Development/Planificación y Desarrollo Económico

16. Extension of time to close on 246 Grand Street
Resolution authorizing the extension of time to close title on the property located at 246 Grand Street (Section 12, Block 2, Lot 21) sold at private sale to Charles Ortiz. (Michelle Kelson)
17. Donation of a "skateable" sculpture from Erica Enriquez
Resolution authorizing the City Manager to accept a donation of a "Skateable" sculpture from Erica Enriquez for use at the City of Newburgh Skateboard Park. (Ali Church)
18. Purchase of 44 Johnes Street, Unit 103-J
Resolution to authorize the conveyance of real property known as 44 Johnes Street, Unit 103-J (Section 58, Block 1, Lot 1.-3) at private sale to Nicole Blair for the amount of for the amount of \$33,000.00. (Ali Church)
19. Purchase of 53 Benkard Avenue
Resolution to authorize the conveyance of real property known as 53 Benkard Avenue (Section 45, Block 13, Lot 3) at private sale to Amber France for the amount of \$43,000.00. (Ali Church)
20. Purchase of 221 Third Street
Resolution to authorize the conveyance of real property known as 221 Third Street (Section 22, Block 2, Lot 11) at private sale to Dena Shottenkirk for the amount of \$3,060.00. (Ali Church)
21. Purchase of 173 Fullerton Avenue
Resolution authorizing the conveyance of real property known as 173 Fullerton Avenue (Section 15, Block 5, Lot 3) at private sale to Odai Sookramnauth and Shalene Sookramnauth for the amount of \$25,000.00. (Ali Church)

Grants/Contracts/Agreements / Becas /Contratos/Convenios

22. NYSDOT Pedestrian Safety Action Plan Grant for West End Gateways
Resolution authorizing the City Manager to apply for and accept if awarded a New York State Department of Transportation Pedestrian Safety Action Plan Grant in an amount not to exceed \$635,500.00 with no City match for a Comprehensive Pedestrian Improvement Plan for the West End Gateway in the City of Newburgh. (Ali Church)
23. Non-Fatal Shootings Initiative
Resolution authorizing the City Manager to accept a New York State Division of Criminal Justice Services Edward Byrne Memorial Justice Assistance grant in the amount of \$152,592.00 to fund a City of Newburgh Police Detective in support of the Non-Fatal Shootings Initiative Program. (Chief Douglas Solomon)

Subvención Byrne de Ayuda a la Justicia (JAG) DCJS #BJ16632854 por \$152,592 3/1/2018-2/28/2019
24. Orange County Summer Youth Employment Program
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 2018. (Derrick Stanton)

25. Mobile Life Services EMS Agreement Renewal

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. (Assistant Chief Ahlers & Michelle Kelson)

26. Mobile Life Services License Agreement Renewal

Resolution authorizing the execution of a license agreement renewal for the use of classroom space located at Grand Street for the purpose of training by the Mobile Life Support Services, Inc. (Asst.Chief Ahlers & Michelle Kelson)

Police Department

27. Inter-Municipal Agreement with the County of Orange for the Stop-DWI Program

Resolution authorizing the City Manager or the Police Chief as Manager's designee to execute an Inter-Municipal Agreement with the County of Orange confirming City of Newburgh Participation in the Stop-DWI Program for the enforcement period of March 15, 2018 to January 1, 2019 and to accept an award not to exceed \$3,145.00 covering 60 Person-Hours for the First Enforcement Period of 2018 (March 15, 2018 - May 29, 2018) (Chief Douglas Solomon)

Discussion Items/Temas de Discusión

28. Resolution Directing Corporation Counsel to define the legal protocol for any and all Requests for Proposals (RFP)

(Councilwoman Hillary Rayford)

29. Crime Victims Week

(Councilwoman Sofokles and Councilwoman Rayford)

30. 104 South Lander Street

(Councilwoman Ramona Monteverde)

SECOND ADDENDUM TO MANAGEMENT AGREEMENT

THIS SECOND ADDENDUM TO MANAGEMENT AGREEMENT ("Addendum"), made as of this ____ day of _____, 2018, by and between the City of Newburgh, a New York municipal corporation ("City") and Newburgh Armory Unity Center, Inc., a New York not-for-profit corporation ("Manager").

WITNESSETH:

WHEREAS, on July 19, 2011, the City and the Manager executed a Management Agreement for the administration, operation, marketing and management of the building now known as the Newburgh Armory located at 321-393 S. William St., Newburgh, New York (the "Management Agreement"); and

WHEREAS, the original term of the Management Agreement was for twenty-five (25) years from July 19, 2011 through July 18, 2036;

WHEREAS, on May 14, 2015, the City and the Manager executed a First Addendum to Management Agreement, extending the term of the Management Agreement for an additional fifty (50) years from July 19, 2036 through July 18, 2086;

WHEREAS, the City recognizes the enormous beneficial impact that the Newburgh Armory has had on the City of Newburgh by providing a home for recreational and educational programs that have greatly benefited the greater Newburgh community; and

WHEREAS, accordingly, the City wishes to ensure the continued success of the Newburgh Armory for future generations by extending and renewing the term of the Management Agreement for an additional twenty-five (25) years, and the Manager agrees to the same:

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. The term set forth in Paragraph 4.1 of the Management Agreement, as extended by the First Addendum to Management Agreement, shall be renewed for an additional twenty-five (25) year term commencing on July 19, 2086 and terminating on July 18, 2111 ("Renewal Term").
2. All other terms and conditions set forth in the Management Agreement shall remain in full force and effect during the Renewal Term.

IN WITNESS WHEREOF, the City and the Manager have duly executed this Agreement in duplicate as of the day and year first above written.

CITY OF NEWBURGH

NEWBURGH ARMORY UNITY CENTER,
INC.

By:_____

Name: Michael G. Ciaravino

Its: City Manager

Per Resolution No.:

By:_____

Name:

Its:

STATE OF NEW YORK)

) ss:

COUNTY OF ORANGE)

On the ____ day of _____ in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL G. CIARAVINO, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

STATE OF NEW YORK)

) ss:

COUNTY OF ORANGE)

On the ____ day of _____ in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

The City of Newburgh Office of the Corporation Counsel

City Hall – 83 Broadway
Newburgh, New York 12550

Michelle Kelson
Corporation Counsel

Tel. (845) 569-7335
Fax. (845) 569-7338

Jeremy Kaufman
Assistant Corporation Counsel

MEMORANDUM

TO: Torrance Harvey, Councilman
Jonathan Jacobson, Councilman
Karen Mejia, Councilwoman
Ramona Monteverde, Councilwoman
Hilary Rayford, Councilwoman
Patricia Sofokles, Councilwoman
Judith L. Kennedy, Mayor
Michael G. Ciaravino, City Manager

FROM: Michelle Kelson, Corporation Counsel

RE: City – NECSD License Agreement for NFA Crew
NRC proposed revisions

DATE: March 20, 2018

It is well established that municipally-owned property which has been dedicated as a public park is impressed with a public trust for the benefit of the general public and may not be used for other than park purposes or alienated without a special act of the New York State legislature. General City Law Sections 19 and 20 authorize a city to make such a dedication of property as a public park. Alienation of park land will occur if the municipality intends to sell, lease or discontinue the use of municipal parkland.

By Resolution No. 211-1999 of October 12, 1999, the City of Newburgh dedicated a parcel of land of approximately 1.2 acres south of the City's Wastewater Treatment Plant as Ward Brothers Memorial Rowing Park. The parcel is now described as Section 49, Block 1, Lot 5.1-2 on the official tax map of the City of Newburgh. Generally, permitted uses are those that contribute to the use and enjoyment of the park and facilitate free public means of recreation and amusement.

Exclusive use of a park or recreational facilities is improper. However, special recreational facilities may be reserved by private organizations from time to time. From time to time, private groups have been granted licenses to construct, operate and/or use municipal park facilities so long as the agreement is a true license and the license for use is made available to different groups on an equal

basis and does not interfere with the use of the facilities by the general public. A license must be drafted carefully to ensure that the true nature of the transaction and obligations of the parties do not result in an agreement being interpreted as a lease. An agreement may be found to be a lease if it grants the exclusive right to use and occupy that land. An agreement that provides for absolute control and possession of the property at an agreed rental will be interpreted as a lease rather than a license regardless of the title of the document. Union Square Community Coalition, Inc. v. New York City, 22 N.Y.3d 648 (2014); Miller v. City of New York, 15 NY2d 34 (1964).

The City and the Newburgh Rowing Club are parties to a license agreement for the construction of facilities, access and use of Ward Brothers Memorial Rowing Park. The license agreement was originally granted in 1999 and subsequently amended in 2002 and twice in 2011.

Attached for your reference are the following:

1. NYCOM's Management Series Report on the Regulation of Parks and other Municipal Property
2. City Code Chapter 220, Article VII providing the hours and rules for Ward Brothers Memorial Rowing Park
3. Copies of the Resolutions and NRC License Agreements and amendments
4. Copy of the Resolution and the City-NECSD License Agreement
5. Copy of the NRC proposed revisions to the City-NECSD License Agreement

In January 2018, an attorney representing the Newburgh Enlarged City School District contacted the Corporation Counsel by phone and email to discuss a possible inter-municipal agreement/license agreement for the use of Ward Brothers Memorial Rowing Park by the NFA Crew Team. Proposed terms were offered and those terms were reviewed and approved or revised by City staff and a draft license agreement between the City and the NECSD was drafted and circulated to respective staff for further review and comment. The draft license agreement was then submitted to the City Council and School Board for approval. The City Council work session was the first meeting to occur. Prior to the work session, comments and proposed revisions were circulated to the City by Leif Stepakoff, who previously had worked directly with the City in the 2011 NRC license agreement amendments and contacted the City to make sure that previous arrangements between the NRC and the NECSD for use of the Ward Brothers Park facilities were acceptable to the City. Following the work session, all of Mr. Stepakoff's revisions and comments were incorporated into the City-NECSD license agreement and approved by the NECSD's attorney.

At the City Council meeting on March 12, 2018, other representatives of the NRC addressed the City Council and requested, among other things, that the City Council table the approval of the City-NECSD license agreement until the NRC attorney could review and comment on the license agreement. The City Council approved the City-NECSD license agreement without additional modifications but stated that it would review modifications at a later date if appropriate and necessary. The NECSD School Board approved the same City-NECSD license agreement on March 13, 2018.

The NRC attorney sent proposed revisions the City-NECSD license agreement to the City and the NECSD. I have reviewed the revisions as proposed by the NRC attorney and offer the following recommendations:

1. Second and Third "WHEREAS" paragraphs

Please be aware that these paragraphs do not have any legal effect. The NRC proposed revisions make a nice aspirational sentiment but they exceed the scope of what was requested by the NECSD and are not required or necessary at this time.

2. Paragraph 1 Grant of License

The NRC has proposed expanding the license beyond the scope requested by the NECSD. I believe that the Council would grant a license to the NECSD to support all of the District's students, clubs and sports if such a request was made but it was not and the proposed revision is not necessary at this time. If and when the NECSD has additional needs for the park of other students, clubs and sports, it can make a request to amend the agreement at the appropriate time.

3. New Paragraph 2 "Co-licensees"

It is not required or necessary for the NRC and NECSD to be co-licensees. There is no legal requirement for every licensed use to be exactly the same in scope but only that licenses be available on an equal basis to all groups. The NECSD has requested a license based on its current needs and there is no requirement that the City demand more from the NECSD than it needs and can afford at this time. If the City were to consider this proposed revision, it is recommended that the revision be included in the NRC license agreement to ensure that the "co-license" obligations are the same for both organizations.

4. New Paragraph 3 "Establishing a Citizens Committee"

The City of Newburgh already has a number of organizations who have offered and been granted some type of stewardship agreement of a City park or other asset. Examples include the Downing Park Planning Committee, the Newburgh Preservation Association and the Newburgh Armory Unity Center, Inc. Such stewardship or management agreements contain other significant terms and conditions than what is proposed here. If the City is interested in pursuing a citizens committee and stewardship/management agreement, I recommend that this be accomplished separate and apart from the license agreements for access and recreational use of the park.

5. New Paragraph 4 “Fees and Maintenance”

The NRC has undertaken the construction of the boathouse, pavilion and other improvements voluntarily and at their own expense and the City recognized that these costs were incurred by the NRC with the 2002 amendment to the NRC license agreement that provides for the City to reimburse the NRC for a portion of such expenses in the event the City terminates the license agreement before its expiration in 2024. The City Council repeatedly reassured the NRC that it has no intention of terminating or revoking the NRC license agreement. If the City were to consider this proposed revision, it is recommended that the revision be included in the NRC license agreement to ensure that the obligations are the same for both organizations.

If the City were to determine to undertake responsibility for all of the park maintenance and establish a fees for use of the facilities, it is recommended that the City establish a separate fee structure as part of the City Code, which may or may not include fees based on the class of user, and that such fee structure apply equally to all users of the park and its facilities, and provide a rational basis for distinguishing among classes of users if classes of users are included in the fee structure.

6. New Paragraph 5 “NRC to the south/NECSD to the north”

It is well established that no person or entity may have 100% exclusive use of a park, a portion thereof, or recreational facilities located within a park. This proposed revisions appears to split the park in half and provide sole and exclusive use of each half to the NRC and the NECSD. This proposed revision is not recommended because it conflicts with the well-settled common law of the State of New York.

7. New Paragraph 6 “Picnic Pavilion”; New Paragraph 7 “Boathouse”; New Paragraph 9 “NRC Bulkheads & docks”

The City may establish and maintain recreational facilities which provide means of innocent entertainment and amusement and are incidental to a park, and may either operate these incidental facilities directly with municipal employees or hire out their operation to private parties. Williams v Gallatin, 229 NY 248 (1920); 1988 Opns St Comp No. 88-60; 1982 Opns St Comp No. 82-237; 1982 Opns St Comp No. 82-300. To avoid violating the common law restriction against alienation of park property without State legislative authority, any such arrangement with a private party would have to be in the form of a revocable license, grant of privilege or true concession, and not a lease. Therefore, the improvements to the park, including the pavilion, boathouse and docks, have to be considered part of the park itself and licensed for operation by the NRC in order to avoid being construed as improper alienation of parkland. The proposed revisions appear to conflict with these well-established principles and are not recommended as they are written. The NRC can reserve exclusive use of these improvements for its own use for a fixed period of time

as long as the use of the park property and improvements are consistent with park purposes, the use is not exclusively private and any membership requirement is open to all on a non-discriminatory basis. Port Chester Yacht Club, Inc. v. Village of Port Chester, 123 AD2d 852 (2d Dept. 1986). The NRC has constructed several facilities in the park and created many programs to support youth activities in the City of Newburgh and the City Council has recognized such accomplishments. The NRC also has worked with the NECSD in previous seasons with separate agreements for the NFA Crew for storage of equipment and use of the docks. The approved City-NECSD license agreement contemplates that the NRC and the NECSD will make such arrangement for the use of the docks this season until the NECSD can obtain the necessary permits to install its own bulkheads and docks.

If the City were to decide to undertake full responsibility for all of the park facilities and operations, it is recommended that the City establish a legislative scheme for the use and operation of all the facilities as part of the City Code and separate and apart from the NRC and NECSD license agreements. The City's legislation must apply equally to all users of the park and its facilities, and provide a rational basis for distinguishing among classes of users if classes of users are included in the legislation.

8. New Paragraph 8 "NECSD Storage Container"

The original paragraph 2(b) of the approved City-NECSD license agreement addresses the installation and use of a storage container and this proposed new paragraph is unnecessary.

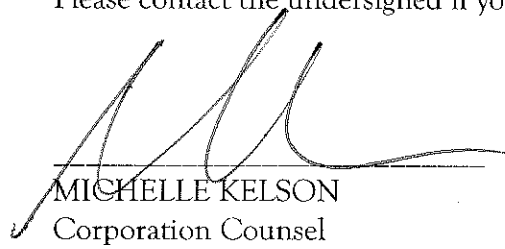
9. New Paragraph 10 "NECSD to use the north portion"

This proposed revision appears to reserve a portion of the park for the exclusive use of the NRC at all times. As so proposed, exclusive use of a park or a portion thereof is contrary to the common law public trust doctrine and is not recommended for inclusion in the City-NECSD.

10. Existing Paragraph 2

The City-NECSD license agreement requires compliance with all applicable law, rules and regulations and it is expected that the facilities will be cleaned up after practice is concluded. The proposed revisions require the NECSD to co-operate any docks that it may receive approval to install but such revisions do not require the same obligation of the NRC with respect to the docks it has received approval to install. It is recommended that any obligation to co-operate the use of a facility be imposed on both organizations which may require an amendment to the NRC license agreement.

Please contact the undersigned if you have questions or require more information.



MICHELLE KELSON
Corporation Counsel

MK/ar
Attachments

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**Regulation of Parks
and Other Municipal
Property**

Revised
January 2008

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Table of Contents

REGULATION OF PARKS	1
MUNICIPAL PARKS AND THE PUBLIC TRUST DOCTRINE.....	1
LAND ACQUIRED FOR PUBLIC PURPOSES	1
LAND DEDICATED FOR PARK PURPOSES	1
PERMITTED AND UNPERMITTED USES OF PARK LAND	2
RECREATIONAL IMPROVEMENTS	3
PARK USE REGULATIONS.....	3
USE OF ALCOHOL ON MUNICIPAL PROPERTY	4
FEES FOR USE	5
RESERVATIONS FOR USE.....	5
EXCLUSIVE USE.....	5
USE OF PARK PROPERTY BY PRIVATE GROUPS	5
EXCLUDING NONRESIDENTS	5
CHARGING A HIGHER FEE TO NONRESIDENTS	6
ALIENATION AND CONVERSION	7
PARKLAND ALIENATION	7
PARKLAND CONVERSION	7
WHAT IF PARKLAND HAS RECEIVED STATE FUNDING?	7
PARK AND RECREATION LAND ACQUISITION BOND ACTS OF 1960 AND 1965	8
OUTDOOR RECREATION DEVELOPMENT BOND ACT OF 1965	8
ENVIRONMENTAL QUALITY BOND ACT OF 1986 (EQBA)	8
ENVIRONMENTAL PROTECTION ACT OF 1993 (ENVIRONMENTAL PROTECTION FUND – EPF).....	8
CLEAN WATER/CLEAN AIR BOND ACT OF 1996 (THE BOND ACT)	8
USE OF PARK PROPERTY FOR COMMERCIAL PURPOSES.....	9
GOVERNMENTAL V. PROPRIETARY	9
ADVERTISING	9
CONCESSIONS.....	9
FUND RAISING.....	10
USE OF PARK PROPERTY AND THE FREEDOM OF SPEECH.....	11
HOLIDAY DISPLAYS	11
PRAYER SERVICES.....	11
HATE SPEECH AND PUBLIC ASSEMBLIES	12
RECREATIONAL USES OF MUNICIPAL PROPERTY	12
LEGAL LIABILITY	13
WARNING SIGNS AND NOTICES	13
RECREATIONAL USE STATUTE	14
PARKS AND RECREATION PROPERTIES	15
PROMOTING SAFETY.....	15

SKATEBOARDS, SCOOTERS AND IN-LINE SKATES	16
ROLLER SHOES AND STRAP-ON-WHEELS	16
SWIMMING AREAS	17
PLAYGROUNDS	18
SIGNS	18
SUPERVISION	19
WHEN INJURY OCCURS.	19
PRIOR NOTICE OF CLAIM	19
PRIOR NOTICE OF DEFECT	20
EXCEPTIONS	21
SELF-INSPECTIONS	21
TELEPHONE OR WALK-IN COMPLAINTS	21
POST-NOTICE ISSUES	22
CONSTRUCTIVE NOTICE	22
EFFECTIVENESS OF RELEASES, WAIVERS	
AND CONSENT FORMS	22
GENERAL TORT PRINCIPLES	23
NEGLIGENCE	23
THE DUTY OF CARE	24
GENERAL DUTY OF CARE	24
TO WHOM IS IT OWED?	24
WHAT IS APPLICABLE STANDARD OF CARE?	24
BREACH OF DUTY	24
CAUSATION	24
PROXIMATE CAUSE/LEGAL CAUSATION	25
DAMAGES	25
DAMAGES RECOVERABLE IN THE ACTION	25
PERSONAL INJURY	25
COMMON ALLEGATIONS AND DEFENSES	25
ENDNOTES	34

REGULATION OF PARKS

MUNICIPAL PARKS AND THE PUBLIC TRUST DOCTRINE

Municipal lands dedicated for park purposes enjoy a preferred status in New York State law. The Public Trust Doctrine provides that a municipality holds certain types of real property in trust for the use of the public at large, and cannot use or permit its use for purposes other than those for which it was dedicated or acquired or appropriated, without first obtaining express approval from the State Legislature.¹

It is a well established common law principle that municipally-owned property which has been dedicated as a public park is impressed with a public trust for the benefit of the general public and may not be diverted to other uses either for a period of years or permanently,² or alienated without a special act³ of the State Legislature.⁴ This rule applies even if the land has never been used as a park.⁵

LAND ACQUIRED FOR PUBLIC PURPOSES

Municipalities may acquire land for general, municipal purposes without any restriction on use.⁶ The Courts have determined that land acquired in fee for general purposes without any restriction even though used for a park, may be used for other municipal purposes. However, every case is different and will be determined by the continued and exclusive use of the land. It is possible that if land is allowed to be used by the public for recreational purposes, it may very likely result in a dedication by implication and will require alienation legislation for a change of use or sale.

LAND DEDICATED FOR PARK PURPOSES

A park has been defined as "A detached tract of ground generally of quite sizeable portions devoted to purposes of ornamentation and recreation, bounded or approached by streets or highways of which it is not part, and not devoted to purposes of travel."⁷ A park is a pleasure ground set apart for the recreation of the public, to promote its health and enjoyment.⁸

Municipal lands dedicated for park purposes enjoy a preferred status in New York State law. Areas of land dedicated as public parks are impressed with a public trust and their use for other than park purposes requires the direct and specific approval of the State Legislature plainly conferred.⁹

A village can accept a conveyance of real property by gift, grant, bequest or devise and hold real estate absolutely or in trust for any purpose of the village or for any public use upon such terms or conditions as may be prescribed by the grantor or donor and accepted by said village and to provide for the proper administration of the same.¹⁰

A city may take by gift, grant, bequest or devise and to hold and administer real and personal property within and without the limits of the city, absolutely or in trust for any public or municipal purpose, upon such terms and conditions as may be prescribed by the grantor or donor and accepted by the city.¹¹

Both cities¹² and villages¹³ can dedicate parkland by local action.

Other methods by which parkland is created include:

- Specific condition in deed, trust or other instrument transferring the land to the municipality;¹⁴ and
- Continued use of land as a park for a period of time can constitute a dedication and acceptance by implication.¹⁵

PERMITTED AND UNPERMITTED USES OF PARK LAND

Dedicated park areas in New York are impressed with a public trust and their use for other than park purposes, either for a period of years or permanently, requires the direct and specific approval of the State Legislature.¹⁶ Any use which would tend to exclude the public from using the park would be a prohibited alienation.¹⁷

Generally, permitted uses -- embellishments and conveniences -- are those that contribute to the use and enjoyment of the park and serve the public good. Permitted uses are those that facilitate free public means of pleasure, recreation, and amusement, and provide for the welfare of the community. Although art may aid or supplement nature in completing the attractions offered in a park, the park must be kept free from intrusion of every kind which would interfere in any degree with its complete use for this end.¹⁸

Unpermitted uses are those which have no connection with park purposes, and would encroach upon the public's use.¹⁹

For example, permitted uses include:

- Incidental opportunities for recreation and innocent amusement, including concessions to private persons who furnish food or refreshments or means of innocent entertainment and amusement.²⁰ Any such arrangement with a private party would have to be in the form of a revocable license, grant or privilege or concession;²¹
- Restaurants, golf courses, refreshment stands, rest houses and the like have been held to be facilities which may be established and maintained incidental to a municipal park;²² and
- Monuments, and buildings of architectural pretension, floral and horticultural displays, zoological gardens, and playing grounds.²³

For example, unpermitted uses include:

- Excavation for use as a solid waste disposal site;²⁴
- Erection of courthouses and schoolhouses;²⁵
- Storage of trucks, equipment and other materials and physical improvements, including fences and buildings, where the use could not be categorized as temporary;²⁶
- Construction of a water filtration plant beneath a municipal golf course;²⁷
- Harvesting of timber from the land;
- Granting of a lease to the property as a lease generally grants right to exclusive use and occupancy of a specific area, a fixed term, and a fixed rental; and
- Granting of an easement across the property.²⁸

RECREATIONAL IMPROVEMENTS

Improvements consisting of public ski trails, ski practice slopes, ski tows, toboggan slides, bob runs, bridle paths and winter sports facilities constitute public parks or playgrounds.²⁹ Bicycle paths have been considered park facilities.³⁰ An abandoned right of way used as a recreational trail constitutes a park facility.³¹

Authorities have taken differing views when it comes to golf courses. One court described a golf course as "a place for pleasure, recreation, athletics and amusement, as well as (in some instances) a place for health, education and instruction."³²

The Office of the State Comptroller has opined that "the purposes served by a municipally owned golf course are so quintessentially those of a park that it is difficult to conceive of another separate and distinct . . . purpose which could be served by the ownership of a golf course."³³

However, at least one court has found that the use of a city golf course -- which the city purchased, maintains, and operates with city funds for the use of city residents -- may be restricted to the use of city residents only. There, the court supported the city's representations "that the facilities were insufficient to accommodate residents of the city and to permit, in addition thereto, use by others who are nonresidents and that the city found it necessary to restrict the use of the facilities to residents, to promote their health, comfort, convenience and welfare, and to avoid excessive congestion which would result in a breakdown of the facilities, and a deterioration thereof."³⁴

PARK USE REGULATIONS

Cities and villages are authorized to enact local park use regulations pursuant to their municipal home rule authority.³⁵

Generally, local park use regulations address:

- Hours of use;
- Motor vehicle operation and parking;
- Use of play vehicles;
- Acceptable conduct;
- Noise;
- Alcoholic beverages;
- Litter and garbage disposal;
- Preservation of property;
- Animals;³⁶
- Fees for use;
- Reservation policy;
- Use of waterways and swimming facilities;
- Prohibited activities;
- Open fires;
- Camping;
- Indemnification or insurance requirements;
- Activities which require a permit or reservation; and
- Enforcement and penalties for offenses.

While it is impossible to consider every possible request, it is important to also consider how responses for unusual uses of the park will be handled. For example, may the park be used for a pie-eating contest or chili cook-off; for weddings and/or funerals; go-kart races and treasure hunts? To provide some guidance when such unconventional requests are presented, it is advisable to include language in your local park regulations which cover numerous possibilities.

A general statement that permitted uses of parks are those that contribute to the use and enjoyment of the park; serve the public good; facilitate free public means of pleasure, recreation, and amusement, and provide for the welfare of the community, is recommended.³⁷

USE OF ALCOHOL ON MUNICIPAL PROPERTY

It has long been held that the state has not preempted municipalities in the area of consumption of alcoholic beverages in public areas such as parks, streets and sidewalks. Municipalities may adopt local laws prohibiting the possession or consumption of alcoholic beverages in open containers in public places by individuals throughout the municipality. However, it needs to be applied evenly.³⁸ A municipality may choose to allow certain types of containers (i.e., bottles, cans, kegs) within a park with a special permit.

If your municipality decides to allow the use of alcohol on municipal property by the users of that property, it is wise to contact your insurer and determine how best to protect your municipality from liability for any damages or injuries resulting from the alcohol use. Generally, insurers will require their municipal clients to obtain a certificate of insurance from the user of the facilities which names the municipality as an additional insured on the homeowners, or other liability insurance policy of the person or organization using the municipal facilities. The certificate of insurance protects the municipality from liability for damages or losses by extending the user's insurance coverage to include the municipality.

If your municipality is planning on any type of party or celebration of its own on the municipal premises (i.e., village or city hall, public park, pavilion, etc.) that is going to have alcohol, you must be careful to limit your liability by taking the following steps:

- Determine if you have the appropriate liability coverage. Many general liability insurance policies (and some umbrella policies) have what is known as "Host Liquor Liability" coverage. This covers the insured for instances where liquor is served, but not sold. Most general liability insurance policies include an exclusion from coverage for the sale of liquor.
- Determine your total liability coverage. Most municipalities carry between \$2 and \$5 million in liability insurance.
- Determine if holding such an event is in the best interest of the municipality, its employees and residents. While the municipality may have the appropriate insurance coverage to hold such alcohol related events, it may not be wise to do so. Hosting a party or other similar event on municipal property when alcohol is served opens the municipality up to substantial legal risk which must be carefully considered by the municipality and its legal team.
- If a party or an event involving alcohol is a priority, the municipality can relieve itself of liability by holding the event at a restaurant or other facility where the attendees pay their own way.
- Dram Shop³⁹ and Liquor Legal Liability coverage is available to caterers, restaurants and bars that sell alcohol for profit.
- If your municipality does choose to host an alcohol related event it should also be in compliance with the New York State Alcohol Beverage Control Law. This act prevents such

things as service or sale of alcohol to those under the age of 21;⁴⁰ and allowing those under the age of 18 from serving alcohol to others.⁴¹

FEES FOR USE

A municipality may not charge its residents an admission fee as a condition of entrance to a public park without specific statutory authority,⁴² but it may charge non-residents an entrance and use fee.⁴³ However, residents may be charged for the use of special recreational facilities -- such as pools, tennis courts, golf courses -- including parking areas,⁴⁴ which are available to the public within the park.⁴⁵

Villages are specifically authorized to establish recreational facilities and parking areas and to charge fees, tolls, rates, or admissions for their use. This is considered a "self-supporting improvement."⁴⁶

RESERVATIONS FOR USE

Special recreational facilities may be reserved by segments of the public so long as the public at large has an equal opportunity to use the facilities in question.⁴⁷ This would include a pavilion, gazebo, special field, etc.

EXCLUSIVE USE

Exclusive use of any part of the facilities is improper. Recreational facilities are for the general use of the public, even though, from time to time, portions of the facilities are used by particular groups of the public. However, if any portion is granted exclusively for the use of a particular group, and the public use of that portion is obstructed, this would be an improper use of the property.

This can be especially troublesome with regard to little league organizations, soccer clubs, and other organized sports. A baseball or soccer field in a public park should serve both the spectator and participation aspects of the sport. Assuming no charge is made for admission to the game, organized sports teams can be given reasonable use of the park. The use must be fair and nondiscriminatory in regard to the public at large. Rules and regulations should be promulgated which would allow the little league or soccer club and others, to be scheduled to use the park at designated times to avoid conflicts.⁴⁸

Permanent use at particular times, even though just once or twice a month, is also improper since the permanency of such use would also destroy the public nature of the facility.⁴⁹

USE OF PARK PROPERTY BY PRIVATE GROUPS

Private groups may be granted licenses to use municipal park facilities provided that such licenses are made available to different groups on an equal basis and do not interfere unreasonably with the use of the facilities by the general public.⁵⁰

Should there be more applicants than available facilities, the first-come, first-served rule may be applied, although consideration may be given to alternate methods, such as the drawing of lots, allowing alternate use, or other fair and equitable methods.⁵¹

EXCLUDING NONRESIDENTS

Consideration is given to the nature of the particular facility and the language of the enabling legislation under which the facility was established and is maintained. The extent to which the facility was originally acquired or dedicated for general public use is an important consideration, as is the subsequent conduct upon the part of the municipality which evidences an intent to hold the facility in trust for the benefit of the general public.

The Equal Protection Clauses⁵² do permit municipalities wide discretion in the reasonable classification of persons who may benefit from public facilities maintained through taxation revenues.⁵³ Under equal protection principles, classifications are permissible so long as all persons similarly situated are included within the classification and all such persons are similarly treated. Differentiation in classification or treatment will be upheld if it has some rational basis, is not arbitrary, and bears some substantial and rational relation to the accomplishment of a legitimate governmental purpose.⁵⁴

When Authorized

- When property is dedicated as a city or village park for residents only.⁵⁵
- Where municipality accepts the conveyance of real property, the deed to which contains a restriction requiring the exclusion of non-residents.⁵⁶
- Villages are specifically authorized to establish recreational facilities and parking areas, to charge fees, tolls, rates, or admissions for their use, and to limit the use of such self-supporting improvements to residents of the village.⁵⁷

When Unauthorized

- When property is dedicated as a "public park" open to the public at large.⁵⁸
- Where local governments acquired real property with state funds for use as a municipal park.⁵⁹

CHARGING A HIGHER FEE TO NONRESIDENTS

The courts have upheld the assessment of a charge as well as a differential in user fees based upon municipal residence.⁶⁰ These decisions considered the intention of the governing board; the fact that local residents, through the local real property tax, had financed both the acquisition and maintenance of the municipal park; and that the facilities had a limited capacity.⁶¹

A system of user fees may be established with varying rates to be charged to different classes of users related to the varying benefits received by each class, so long as, in accordance with constitutional equal protection guarantees, there is a rational basis for distinguishing among the various classes of users.⁶²

ALIENATION AND CONVERSION⁶³

PARKLAND ALIENATION

Parkland alienation occurs when a municipality wishes to sell, lease, or discontinue municipal parkland. Parkland alienation applies to every municipal park in the state whether owned by a county, city, town, or village. In order to convey parkland to a non-public entity, or to use it for another purpose, the municipality must receive authorization from the New York State Legislature. The bill by which the Legislature grants its authorization is commonly referred to as a parkland alienation bill.

The requirements for parkland alienation bills vary depending upon whether or not state dollars have been invested in the municipal park that is being considered for a potential change of use. Therefore, it is crucial that a municipality identify whether or not state funding has been invested as early in the process as possible.

PARKLAND CONVERSION

Parkland conversion may also apply to municipal parks in New York State. The conversion process applies only to those municipal parks that have received federal funds for acquisition or improvement pursuant to either the Land and Water Conservation Fund (LWCF) or the Urban Park and Recreation Recovery Program (UPARR). Conversion applies when a municipality wishes to sell or otherwise convey funded parkland to another entity, or if the funded park will cease to be used for public outdoor recreation. It is crucial to understand that under most circumstances, a conversion does not replace the need for a municipality to obtain parkland alienation legislation, which must be obtained first. In other words, parks that have federal dollars invested must comply with both alienation and conversion procedures; the conversion process is a second layer of review that a municipality must undergo when taking an action that will impact a federally funded municipal park.

The conversion process is governed by the rules and regulations of the National Park Service of the United States Department of the Interior. The National Park Service must be satisfied that the conversion process was followed and that certain conditions were met before they will give their approval. These conditions include the requirement that substitute lands be provided that are of at least equal fair market value and that these lands offer reasonably equivalent recreational opportunities.

Therefore, it is critical that a municipality identify, as early as possible, whether federal dollars have been invested in the municipal park that is being considered for a potential change of use. If there have been no federal funds invested, the conversion process does not apply. However, the alienation process will still apply.

WHAT IF PARKLAND HAS RECEIVED STATE FUNDING?

When a municipality accepts state funding for the acquisition or improvement of parkland or recreational facilities, certain other restrictions on alienation are created. The restrictions depend largely upon the source of the funding that was provided to the municipality. The restrictions vary, but include a restriction on alienation requiring legislative approval at minimum, and in some cases, a requirement to provide substitute lands. It is imperative that a municipality that wishes to alienate parkland find out early in the process whether funding was used for the acquisition or the development of the park.

Over the years, there have been many different grant programs administered by the Office of Parks, Recreation and Historic Preservation for park and recreation purposes from both state and federal sources. Below is a list of state programs through which a municipality may have obtained funding and the restrictions mandated within those programs.

PARK AND RECREATION LAND ACQUISITION BOND ACTS OF 1960 AND 1965

Provides for a restriction on alienation. "Lands acquired by a municipality with the aid of funds made available pursuant to this article shall be retained by the municipality and shall not be disposed of or . . . used for other than public park and related purposes without the express authority of an act of the legislature."⁶⁴

OUTDOOR RECREATION DEVELOPMENT BOND ACT OF 1965

Provides for a restriction on alienation. "Real property acquired or developed by a municipality with the aid of funds made available pursuant to this article shall not be sold or disposed of or used for purposes other than public park, marine, historic site or forest recreation purposes without the express authority of an act of the legislature."⁶⁵

ENVIRONMENTAL QUALITY BOND ACT OF 1986 (EQBA)

Provides for a restriction on alienation and a requirement to provide substitute lands. The statute provides: "Real property acquired, developed, improved, restored or rehabilitated by a municipality pursuant to § 52-0901(4) of this title⁶⁶ with funds made available pursuant to this title shall not be sold or disposed of or used for other than public park purposes without the express authority of an act of the legislature, which shall provide for the substitution of other lands of equal fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the commissioner."⁶⁷

ENVIRONMENTAL PROTECTION ACT OF 1993 (ENVIRONMENTAL PROTECTION FUND – EPF)

Provides for a restriction on alienation and a requirement to provide substitute lands. For municipal park projects, the statute provides: "Real property acquired, developed, improved, restored or rehabilitated by or through a municipality pursuant to § 54-0903(4)(a) of this title⁶⁸ or undertaken by or on behalf of the city of New York with funds made available pursuant to this title shall not be sold, leased, exchanged, donated or otherwise disposed of or used for other than public park purposes without the express authority of an act of the legislature, which shall provide for the substitution of other lands of equal environmental value and fair market value and reasonable equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the commissioner."⁶⁹

The EPF also allows for municipal park projects to be undertaken through not-for-profit corporations and provides: "Real property acquired by a not-for-profit organization with funds made available pursuant to § 54-0903(4)(b) of this title⁷⁰ shall not be used in violation of an agreement entered into pursuant to § 54-0907(2)(b) of this title⁷¹ or sold, leased, exchanged, donated or otherwise disposed of without the express authority of an act of the legislature."⁷²

CLEAN WATER/CLEAN AIR BOND ACT OF 1996 (THE BOND ACT)

Provides for a restriction on alienation and a requirement to provide substitute lands. For municipal park projects, the statute provides: "Real property acquired, developed, improved, restored or rehabilitated by or through a municipality for park projects undertaken pursuant to this section with funds made available pursuant to this section shall not be sold, leased, exchanged, donated or otherwise disposed of or used for other than public park purposes without the express authority of an

act of the legislature, which shall provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be discontinued, sold or disposed of, and such other requirements as shall be approved by the commissioner."⁷³

Just as the EPF discussed above, the Bond Act also allows for municipal park projects to be undertaken through not-for-profit corporations. The statute provides: "Real property acquired by a not-for-property organization with funds made available pursuant to this section for park projects undertaken pursuant to this section shall not be used in violation of an agreement entered into pursuant to this section⁷⁴ or sold, leased, exchanged, donated or otherwise disposed of without the express authority of an act of the legislature."⁷⁵

USE OF PARK PROPERTY FOR COMMERCIAL PURPOSES

GOVERNMENTAL V. PROPRIETARY⁷⁶

The governmental functions of a municipality are those conferred upon it as a local agency, to be exercised not only in the interest of its inhabitants, but also in the advancement of the public good.⁷⁷ These include the expenditure of money relating to public improvements, operation of water and sewer service systems, trash collection and disposal, and police and fire protection.

Typical examples of municipal governmental functions are the exercise of eminent domain, assessment and collection of taxes, police and fire protection, water treatment and sewage and garbage disposal.⁷⁸ Proprietary functions include exercising private rights, like that of a corporate body.⁷⁹ The operation of an airport⁸⁰ and provision of bus service⁸¹ are two examples.

ADVERTISING

Except in connection with a proprietary activity⁸² or pursuant to express statutory authority,⁸³ it is not a proper municipal purpose to raise revenues by selling advertising space on municipal property.⁸⁴ Advertising is a private business and municipalities have no authority to engage in such activity or to allow municipal buildings or property to be used for advertising purposes.⁸⁵

With regard to municipal parks, the Office of the State Comptroller has opined that advertising of a commercial nature is prohibited as not being a park purpose. Additionally, the production of commercial revenues is not a park purpose.⁸⁶

Signs which merely identify or direct one to an authorized park concession would be allowed, since this would be in the general public interest and would constitute an incidental park purpose.⁸⁷

CONCESSIONS

Many municipalities have permitted private individuals to operate a concession or concession stand at a public park. This is consistent with the purposes for which parks are created and used. A license or concession is a privilege to go onto a property for a specific purpose. A license or concession does not confer title, interest, or estate in real property; it is a mere temporary privilege to use the land or property.⁸⁸ While individuals may be interested in making a profit from such a venture, municipalities can do the same through this arrangement. Municipalities should obtain fair and adequate consideration for such a grant since it has a monetary value.⁸⁹

- A municipality may permit a little league to operate a concession stand on municipal property.⁹⁰
- A municipality may either operate a concession for refreshments and miscellaneous items at a park, pool, or beach facility or let out the concession to a private party.⁹¹
- A municipality may grant a license or concession to sell refreshments in a municipal recreational facility to a local youth hockey organization, but such license or concession must be terminable at will by the municipality and the granting thereof must be preceded by a public hearing.⁹²
- A municipality may grant a license or concession to a private person to conduct tennis lessons in a municipal park for which fees will be charged.⁹³
- A municipal board may grant a license for a definite period for the use of portions of public park property by concessionaires.⁹⁴
- A village may enter into a five year concession arrangement for the operation of a concession at a village-owned boat house.⁹⁵
- A village may let concessions in public parks for innocent amusements, under certain restrictions, but is not authorized to operate them itself.⁹⁶
- A municipality may grant a license or concession to a corporation to operate skeet, trap and rifle facilities in a municipal park.⁹⁷
- A municipal board may grant a concession for a reasonable fee, terminable at will by the municipality, to a private entity to operate a restaurant in a municipally-owned building in the municipal park.⁹⁸

Public health and safety issues arise with regard to concessions where the concessionaire will be selling or providing food for consumption by the public. All such concessionaires should be required to obtain the appropriate permit(s) from the county department of health along with a certificate of insurance naming the municipality as an additional insured for any liability claims made against the concessionaire with regard to food consumption.⁹⁹

Concessionaires should also be reminded that while they are operating their venture in the municipal park that they are required to abide by all park regulations and local laws established by the municipality. For example, hours of use; acceptable conduct; noise; use/consumption of alcoholic beverages; litter and garbage disposal; preservation of property; prohibited activities; and open fires. Additionally, concessionaires with employees should abide by all local, state and federal laws regarding employee safety.

FUND RAISING

A city or village could grant a revocable license to a private group for adequate consideration to use a municipal recreational facility or park for charitable or fund-raising purposes, provided that the municipality does not act as a co-sponsor of such events. The consideration must be adequate to compensate the municipality for expenses incurred in connection with the use of its facilities.¹⁰⁰

For example, a municipality is authorized to rent its ice rink for a short period of time to a private group that would use it in a manner which benefits the public. The rink could be rented for a few hours each week to private hockey teams holding a game. If the public is allowed to be admitted as spectators, such a use is in keeping with public purposes.¹⁰¹ Other examples include:

- A city may allow its recreational property to be used by private groups for charitable fundraising purposes provided that such groups obtain a revocable license from the city in exchange for adequate consideration. Where the city grants licenses to private groups for the

use of its recreational properties for charitable purposes, it must make sure property available to different groups on an equal basis.¹⁰²

- A city or village could grant a revocable license to a private group for adequate consideration to use a municipal recreational facility or park for charitable or fundraising purposes provided the municipality does not act as a co-sponsor. Consideration must be adequate to compensate for expenses incurred.¹⁰³

USE OF PARK PROPERTY AND THE FREEDOM OF SPEECH

HOLIDAY DISPLAYS

There is a constitutional right to use parks for the conveyance of religious thought, opinion and belief, by word of mouth or written matter handed out to passersby. Municipalities cannot prohibit these activities in parks or make them subject to the uncontrolled discretion of any official,¹⁰⁴ nor may they make certain park facilities open to the public generally, but deny their use for religious purposes.¹⁰⁵ Local governments may regulate the use of park property by groups and may require permits for activities.¹⁰⁶

The U.S. Constitution mandates that government remain secular, rather than affiliating itself with religious beliefs or institutions, in order to avoid discriminating against citizens on the basis of their religious faiths.¹⁰⁷ The effect of the government's use of religious symbolism depends upon its context.¹⁰⁸ In determining whether government endorses religion, the following variables have been considered:

- The location of the display;
- Whether the display is included in a larger setting with other nonreligious items;
- The religious intensity of the display;
- Whether it is shown in connection with a secular holiday;
- The degree of public participation in the ownership and maintenance of the display; and
- The existence of disclaimers of public sponsorship, ownership, or endorsement of the particular beliefs of the display's owner.¹⁰⁹

The test is whether these factors convey the message of government endorsement to a reasonable observer. For example, the inclusion of a crèche or Nativity scene in an annual Christmas display, which also includes a Santa Claus house, a Christmas tree, and a banner that reads "Seasons Greetings," in a park owned by a nonprofit organization and located in the heart of a city shopping district does not violate the Establishment Clause;¹¹⁰

PRAYER SERVICES

The "establishment" clause of the First Amendment to the federal Constitution provides that Congress shall make no law respecting an "establishment" of religion, or prohibit "free exercise" thereof.

There is a constitutional right to use streets and parks for the conveyance of religious thought, opinion and belief, by word of mouth or written matter handed out to passersby. Streets and parks immemorially have been used for these purposes. Accordingly, local legislation cannot prohibit these activities in streets or parks or make them subject to the uncontrolled discretion of any official.¹¹¹

The mode and manner of religious activities including speech, meetings and sale or distribution of religious pamphlets and literature on streets and in public parks is subject to reasonable municipal regulation to protect the public welfare and good order.¹¹²

HATE SPEECH AND PUBLIC ASSEMBLIES

Concern often arises when groups with unpopular messages seek permission to use municipal parks for assemblies. Public assemblies, peaceful protests, demonstrations, and picketing in municipal parks and on other public property, are forms of expression protected by the First Amendment.¹¹³

The First Amendment of the U.S. Constitution generally prevents governments from forbidding speech¹¹⁴ or even expressive conduct¹¹⁵ because of the disapproval of the ideas expressed. Content-based regulations are presumptively invalid under the First Amendment.¹¹⁶

An anticipated disruptive response to a march or parade is not a valid ground for restriction access.¹¹⁷ This would be considered a prior restraint on speech. A prior restraint is any governmental action that would prevent a communication from reaching the public, for example, a licensing system, a prohibition against using mails, an injunction, etc. Prior restraints are not favored in our political system. The Court will uphold prior restraints if some special harm would otherwise result. Threats of violence in reaction to protected speech is a permissible ground for time, place and manner limitations.¹¹⁸

Restrictions on the content of speech must be narrowly tailored to achieve a compelling government interest. The Court allows restrictions only to prevent grave injury.

The following is a list of the reasons for which the Court has allowed content based restrictions on hate speech:

- It includes a physical threat of violence or property damage;
- It incites imminent criminality;¹¹⁹
- It defames a particular individual;
- It solicits or actively abets criminality; or
- It evidences a conspiracy.¹²⁰

Technically another unprotected category called "fighting words"¹²¹ exists, but is considered dormant because the Court has refused to invoke the category in upholding a speech restriction in at least the last five decades.

These categories are not entirely invisible to the Constitution, and governments may not regulate them based on hostility, or favoritism, towards the message they contain.¹²² The Court has invalidated criminal laws that seek to punish otherwise legal expression because it promotes bigotry or merely offends people.

RECREATIONAL USES OF MUNICIPAL PROPERTY

When municipalities sponsor activities or provide recreational facilities, they create the potential for liability claims. The general rule is that municipalities must exercise reasonable care against foreseeable dangers under the circumstances that exist at the time.¹²³

This includes the duty to regularly inspect parks, fields, courts, and replace equipment within a reasonable period of time. If the defect cannot be corrected, a barrier should be placed around the equipment or facility and it should be taken off-line.

In your municipality, recreational facilities could include:

- Parks;
- Baseball fields;
- Soccer fields;
- Basketball courts;
- Playgrounds;
- Fitness and multi-use trails;
- Bleachers;
- Waterfronts;
- Beaches;
- Pools;
- Recreation programs;
- Golf courses;
- In-line skating tracks;
- Tennis courts;
- Field trip locations; and
- Ice skating rinks.

LEGAL LIABILITY

When municipalities sponsor activities or provide recreational facilities, they create the potential for liability claims. The general rule is that municipalities must exercise reasonable care against foreseeable dangers under the circumstances that exist at the time.¹²⁴

This includes the duty to regularly inspect parks, fields, courts, and replace equipment within a reasonable period of time. If the defect cannot be corrected, a barrier should be placed around the equipment or facility and it should be taken off-line.

WARNING SIGNS AND NOTICES

Municipalities have an affirmative duty to warn the public of dangerous conditions.¹²⁵ Signage is important. Therefore, municipalities should post all relevant information such as instructions for proper usage and rules of conduct in all recreation areas.

Signs are used in recreation areas for various reasons: to control traffic flow, communicate prohibited activities, provide instruction, and warn of inherent dangers. The value of a sign is determined by how well it is understood and if it influences the reader's behavior. If properly used, signs can help reduce the frequency and severity of accidents, and assist in the defense of lawsuits.

Signs should be placed at the entrance to parks, fields, pools, or courts, near playgrounds, on beaches, next to fitness trails, and equipment. Standardized signage, using universal pictorial symbols, lettering and design, is helpful. In many communities, more than one language is needed.

For example, children at play do not always remember the correct way to use equipment. Signs should be posted stating the intended age group for the equipment. The sign should also illustrate and explain the rules. Unacceptable types of activities such as running, equipment misuse, and horseplay should be listed on playground signs.

RECREATIONAL USE STATUTE¹²⁶

The recreational use statute extends broad immunity from liability to private as well as government landowners against claims for ordinary negligence brought by members of the public who come on their property to engage in certain enumerated activities where the land is suitable for those activities.¹²⁷

This statute provides that landowners who gratuitously allow persons to use their property for certain enumerated recreational activities are not liable for injuries unless they were caused by willful or malicious acts or omissions of the owner.¹²⁸

NYS General Obligations Law § 9-103 provides that landowners are granted limited liability for the use of their property for certain recreational purposes such as hunting,¹²⁹ fishing, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding,¹³⁰ horseback or bicycle riding, motorized vehicle operation for recreational purposes,¹³¹ and snowmobiling.¹³²

The text of NYS General Obligations Law § 9-103 is provided in the Appendix of this publication.

Snowmobiles

Municipalities which have land accessible to and frequented by snowmobilers are governed and protected by the Recreational Use Statute.

Generally, landowners will not be held liable for injuries to snowmobilers, whether or not they have permission to use the land, unless they willfully fail to warn against a dangerous condition.

The injured person will have to prove:

- The danger or defect constituted an unreasonable hazard; and
- The municipality had reason to believe the defect would be discovered by the snowmobiler.

If these two elements exist, it gives rise to a duty to warn and if breached, could very well constitute negligence on the part of the landowner.

The courts in New York have extended the protection of the Recreational Use Statute to state and municipal landowners, whether or not the land is specifically designated for such use. However, the courts have refused to extend this protection to publicly-owned land that is maintained and supervised as a recreational area, park, or playground.

Any time snowmobile use occurs on municipally owned property, there is an increased liability exposure. However, steps can be taken to minimize the risk. Consider the following:

- Designate an undeveloped area for snowmobile use since the potential exists for maximum protection under the Recreational Use Statute. Periodically inspect the area, and remove any conditions that are a hazard to users, such as fallen trees. If there are natural disasters that

cannot be removed, warning signs should be conspicuously posted. It is preferable that public roadways not be part of this area. However, if the designated area includes roadways, highways, highway shoulders, or inside banks, the NYS Parks and Recreation Law requires that signs be posted designating the trail. Road crossings must be clearly marked by signs. Snowmobilers should stop before crossing a roadway, and all crossings must be done perpendicular to the road.

- If your municipality owns facilities that are used for snowmobiling, your liability exposure is greater and reasonable care is required to maintain the facilities and warn the public of defects or dangers. Develop a comprehensive inspection program which is documented and reviewed with the following minimum requirements:
 - Post rules regarding snowmobile use,
 - Periodically inspect the trails and surrounding areas,
 - Remove physical hazards that obstruct pathways, and
 - Post warning signs for terrain changes (e.g., for lakes, ponds, dead end roads).

PARKS AND RECREATION PROPERTIES

The general rule for parks and recreation properties is that the municipality must exercise reasonable care against foreseeable dangers under the circumstances that exist at the time. This includes the duty to periodically inspect parks, fields, courts and other facilities, respond to notices of defects, and if warranted, repair the defect, or replace the equipment within a reasonable period of time. If the defect cannot be corrected, a barrier should be placed around the equipment or facility and it should be taken off-line.

PROMOTING SAFETY

In a National Park Service study of recreation management in 93 national parks, managers listed the following as actions they had taken to reduce visitor crowding and conflict. These actions can be made applicable on the local level by adopting them as part of your park and trail use regulations.

- Inform visitors about crowded conditions and conflicting uses they may encounter in certain areas;
- Encourage quiet behavior and activities;
- Designate facilities or trails for different types of visitor use or segregate different uses by geographic area;
- Meet with user groups;
- Employ patrols or encourage volunteer trail patrols;
- Enforce rules and regulations consistently;
- Provide maps or guides for recreation facilities with numerous programs or uses;
- Use local newspapers and municipal newsletters to cover problems and solutions;
- Enforce closings when dangerous conditions persist for user safety and protection of the terrain; and
- Develop multiple use policies, post them, and enforce them.

SKATEBOARDS, SCOOTERS AND IN-LINE SKATES

Cities and villages are authorized to enact local laws prohibiting play vehicles on the sidewalks, pursuant to their municipal home rule authority.¹³³

One of the fastest growing areas of outdoor activities is skating. This can include in-line skates, scooters, and skateboards. Unfortunately, the enforcement of such laws can be difficult. In addition to posting signs that indicate in-line skating is banned, a municipality should also:

- Let the community and staff of the municipality know that the activity is not permissible;
- Check periodically to see if unauthorized skating is occurring and if it is, make reasonable efforts to discourage it;
- Respond in a timely manner to all notices or complaints from citizens; and
- Advise the police that people who are violating the law should be asked to leave the property.

New York State has preempted the field regulating the manufacture and sale of in-line skates. All such skates must have stopping devices and contain warning labels concerning the use of protective gear while in use. Retail establishments selling in-line skates must also sell protective gear to be used with them such as, wrist guards, helmets, and knee and elbow guards. Additionally, in-line skaters under the age of 14 must wear a safety helmet.

The Court has ruled that municipalities owe the same duty to the user of a play vehicle (skateboards, roller skates, in-line skates, or scooters) using public lands as they do pedestrians.¹³⁴ The issue of liability presents a jury question; if the municipality was negligent in failing to keep the sidewalk in suitable condition for people to walk on and a plaintiff, while roller skating on the sidewalk was injured because of such negligence, he or she can recover for their injuries. This is assuming that the municipality has no local law as mentioned previously and that the condition is found to be dangerous to all passersby.

ROLLER SHOES AND STRAP-ON-WHEELS

With every passing year, a new trend is introduced and quickly becomes a fad among the pre- and early teen set. Most recently is the emergence of wheeled sneakers and shoes known as "heelys."¹³⁵ Heelys and their knockoffs look like gym shoes, but with wheel sockets in each heel. They can be used for walking, but the wheels pop out when users shift their weight to their heels. This allows the wearer to zip down sidewalks, across playgrounds and through mall crowds.¹³⁶

While fun to wear and great for exercise, these devices have their opponents. The American Academy of Orthopaedic Surgeons issued new safety advice that recommends helmets, wrist protectors and knee and elbow pads for kids who wear wheeled shoes.¹³⁷

Currently, there are no laws or regulations that apply to the wearing or using of heelys in New York State. Since the jury is still out on state regulation, we recommend that local officials interested in regulating their use consider the recommendations made above with regard to in-line skates, scooters, and skateboards. As private landowners, mall managers and schools can prohibit use of the footwear within their boundaries.

SWIMMING AREAS

Local governments may adopt, amend and enforce rules and regulations not inconsistent with the New York State law, pertaining to; the use of beaches in or adjacent to the village, regulating swimming and bathing in open waters exposed to the public, and requiring owners of bathing beaches, bath houses or other places charging a fee to the public for the use of such facilities to provide adequate safeguards for the protection of the public in such waters.¹³⁸

For example, municipalities may adopt local laws in regards to; prohibiting the placement of pools in the front yard of property, requiring a building permit for pool construction, specific fencing requirements, and pool draining practices.¹³⁹

One area that the state has preempted municipalities is in the area of gates to pools. Under the Executive Law, the gates to all swimming enclosures must be self-closing and self-latching with the latch handle located within the enclosure and at least 40 inches above the grade. The latch shall then be secured by a lock with a key, combination or other child proof lock sufficient to prevent access to such gate when the swimming pool is not in use or unsupervised.¹⁴⁰

Municipalities may adopt local laws in regards to; prohibiting the placement of pools in the front yard of property, requiring a building permit for pool construction, specific fencing requirements, and pool draining practices.¹⁴¹

The Public Health Council, through the Public Health Law, provides for the supervision and training requirements of life guards at all municipal pools and beaches.¹⁴² Generally, this requirement will be enforced on the local level by the municipal code enforcement officer.¹⁴³

Municipalities with pools should be extremely careful in monitoring the levels of chlorine and other disinfectants used in the water. The wrong levels can cause red eyes and other minor complaints or, can allow dangerous bacteria such as E-coli to spread.

For municipalities that have waterfront areas here are some general safety issues that should be reviewed every year:

- **Signage.** Signs that state whether or not a waterfront is unguarded are important. They should be clear, concise, consistent and conspicuous. Also make sure that hours of operation are clearly posted with information that states "Swim at your own Risk" or "Swimming Prohibited" for times outside these hours. The hours that a lifeguard, if any, is on duty should also be included.
- **Place signs and warnings strategically.** Whether a beach is guarded or not, an aggressive system of signs should be in place. Three important locations should include: the parking lot, or where most cars are parked, at all entry points, and near the water's edge.
- **Hazards.** Waterfront areas should be free of hazards that could injure swimmers, such as glass, fish hooks, sharp rocks, etc. If a particular hazard cannot be removed, it should be identified to swimmers. Also take note of any underwater obstructions such as rocks or tree stumps. Also post notice of rip tides or rip currents, both of which pose a large threat to swimmers.
- **Designate a clearly defined swimming area.** This can be accomplished with flags, buoys, lines, signs or cones. This will help to keep the swimming area away from boats, fishermen and other recreational users. Indicate depth of water and any shallow areas.

- **Locate an emergency phone within 300 feet of the waterfront area.** Make sure that the phone is clearly marked and has emergency numbers posted on it.
- **Post warnings of headfirst entries.** Most life endangering accidents in water occur from headfirst entries in the water. Misjudging a running or standing headfirst dive can result in permanent paralysis regardless of the bottom material struck.
- **Verify lifeguard certification and training.** Make sure water areas are patrolled on regular basis.

PLAYGROUNDS

In response to state legislation enacted in 2006, the NYS Consumer Protection Board (CPB) is in the process of promulgating rules and regulations regarding the construction and installation of playgrounds and playground equipment.¹⁴⁴ This legislation requires new playgrounds, any future equipment and future replacement to conform to any requirements promulgated as a result of this legislation. These requirements will take effect on July 1, 2007.

These rules and regulations must substantially comply with the standards of care contained in the *Handbook for Public Playground Safety* produced by the United States Consumer Products Safety Commission (CPSC).¹⁴⁵ The CPB anticipates incorporating the Handbook by reference into state law.

Some tips for local officials:

- Falls to surface is the leading cause of playground injuries. Proper resilient surfacing is the best defense to reduce playground injuries. Ensure the depth of the cushioning material is adequate and uniform.
- The playground is a heavy use area and must be inspected frequently. Promptly follow-up with necessary repairs. Check the area around the playground as well.
- Signage is important. Signs should be posted stating the intended age group for the equipment that illustratively explain the rules.

The appendix of this publication includes a copy of the U.S. CPSC Public Playground Safety checklist.

SIGNS

Municipalities should post all relevant information such as instructions for proper usage and rules of conduct in a playground area. Children at play do not always remember the correct way to use equipment. Unacceptable types of activities such as running, equipment misuse, and horseplay should be listed on playground signs.

When evaluating the location of a playground, municipalities must consider:

- Whether the playground is organized to allow safe use of the difference stations and equipment by many children;
- Locating moving equipment such as swings along the edges of a play area;
- Whether the location and layout provides easy access from one point to another;
- Locating slides away from congested areas; and
- Positioning the most popular equipment to avoid overcrowding.

SUPERVISION

The degree of supervision required depends on the type of activities involved.

- For playgrounds in public parks that are not being used in a specific program, no supervision is required.
 - The municipality must still keep the playground secure by providing safe equipment that is maintained regularly.
 - Periodic inspections of the area are required, and repairs to damaged or defective equipment must be made promptly.
- When a municipality offers a staffed playground program, there is a duty to provide trained monitors who can oversee activities, enforce rules, correct unwanted behavior or activities, and respond to accidents.
 - A preliminary inspection should be done prior to the start of the activity to determine if the children can use the playground.
 - Weather can be a factor. Check if the surface is wet or unusable.
 - Each monitor should be assigned a workstation that controls a region of the playground. Monitors must be conspicuous to the children. A general rule regarding the ratio of monitors to children is one to 40. Programs involving pre-kindergarten age, or children with special needs, require a greater ratio. Instructions and demonstrations on how to use the equipment, pointing out prohibited activities and inappropriate behavior, is required before a group first uses the facility.
- Typical playground rules include:
 - No standing or running close to swings.
 - No going head first down slides.
 - No overcrowding, no horseplay, identification of "off limits" areas, etc.
 - In the event of an accident, the municipality's policies and plans should be followed.
 - All play should stop, and qualified help should be summoned.

WHEN INJURY OCCURS. . .

When an injury occurs on municipal property, and one will, it is important to know the procedures to follow for reporting an injury. The following sections provide information that can help local governments prevent and respond to such claims.

PRIOR NOTICE OF CLAIM

A notice of claim must be served on a municipality as a condition precedent to the commencement of a lawsuit founded upon tort. The notice of claim must be served within 90 days after the claim arises, except in wrongful death actions, the 90 days will run from the appointment of a representative of the decedent's estate.¹⁴⁶

The notice must be in writing, sworn to by or on behalf of the claimant, and must set forth:

- The name, post office address of each claimant, and of his or her attorney, if any;

- The nature of the claim;
- The time when, the place where, and the manner in which the claim arose;
- The items of damage or injuries claimed to have been sustained so far as then practicable; and¹⁴⁷
- The notice must be served on the municipality by personal delivery, or by registered or certified mail, to the person designated to receive service on behalf of the municipality, or to the municipal attorney.¹⁴⁸

PRIOR NOTICE OF DEFECT

Municipalities are protected from liability though prior notice of defect requirements when injuries occur on a street, highway, sidewalk, crosswalk, bridge, or culvert. Prior written notice statutes provide that to maintain a cause of action against a municipality for a defect in streets or sidewalks, the municipality must receive prior written notice of the defect and an opportunity to correct the defective condition within a reasonable time after the receipt of such notice.¹⁴⁹

While recreation facilities do not necessarily consist of a street, highway, sidewalk, crosswalk, bridge, or culvert, these facilities could be appurtenant to a recreational facility and be the site of an alleged injury. For example, streets and sidewalks are used by runners. If an alleged injury occurs while the individual is using the streets and sidewalks for recreational purposes, the municipality would be entitled to prior written notice of a defect. However, this is more the exception than the rule. Most injuries will occur due to the condition of a basketball court, baseball field, track, hockey rink, etc.

Villages do not need to enact a separate local law regarding notice of defect as it is included in state statute.¹⁵⁰ Notice of the defective condition must be in writing and given to the village clerk. Any notice of defect given to municipal departments other than the clerk does not comply with the statutory notice requirements.¹⁵¹

The village clerk must keep a record of all written notices of defect indexed according to the location of the alleged defective, unsafe, dangerous or obstructed condition, or the location of accumulated snow or ice.¹⁵²

This record must state the:

- Date and time of receipt of the notice;
- Type of defect and its location; and
- Name and address of the person from whom the notice is received.¹⁵³

It is recommended that the record (both in villages and cities) also include:

- The municipal follow-up procedure (who, when and how);
- The date, time and method of repair;
- If no action was needed, the reasons why should be clearly stated;
- If the repair could not be done immediately, other corrective action (warning or restriction) taken to protect the public should be noted; and
- Any other follow-up activity should be accurately recorded.

All complaints should be forwarded to the Department of Public Works superintendent for immediate action. A system should be in place for the superintendent to report to the clerk's office after an inspection has been completed, and again after corrective action has been taken.

Since record keeping is probably discoverable in a lawsuit alleging a sidewalk defect, evidence of prudent follow-up to complaints demonstrates good faith attempts to correct dangerous conditions.

The village clerk must report notices of defect to the village board within 10 days. The record of each notice must be preserved for five years from the date of receipt.

Cities need to include the prior notice of defect requirement in their city charters or enact a separate local law regarding prior notice of defect.¹⁵⁴ The city must keep an indexed record, in a separate book, of all written notices which it receives of the existence of defective, unsafe, dangerous or obstructed condition, or of snow or ice. The record must state the date of receipt of the notice, the nature and location of the condition stated to exist, and the name and address of the person from whom the notice is received.¹⁵⁵ The statute, charter or local law should specify the city officer or employee to whom the written notice should be given. The record of each notice must be preserved for five years from the date of receipt.¹⁵⁶

The Second Class Cities Law¹⁵⁷ requires that a written notice of defect be given to the commissioner of public works.¹⁵⁸

EXCEPTIONS

Only two exceptions exist regarding prior written notice:

- Where the municipality created the defective or hazardous condition through an affirmative act of negligence,¹⁵⁹ and
- Where a "special use" confers a special benefit upon the locality.¹⁶⁰

SELF-INSPECTIONS

Self-inspections or inventories are a good way to identify sidewalk defects. They enable a municipality to identify and correct dangerous conditions before they occur. However, once defects are recorded, it appears likely that the municipality will be considered to have prior written notice of the defect. Therefore, municipalities must act reasonably and prudently in addressing and correcting a condition. Common sense indicates that weeks of inaction after a defect is identified will help a plaintiff's argument that a municipality did not properly respond to notice.

TELEPHONE OR WALK-IN COMPLAINTS

Handling telephone or in-person complaints can be difficult. Some municipalities adhere to their prior written notice policy and advise complainants that notice must be made pursuant to the law; and that the municipality will not accept notice in any other manner. That is, a telephone call or a verbal communication will not be sufficient. How your municipality handles this is important since the procedure must be applied evenly and for every occurrence.

Local laws requiring prior written notice of defect on streets and sidewalks must be strictly enforced as a pre-condition for municipal liability. Constructive notice is insufficient to satisfy a statutory requirement of written notice to a municipality regarding a defect in a street or sidewalk.¹⁶¹ Once a municipality receives notice of a defect, it then has a "reasonable" amount of time to correct the defect. What is "reasonable" will depend on the facts and circumstances of the particular situation.

POST-NOTICE ISSUES

Regardless of how you are notified of a complaint, a response is required. All notices should be immediately followed by an inspection of the location. Depending on the type of condition, the response should include:

- An assessment of the condition;
- The immediate repair of small defects;
- Temporary repairs suitable to correct the condition when time is needed to purchase supplies, or when weather or urgent jobs cause a delay;
- A restriction of pedestrian traffic in the area when repair work can't begin immediately; and
- An insurance certificate obtained from contractors retained to do sidewalk repairs in which the municipality is listed as an unrestricted additional insured.

CONSTRUCTIVE NOTICE

Constructive notice has been defined as any condition that would be revealed upon reasonable inspection or is a condition readily observable that has existed for such a length of time that reasonable prudence should have discovered the condition.

To constitute constructive notice, a defect must be visible and apparent and it must exist for a sufficient length of time prior to the accident to permit the defendant to discover and remedy it.¹⁶² It is well settled that to impose liability upon the defendant, there must be evidence tending to show the existence of a dangerous or defective condition, and that the defendant either created the condition or had actual or constructive knowledge of it.¹⁶³

Constructive notice is insufficient to satisfy a statutory requirement of written notice to a municipality regarding a defect in a street or sidewalk.¹⁶⁴

EFFECTIVENESS OF RELEASES, WAIVERS AND CONSENT FORMS

Municipalities often use consent forms and permission statements or slips for recreational programs and athletic activities. Usually the slips contain written notification to participants that a trip is planned, indicate the itinerary and the method of transportation, and include a consent for emergency medical treatment.

When signed by the participant, or in the case of a minor, a parent or guardian, permission slips document consent that the person can attend the activity. For routine programs like trips to museums, historical sites, or concerts, these slips are usually sufficient. However, for trips or events involving participatory athletics or sports, additional language is required on the consent form.

Just as physicians obtain informed consent prior to medical procedures and manufacturers issue warnings about their products, municipalities have duty to warn. Parents, guardians, and participants in recreational programs involving physical activities must know and understand the risks of each activity before the trip begins.

Also, depending upon the ages of the participants, documented proof of warning can assist in establishing assumption of risk, a defense which can help defeat a negligence claim brought against a municipality.

Permission slips must be clear and thorough. They should include, at a minimum:

- A complete and accurate description of the activity (e.g., volleyball);
- A statement acknowledging that the activity involves physical activity, including the word "vigorous" if appropriate;
- A statement that the person has no medical or physical conditions which would restrict his or her participation;
- A list of the specific risks that usually accompany the activity (e.g., jumping, aerobic activity, running);
- An acknowledgment and assumption of risk for injuries that might occur; and
- Any other information about the activity or trip that must be communicated (e.g., equipment will not be supplied).

The use of permission slips will not protect the municipality from all liability and will not prevent an attorney from filing notice of claim or suit. However, it will assist in the defense of a claim if the plaintiff alleges he or she was not warned of the dangers of an activity, or if there is a claim to the effect that the plaintiff was not physically capable of participating.

An example of a permission slip is included in the Appendix of this publication.

GENERAL TORT PRINCIPLES

As stated earlier in this publication, when municipalities sponsor activities or provide recreational facilities, they create the potential for liability claims. The general rule is that municipalities must exercise reasonable care against foreseeable dangers under the circumstances that exist at the time.¹⁶⁵ This includes the duty to regularly inspect parks, fields, courts, and replace equipment within a reasonable period of time. If the defect cannot be corrected, a barrier should be placed around the equipment or facility and it should be taken off-line. If this duty is breached, then the local government could find itself on the wrong end of a lawsuit.

This next section discusses the elements of a negligence case, including the duty owed to the user of the recreational property, breach of that duty, standards of care, damages, and defenses. We hope you never have to defend your municipality in a negligence case, however, in the event that you do, the following provides a basic primer to get you started.

NEGLIGENCE

What is a Tort? A tort is a violation of a duty imposed by law or otherwise upon all persons occupying the relation to each other which is involved in a given transaction.¹⁶⁶ Three elements of every tort action are: existence of a legal duty from defendant to plaintiff, breach of duty, and damage as a proximate result.

To establish a case for negligence, the following elements must be proved:

1. The existence of a duty on the part of the defendant to conform to a specific standard of conduct for the protection of the plaintiff against an unreasonable risk of injury;

2. Breach of that duty by the defendant;
3. The breach of duty by the defendant was the actual and proximate cause of the plaintiff's injury; and
4. Damage to the plaintiff's person or property.

THE DUTY OF CARE

GENERAL DUTY OF CARE

A general duty of care is imposed on all human activity. When a person engages in an activity, he is under a legal duty to act as an ordinary, prudent, reasonable person. It is assumed that an ordinary, prudent, reasonable person will take precautions against creating unreasonable risks of injury to other persons.

TO WHOM IS IT OWED?

The general rule is that a duty of care is owed only to foreseeable plaintiffs.

WHAT IS APPLICABLE STANDARD OF CARE?

Basic Standard: The Reasonable Person

Defendant's conduct is measured against the reasonable, ordinary, prudent person with same physical characteristics, average mental ability, and same knowledge as an average member of the community.

Children

A majority of courts take the view that a child is required to conform to the standard of care of a child of like age, education, intelligence, and experience. This permits a subjective evaluation of these factors.

Users of Recreational Land

A landowner is not liable for injuries suffered by a recreational user unless the landowner willfully and maliciously failed to guard against or warn of a dangerous condition or activity.¹⁶⁷

BREACH OF DUTY

Where the defendant's conduct falls short of that level required by the applicable standard of care owed to the plaintiff, she has breached her duty. Where the duty of care is breached in an individual case is a question for the trier of fact.

Proof of breach

First, it must be shown what in fact happened. Second, it must be shown from these facts that the defendant acted unreasonably.

CAUSATION

Actual Cause/Causation in Fact

An act or omission to act is the cause in fact of an injury when the injury would not have occurred "but for" the act.

PROXIMATE CAUSE/LEGAL CAUSATION

The defendant is liable for all harmful results that are the normal incidents of and within the increased risk caused by his acts. If one of the reasons that make defendant's act negligent is a greater risk of a particular harmful result occurring, and that harmful result does occur, defendant is generally liable.

DAMAGES

DAMAGES RECOVERABLE IN THE ACTION

Damage is an essential element of a plaintiff's case for negligence. This means actual harm or injury. Some proof of damage must be proved.

PERSONAL INJURY

Compensation for all damages (past, present, and prospective), both special and general. This includes fair and adequate compensation for medical expenses and lost earnings plus amounts for pain and suffering (including emotional distress), together with compensation for impaired future earning capacity.

Property Damage

Reasonable cost of repair, or, if the property has been almost or completely destroyed, its fair market value at the time of the accident.

Punitive Damage

Only if defendant's conduct was "wanton and willful," reckless, or malicious.

Non-Recoverable Items

Interest from date of damage in personal injury action, and attorneys' fees.

Duty to Mitigate Damages

Preserve and safeguard property; seek treatment.

COMMON ALLEGATIONS AND DEFENSES

Contributory Negligence

At common law, plaintiff's contributory negligence completely barred his right to recovery. This was so even though the degree of defendant's negligence was much greater than that of plaintiff. The severe consequences of contributory negligence rules have caused most jurisdictions to reject the "all or nothing" approach in favor of a comparative negligence system.

Assumption of Risk

The plaintiff may be denied recovery if he assumed the risk of any damage caused by the defendant's acts. This assumption may be expressed or implied. To have assumed risk, either expressly or impliedly, the plaintiff must have known of the risk and voluntarily assumed it. It is irrelevant that plaintiff's choice is unreasonable.

Comparative Negligence

Plaintiff can recover a percentage of his damages under some type of comparative negligence system where the court weighs plaintiff's negligence against that of defendant and reduces plaintiff's damages accordingly.

Joint and Several

New York State currently operates under the system of joint and several liability. This means that if a municipality is even only one percent liable for an accident, it can be forced to pay 100 percent of the damage award. Under a system of comparative negligence, a municipality would only be liable for an amount equal to its percentage of liability.

NYCOM supports legislation that would reform New York's existing tort system to make it more reflective of actual damages and individual responsibility. Tort reform would include: expanding notice of defect provisions to include all municipal properties, abolishing joint and several liability, adopting comparative negligence, expanding the jurisdiction of the Court of Claims to include municipalities, and several other reforms aimed at controlling and avoiding outrageous judgments. NYCOM also supports legislation that would require individuals or businesses that wrongfully sue a municipality, to reimburse that municipality for all legal costs incurred.

APPENDIX

- **NYS General Obligations Law § 9-103**
- **Permission Slip -- Sample Language**
- **Application for Use of Community Facilities**
- **Facility Use Requirements**
- **Checklist for Municipalities Considering Parkland Alienation**
- **Public Playground Safety Checklist**

NYS General Obligations Law § 9-103

1. Except as provided in subdivision two,

a. an owner, lessee or occupant of premises, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep the premises safe for entry or use by others for hunting, fishing, organized gleaning as defined in section seventy-one-y of the agriculture and markets law, canoeing, boating, trapping, hiking, cross-country skiing, tobogganing, sledding, speleological activities, horseback riding, bicycle riding, hang gliding, motorized vehicle operation for recreational purposes, snowmobile operation, cutting or gathering of wood for non-commercial purposes or training of dogs, or to give warning of any hazardous condition or use of or structure or activity on such premises to persons entering for such purposes;

b. an owner, lessee or occupant of premises who gives permission to another to pursue any such activities upon such premises does not thereby (1) extend any assurance that the premises are safe for such purpose, or (2) constitute the person to whom permission is granted an invitee to whom a duty of care is owed, or (3) assume responsibility for or incur liability for any injury to person or property caused by any act of persons to whom the permission is granted.

c. an owner, lessee or occupant of a farm, as defined in section six hundred seventy-one of the labor law, whether or not posted as provided in section 11-2111 of the environmental conservation law, owes no duty to keep such farm safe for entry or use by a person who enters or remains in or upon such farm without consent or privilege, or to give warning of any hazardous condition or use of or structure or activity on such farm to persons so entering or remaining. This shall not be interpreted, or construed, as a limit on liability for acts of gross negligence in addition to those other acts referred to in subdivision two of this section.

2. This section does not limit the liability which would otherwise exist,

a. for willful or malicious failure to guard, or to warn against, a dangerous condition, use, structure or activity; or

b. for injury suffered in any case where permission to pursue any of the activities enumerated in this section was granted for a consideration other than the consideration, if any, paid to said landowner by the state or federal government, or permission to train dogs was granted for a consideration other than that provided for in section 11-0925 of the environmental conservation law; or

c. for injury caused, by acts of persons to whom permission to pursue any of the activities enumerated in this section was granted, to other persons as to whom the person granting permission, or the owner, lessee or occupant of the premises, owed a duty to keep the premises safe or to warn of danger.

3. Nothing in this section creates a duty of care or ground of liability for injury to person or property.

Permission Slip -- Sample Language

Name of Trip/Program

I, _____ give my permission for _____ to participate in this program. I acknowledge that participation in this program involves the risk of injury, and I assume the risk. In consideration of this possibility, I hereby consent to emergency transportation and treatment necessary in the event of illness or injury. I hereby accept responsibility for the payment of any emergency transportation or treatment. This program involves physical activity, and I further acknowledge that I (or my child) am/is fully capable of performing the activities required. This program will take place at ____ (Location) _____. The potential risks involved in participating in this trip include, but are not limited to: (Describe Any Specific Risks or Hazards). I agree to hold the (Name of Municipality) harmless from and against any and all liability, loss, damages, claims, or actions (including costs and attorney's fees) for bodily injury or property damage, to the extent provided by law.

(Signature of Participant, Parent or Guardian)

(Date)

Application for Use of Community Facilities*

(Name and Address of Municipality)

Today's Date: _____ Date(s) Requested: _____

Facility Requested: _____

Name of Organization or Individual: _____

Time: _____ to _____ Supervisor in charge _____

Mailing Address: _____

Telephone: (Day) _____ (Night) _____

Purpose of Use: _____

Total Participants Expected: _____ Adults: _____ Children: _____

Is material or equipment required from municipality? Yes _____, No _____

If needed, state what types and for what purpose: _____

Residents (Number): _____ Non-Residents (Number): _____

Is an admission fee charged? Yes _____ No _____

AGREEMENT

The undersigned is more than 21 years of age and has read this form and attached regulations and agrees to comply with them. He or she agrees to be responsible to the municipality for the use and care of the facilities. He or she, on behalf of _____ does hereby covenant and agree to defend, indemnify and hold harmless the Municipality from and against any and all liability, loss, damages, claims, or actions (including costs and attorneys fees) for bodily injury and/or property damage, to the extent permissible by law, arising out of or in connection with the actual or proposed use of Municipality's property, facilities and/or services by Organization.

Signature of Organization's Representative: _____

Address: _____ Telephone Number: _____

READ ATTACHED REQUIREMENTS AND RETURN APPLICATION TO:

Name and Address of Municipality:
Attention: Municipal Contact Person

NAME AND ADDRESS OF MUNICIPALITY
FACILITY USE REQUIREMENTS

The use of all Recreational and Parks facilities shall be subject to the approval and rules of the Recreation Commission administered by the Superintendent of Recreation and Parks.

1. Organizations wishing to use municipal facilities shall first apply to the Superintendent of Recreation and Parks on the prescribed form. The Superintendent or his or her designee has final authority on approval.
2. In the event of inclement weather, the Superintendent or his or her designee has the final authority on whether facilities are usable.
3. [Intoxicants shall not be brought onto municipal facilities at any time.] or [Alcohol use is allowed only by permit. Alcohol is not permitted in glass bottles, kegs or barrels. A separate fee of \$_____ is required for an alcohol permit.]
4. All posted rules must be adhered to.
5. Profanity, objectionable language, disorderly acts or illegal activities of any kind are absolutely prohibited, and those violating this prohibition will be ejected from the premises.
6. Any damage to municipal facilities shall be promptly repaired at the user's expense. No exceptions. If maintenance personnel are not available, make sure all doors are locked and lights are turned out when leaving.
7. Organizations using the facilities must clean-up afterwards.
8. Permits may be revoked at any time.
9. Any organization with youth under 18 years old requires the presence of adequate adult supervision at all times.
10. The fee for use is \$_____, payable before use begins.
11. A public telephone is located in _____. The emergency telephone number for police is: _____; fire _____. The appropriate authority must be contacted in the event of an emergency.
12. When required, users must provide the following insurance prior to using facilities. FAILURE TO DO SO PRIOR TO USE WILL RESULT IN REVOCATION OF YOUR PERMIT:
Commercial Users:
 - A. The user hereby agrees to effectuate the naming of the municipality as an unrestricted additional insured on the user's policy.
 - B. The policy naming the municipality as an additional insured shall:
 - Be an insurance policy from an A.M. Best rated "secured" New York State licensed insurer;
 - Contain a 30 day notice of cancellation;
 - State that the organization's coverage shall be primary coverage for the Municipality, its Board, employees and volunteers; and
 - Additional insured status shall be provided with ISO endorsement CG 2026 or its equivalent.
 - C. The user agrees to indemnify the municipality for any applicable deductibles.
 - D. Enclose a copy of the endorsement providing additional insured status.
 - E. Required Insurance:
 - Commercial General Liability Insurance: \$1,000,000 per occurrence/ \$2,000,000 aggregate.
 - Individuals: Homeowners Insurance: – Liability: \$100,000 limit of liability. Policy shall not exclude the off-premises activities of the insured.
 - F. User acknowledges that failure to obtain such insurance on behalf of the municipality constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the municipality. The user is to provide the municipality with a certificate of insurance, evidencing the above requirements have been met. The failure of the municipality to object to the contents of the certificate or the absence of it shall not be deemed a waiver of any and all rights held by the municipality.
13. In the event of an accident, please notify the custodian on duty, or call the business office the next morning.

**These documents are provided by and with the permission of the New York Municipal Insurance Reciprocal (NYMIR)*

Checklist for Municipalities Considering Parkland Alienation

1. What are the existing uses of the property being considered for alienation?
 - What is the character of the land?
 - What types of natural or manmade resources are present on or adjacent to the parcel?
 - For example: lakes, streams, forests, wetlands, scenic vistas, historic structures such as buildings or bridges, and archeological resources.
 - What kind of recreational opportunities exist on the parcel?
 - For example: ball fields, picnic benches, pavilions, swimming pools, boat launches and docks, etc.
 - What are the current uses of the parkland?
 - How much is the public relying on the parkland for recreational activities?
2. Are there adequate recreational opportunities within the municipality currently if the parkland in question is alienated?
3. Are substitute lands being proposed if the parkland in question is diverted to another use?
 - If so, what is the location of the substitute parcel?
 - Will it accommodate the current users of the parkland being alienated?
4. Is this parkland alienation being considered as part of a larger plan on a local, regional, or statewide level?
5. What are the factors that led to the municipality considering the alienation of parklands?
6. What is the proposed use of the parkland being considered for alienation?
 - Will this proposed use increase demand for recreational activities in the area?
 - For example, will the proposed use result in an increase in the population of the area adding more individuals who would then seek recreational opportunities?
7. Are there other locations that could accommodate that proposed use?
8. Have the residents of the community had an opportunity to voice their opinion regarding the decision to alienate the parkland?
9. What is the appraised value of the parkland being considered for alienation (the substitute parcel)?
 - If the parkland has received federal funding, do the appraisals meet the Federal Uniform Appraisal Standards for Federal Land Acquisitions?

ENDNOTES

1. The public trust doctrine is rooted in much earlier history (see, Brooklyn Park Commissioners v. Armstrong, 45 N.Y. 234, 243; see also, 11 Powell, Real Property § 79.02 [3], at 79-10–79-11; David C. Slade *et al.*, *Putting the Public Trust Doctrine to Work*, at 3-4 [1990]); and In re Union Turnpike From Grand Central Parkway to City Line, 140 Misc.2d 727 (N.Y. Sup. 1931).
2. Friends of Van Cortlandt Park v. City of New York, 727 N.Y.S.2d 2, (2001)
3. If a conveyance is authorized by special act of the State Legislature, then the municipality may convey the parcel for its fair market value. 1980 Op. St. Compt. 775, p. 212.
4. Matter of Ackerman v. Steisel, 66 N.Y.2d 833 (1985); Brooklyn Park Comr's v. Armstrong, 45 N.Y. 234 (1871); Gerwitz v. City of Long Beach, 358 N.Y.S.2d 957 (1974); see also Parks, Recreation and Historic Preservation Law §§ 15.09 and 17.09 providing that lands acquired with the aid of funds made available pursuant to articles 15 and 17 of that law may not be disposed of, with certain exceptions, used as other than a park without legislative authority.
5. 1979 Op. Atty Gen. p. 184.
6. Pearlman v. Anderson, 62 Misc.2d 24 (1970).
7. Kupelian v. Andrews, 233 N.Y. 278 (1922).
8. Perrin v. N. Y. Cent. R. R. Co., 36 N.Y. 120 (1867).
9. Matter of Ackerman v. Steisel, *supra*.
10. N.Y. Village § 1-102(2).
11. "N.Y. Gen. City § 20(3)." Formatted: Endnote Reference, Font: 12 pt
12. "N.Y. Gen. City §§ 19, 20(2), (7), (8), and (23); N.Y. Gen. Mun. § 140; Gerwitz v. City of Long Beach, *supra*." Formatted: Endnote Reference, Font: 12 pt
13. N.Y. Village § 6-624 allows a board of trustees to adopt a resolution authorizing the purchase of land within a village for park purposes. Upon the acquisition of such land, the board may establish and maintain a public park; see also, 1996 Op. Atty Gen. 96-37, p. 1094. A village may utilize its authority to enact local laws relating to its property; the protection and enhancement of its physical and visual environment; or the health and well-being of persons or property in the municipality pursuant to N.Y. Mun. Home Rule § 10(1)(ii)(a)(1), (11) and (13). See also, 1996 Op. Atty. Gen. 96-37, p. 1094.
14. Pearlman v. Anderson, *supra*.
15. Village of Croton-on-Hudson v. Westchester County, 30 N.Y.2d 959 (1972).
16. Williams v. Gallatin, 229 N.Y. 248 (1920); Gewirtz v. City of Long Beach, *supra*; Stephenson v. County of Monroe, 43 A.D.2d 897 (1974); Aldrich v. City of New York, 2 A.D.2d 760 (1965); Tobin v. Hennessy, 220 A.D. 695 (1927).
17. 1982 Op. St. Compt. 82-289, p. 364.
18. Williams v. Gallatin, *supra*.
19. Brooklyn Park Commissioners v. Armstrong, *supra*.
20. 23 Op. St. Compt. , 1967, p. 416, and cases cited therein; see also 1982 Op. St. Compt. 82-237, p. 298.
21. Miller v. City of New York, 15 N.Y.2d 34 (1964).
22. Williams v. Gallatin, *supra*; Rivet v. Burdick, 255 A.D. 131 (N.Y.A.D. 4 Dept 1938); Gushee v. City of New York, 42 A.D. 37 (1899).
23. Williams v. Gallatin, *supra*. Formatted: Font: 12 pt
24. Village of Croton-on-Hudson v. County of Westchester, *supra*.
25. Brooklyn Park Commissioners v. Armstrong, *supra*.
26. Matter of Ackerman v. Steisel, *supra*.
27. Friends of Van Cortlandt Park v. City of New York, 95 N.Y.2d 623, 2001 N.Y. Slip Op. 01069 (2001).
28. 1995 Op. Atty Gen. (Inf.) No. 95-52.
29. Rivet v. Burdick, *supra*.
30. 1987 Op. St. Compt. 87-22, p. 36.
31. 1992 Op. St. Compt. 92-49, p. 120.
32. Cross v. County of Westchester, 206 N.Y.S.2d 902 (N.Y. Sup. 1960).
33. 1982 Op. St. Compt. 255, p. 319.
34. Schreiber v. City of Rye, 53 Misc. 2d 259 (1967).
35. N.Y. Mun. Home Rule § 10(1)(ii)(a)(6), (11).
36. List exceptions, if any. For example, leashed and properly licensed dogs are allowed in the park but not on the playground or ball fields.

37. Williams v. Gallatin, *supra*.
38. See 1986 Op. St. Compt. 73, p. 113 which states that "such an enactment may pose constitutional problems if its applicability is limited only to those persons under the legal drinking age," p.115.
39. N.Y. Alco. Bev. Cont. §§ 65, 82 (Consol. 1991).
40. N.Y. Alco. Bev. Cont. § 65(1).
41. N.Y. Alco. Bev. Cont. § 100(2-a).
42. See N.Y. Gen. Mun. § 144, which provides that trusts for parks, playgrounds and libraries created under this title by local governments shall be free and open to the public for use and enjoyment.
43. See Gerwitz, *supra*, and Lawrence v. Kraushaar, 195 Misc. 487 (1949), which dealt with a differential parking fee structure for nonresidents.
44. 1983 Op. St. Compt. 83-199, p. 255.
45. 1982 Op. St. Compt. 82-209, p. 265; N.Y. State Local Govts. § 10(3); and N.Y. Mun. Home Rule § 10(1)(ii)(a)(9-a).
46. N.Y. Village § 13-1300, et seq..
47. 1982 Op. St. Compt. 82-289, p. 364.
48. 25 Op. St. Compt. 69-493, p. 241 (1969).
49. 28 Op. St. Compt. 1972, p. 110.
50. 1984 Op. St. Compt. 84-31, p. 39.
51. 28 Op. St. Compt. 1972, p. 110.
52. U.S. Const., Amend. 14; NYS Const., Art. 1, § 11.
53. Schreiber v. City of Rye, *supra*.
54. 1988 Op. St. Compt. 88-22, p. 40.
55. Campbell v. Town of Hamburg, 156 Misc. 134 (1935), which states that it is "the basic property right of any municipality to prevent the usurpation by strangers of that which the municipality has created and is maintaining for its own citizens and residents." See also, Schreiber v. City of Rye, *supra*, which held that city may deny application of nonresident for a permit to use facilities of city golf course and swimming pool.
56. Id. at 137.
57. N.Y. Village § 13-1304.
58. Gerwitz v. City of Long Beach, *supra*.
59. N.Y. Parks and Rec., Art. 15. Specifically, § 15.07 states that "A municipality which acquires lands with funds made available pursuant to this article may establish reasonable rules and regulations. . . provided that no rule or regulation restricting the use of such lands to the residents of the municipality shall be effective without the express approval of the commissioner."
60. See Gerwitz, *supra*, and Lawrence v. Kraushaar, *supra*, which dealt with a differential parking fee structure for nonresidents.
61. See Campbell v. Town of Hamburg, *supra* and Schreiber v. City of Rye, *supra*.
62. N.Y. Const., Art 1, § 11; Elmwood-Utica House v. Buffalo Sewer, 65 N.Y.2d 489 (1985); 1979 Op. St. Compt. 307; 1980 Op. St. Compt. 97.
63. Many thanks to Commissioner Carol Ash and staff of the NYS Office of Parks, Recreation and Historic Preservation for granting permission to use the information in this section. For more information concerning these issues, please refer to ***Handbook on the Alienation and Conversion of Municipal Parkland***, published by the NYS Office of Parks, Recreation and Historic Preservation, content revised April 1, 2005.
64. *Handbook* at page 13 (citing the N.Y. Parks, Rec. & Hist. Preserv. § 15.09).
65. *Handbook* at page 13 (citing the N.Y. Parks, Rec. & Hist. Preserv. § 17.09).
66. *Handbook* at page 13 (citing the N.Y. Envtl. Conserv. § 52-0901(4) is entitled "Municipal park projects").
67. *Handbook* at page 13 (citing the N.Y. Envtl. Conserv. § 52-0907).
68. *Handbook* at page 14 (citing the N.Y. Envtl. Conserv. § 54-0903(4)(a) addresses municipal park projects).
69. *Handbook* at page 14 (citing the N.Y. Envtl. Conserv. § 54-0909(1)).
70. *Handbook* at page 14 (citing the N.Y. Envtl. Conserv. § 54-0903(4)(b) addresses municipal park projects undertaken by not-for-profit corporations).
71. *Handbook* at page 14 (citing the N.Y. Envtl. Conserv. § 54-0907(2)). This section of the EPF requires that the not-for-profit enter into a contract with the commissioner which shall include the following: a. An agreement to make and keep the lands accessible to the public unless the commissioner determines that public accessibility would be detrimental to the lands or any natural resources associated therewith; b. an agreement not to sell, lease, exchange or donate the lands except to the state, a local government unit or another qualifying tax exempt non-profit organization for recreation and conservation purposes approved by the commissioner; and c. an agreement to execute and convey to the state at no charge a conservation easement, pursuant to title three of article forty-nine of this chapter, over the lands to be acquired with state assistance payments).
72. *Handbook* at page 14 (citing the N.Y. Envtl. Conserv. § 54-0909(2)).

73. *Handbook* at page 15 (citing the N.Y. Envtl. Conserv. § 56-0309(12)).
74. *Handbook* at page 15 (citing the N.Y. Envtl. Conserv. § 56-0309(11)). This section of the Bond Act requires that the not-for-profit enter into a contract with the commissioner which shall include the following: a. an agreement to make and keep the lands accessible to the public unless the not-for-profit corporation can demonstrate to the commissioner's satisfaction that public accessibility would be detrimental to the lands or any natural resources associated therewith; b. an agreement not to sell, lease, exchange or donate the lands except to the state, a local government unit or another qualifying tax exempt non-profit organization for recreation and conservation purposes consistent with this title and approved by the commissioner; and c. an agreement to execute and convey to the state at no charge a conservation easement, pursuant to title three of article forty-nine of this chapter, over the lands to be acquired with state assistance payments.)
75. *Handbook* at page 15 (citing the N.Y. Envtl. Conserv. § 56-0309(13)).
76. See Matter of the County of Monroe, 72 N.Y.2d 338 (1988), in which the NYS Court of Appeals upheld an Appellate Division ruling substituting a "balancing of public interest" analytical approach for the traditional governmental-proprietary function test when determining whether a municipality is immune from zoning regulations.
77. See Walla Walla v. Walla Walla Water Co., 172 US 1 (1898).
78. See 56 Am Jur 2d, Municipal Corporations, Counties and Other Political Subdivisions § 200, at 258.
79. See O'Brien v. Town of Greenburgh, 266 NY 582 (N.Y.A.D. 2 Dept. 1933).
80. Matter of the County of Monroe, *supra*.
81. 1982 Op. St. Compt. 82-133, p. 167.
82. See 1982 Op. St. Compt. 82-133, p. 167, which states that a municipality, while engaging in proprietary, as opposed to governmental functions, is exercising its private rights as a corporate body and has the powers, prerogatives and capacities of a private corporation. The subject of this opinion involved the use of bus stop shelters for private advertising. The Office of the State Comptroller opined that the operation of a transit system is a proprietary activity and the selling of advertising is a business activity directly related to the legitimate public function of operating a transit system.
83. See N.Y. Gen. Mun. § 77-d which authorizes Yates County to lease municipal baseball field fences, annually, at a nominal rent, to a not-for-profit corporation or organization, organized under the laws of the State of New York for the purpose of permitting the sale of advertising, with the revenues to be used solely to purchase or repair baseball equipment for said organization.
84. 1992 Op. St. Compt. 32, p. 82.
85. 1973 Op. Atty Gen. Inf. No. 51, quoting McQuillin on Municipal Corporations, (3rd ed.) Vol. 12, p. 502, Ch. 36, § 36.02, "The object of the creation of a municipal corporation is that it may perform certain local public functions as a subordinate branch of the state government; and, while it is invested with full power to do everything necessarily incident to a proper discharge thereof, no right to do more can ever be implied. In the absence of express legislative sanction, it has no authority to engage in any independent business enterprise or occupation such as is usually pursued by private individuals."
86. 25 Op. St. Compt. 69-493, p. 242 (1969).
87. *Id*.
88. A true license or concession arrangement does not involve a direct or indirect expenditure of public moneys, and the total character of the arrangement is neither a purchase nor a contract for public work, and is not subject to competitive bidding. 1988 Opn. St. Compt. 60; 1982 Opn. St. Compt. 237; 1980 Opn. St. Compt. 754.
89. 1992 Opn. St. Compt. 10.
90. 1978 Opn. Atty Gen., (Inf.) Nov. 30.
91. 1982 Opn. St. Compt. 237; 24 Opn. St. Compt. 92 (1968).
92. 1980 Opn. St. Compt. 491.
93. 23 Opn. St. Compt. 416 (1967).
94. 10 Opn. St. Compt. 287 (1954).
95. 1982 Opn. St. Compt. 300.
96. 1926 Opn. Atty Gen., 232.
97. 23 Opn. St. Compt. 245 (1967).
98. 1978 Opn. Atty Gen., (Inf.) Feb. 23; 23 Opn. St. Compt. 801 (1967).
99. Also see N.Y. Pub. Health § § 1350, 1351, 1352, et. seq.
100. 1980 Op. St. Compt. 80-732, p. 200; 1984 Op. St. Compt. 84-32, p. 40.
101. 1981 Op. St. Compt. 81-135, p. 138.
102. 1984 Opn. St. Compt. 31, p. 38.

103. 1980 Opn. St. Compt. 732.
104. Fowler v. Rhode Island, 345 U.S. 67 (1953); Niemotko v. Maryland, 340 U.S. 268 (1951); Murdock v. Pennsylvania, 319 U.S. 105 (1941).
105. Loose v. City of Johnstown, 86 A.D.2d 286 (1982).
106. Thomas v. Chicago Park Dist., 534 U.S. 316 (2002), in which municipal park ordinance requiring individuals to obtain permit before conducting more than 50 person events sufficiently limited licensing official's discretion to satisfy First Amendment concerns; ordinance specified reasons for which permit could be denied, required explanations for denial, and placed time limits on processing of permit applications.
107. County of Allegheny v. ACLU, Greater Pittsburgh Chapter, 492 U.S. 573, 575 (1989).
108. Separation of Church and State Committee v. City of Eugene, 93 F.3d 617 (1996).
109. County of Allegheny v. ACLU, Greater Pittsburgh Chapter, *supra*; American Jewish Congress v. City of Beverly Hills, 65 F.3d 1539 (1995).
110. Lynch v. Donnelly, 465 U.S. 668 (1984).
111. Fowler v. Rhode Island, 345 U.S. 67 (1953); Niemotko v. Maryland, 340 U.S. 268 (1951); Murdock v. Pennsylvania, 319 U.S. 105 (1941).
112. Murdock v. Pennsylvania, *supra*; Jamison v. Texas, 318 U.S. 413 (1943); Cox v. New Hampshire, 312 U.S. 569 (1941).
113. Gregory v. Chicago, 394 U.S. 111 (1969).
114. See Cantwell v. Connecticut, 310 U.S. 296 (1940).
115. Texas v. Johnson, 491 U.S. 397 (1989).
116. Simon and Schuster, Inc. v. Members of the N.Y. State Crime Victims Bd., 502 U.S. 105 (1991); Consolidated Edison Co. of N.Y. v. Public Service Comm'n of N.Y., 447 U.S. 530, 536 (1980); Police Department of Chicago v. Mosley, 408 U.S. 92, 95 (1972).
117. See Christian Knights of the Ku Klux Klan Invisible Empire v. District of Columbia, 919 F.2d 148 (C.A. D.C. 1990).
118. See Beckerman supra at 509.
119. Brandenburg v. Ohio, 395 U.S. 444 (1969); Haig v. Agee, 453 U.S. 280 (1981); Bond v. Floyd, 385 U.S. 116 (1966).
120. For more information on hate speech and hate crimes, visit <http://www.hatemonitor.com>. The website is run by the Center for the Study of Hate and Extremism at California State University, San Bernardino.
121. Chaplinsky v. New Hampshire, 315 U.S. 568, 572 (1942); Cohen v. California, 403 U.S. 15 (1971); Gooding v. Wilson, 405 U.S. 518 (1972); R.A.V. v. City of St. Paul, 505 U.S. 377 (1992).
122. See R.A.V. v. City of St. Paul, Minnesota, *supra*, where the Court declared a city ordinance facially invalid under the First Amendment. The subject ordinance imposed special prohibitions on speakers who expressed views on disfavored subjects of race, color, creed, religion or gender while at the same time permitted displays containing abusive invective if they were not addressed to those topics and, in its practical operation, went beyond mere content discrimination to actual viewpoint discrimination.
123. Where recreational use provision of General Obligations Law is applicable, in order to be successful, plaintiff must prove that property owner "willfully or maliciously failed to guard or warn against a dangerous condition, use, structure, or activity on property; owner's negligence, if any, is immaterial. N.Y.S. General Obligations Law § 9-103. Sena v. Town of Greenfield, 91 NY2d 611 (1998).
124. N.Y. Gen. Oblig. § 9-103. Sena v. Town of Greenfield, *supra*.
125. However, a city has no duty to erect barriers or warning signs in an area because of open and obvious natural geographic phenomena. Plate v. City of Rochester, 87 NY2d 801 (1995).
126. Legislature in drafting recreational use provision of General Obligations Law intended a quid pro quo, whereby property owners would be granted statutory immunity in return for permitting recreationists access to their undeveloped land. N.Y. Gen. Oblig. § 9-103. Sena v. Town of Greenfield, *supra*.
127. N.Y. Gen. Oblig. § 9-103. Sena v. Town of Greenfield, *supra*; Bragg v. Genesee County Agric. Soc'y, 84 NY2d 544 (1994); Stento v. State, 665 NYS2d 471 (1997).
128. Sega v. State, 61 NY2d 670 (1983).
129. Olson v. Brunner, 94 NY2d 759 (1999).
130. Hogarth v. City of Syracuse, 93 NY2d 812; Gruber by Gruber v. Fairport Cent. School Dist., 79 NY2d 823 (1990).
131. Jacobs v. Northeastern Indus. Park, Inc., 181 AD2d 720 (1992).
132. Scuderi v. Niagara Mohawk Power Corp., 243 AD2d 1049 (1997); Bzeczkowski v. Kowalczyk, 237 AD2d 342 (1997).
133. N.Y. Mun. Home Rule § 10(1)(ii)(a)(6), (11).
134. Errante v. City of New York, 74 AD2d 122 (1st Dept. 1980).
135. Heelys are currently the most popular brand of this item. They are sold in 70 countries and are so hot that their Carrollton, Texas, maker, Heelys Inc., recently landed atop Business Week's annual list of fastest growing companies. See *Doctors Say Roller Shoes Injuring Kids*, by Lindsey Tanner, AP Medical Writer, The Associated Press, Monday, June 04, 2007.

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136. For more information, see American Academy of Pediatrics: <http://www.aap.org>; or Heelys, Inc.: <http://www.heelys.com>.
137. The shoes are sold with safety information including a recommendation to wear protective gear. *Id.*
138. N.Y. Nav. § 45(b).
139. *See* N.Y. Gen. Bus. § 396-cc.
140. N.Y. Exec. § 378(14).
141. *See* N.Y. Gen. Bus. § 396-cc.
142. N.Y. Pub. Health § 225.
143. N.Y. Exec. § 381.
144. Ch. 519, L. 2006.
145. *See* U.S. Consumer Product Safety Commission, Publication #325.
146. N.Y. Gen. Mun. *Handbook* at page 15 (citing the N.Y. Envtl. Conserv. § 56-0309(13)); 50-e(1)(a). Tort liability arises in actions involving injury resulting from motor vehicles, premises including streets, roads, and sidewalks, law enforcement, nuisance, libel and slander.
147. N.Y. Gen. Mun. § 50-e(2).
148. N.Y. Gen. Mun. § 50-e(3)(a).
149. *See* N.Y. Const. Art. IX.
150. N.Y. Village § 6-628.
151. *See* Misek-Falkoff v. Village of Pleasantville, 207 A.D.2d 332 (1994).
152. N.Y. Village § 4-402(g). *See* Mollahan v. Village of Port Washington North, 153 A.D.2d 881 (1989).
153. N.Y. Village § 4-402(g).
154. N.Y. Gen. Mun. § 50-e(4).
155. N.Y. Gen. Mun. § 50-g(1).
156. N.Y. Gen. Mun. § 50-g(2).
157. N.Y. Second Class Cities § 244. Second Class Cities include: Albany, Binghamton, Niagara Falls, Schenectady, Syracuse, Troy, Utica and Yonkers.
158. *Id.*
159. *See* Kiernan v. Thompson, 73 N.Y.2d 840 (1988).
160. The "special benefit" rule allows a municipality, charged with the duty of maintaining its sidewalks in a reasonably safe condition, to shift liability to the abutting landowner, where the cause of plaintiff's injuries is the failure of the landowner to reasonably maintain a sidewalk installation constructed for the special use and benefit of his property; it does not impose an obligation of indemnification on the landowner; liability is to be apportioned on the basis of the respective violations of duty owed by the alleged joint tortfeasors to the plaintiff. D'Ambrosio v. City of New York, 55 N.Y.2d 454 (1982). For an interesting argument supporting repeal of the special benefit rule, *see* Poirier v. City of Schenectady, 85 N.Y.2d 310, 314-315, (1995).
161. Amabile v. City of Buffalo, 93 N.Y.2d 471 (1999).
162. *See* Lewis v. Metropolitan Transportation Authority, 64 N.Y.2d 670, 671(1984).
163. Gordon v. American Museum of Natural History, 67 N.Y.2d 836 (1986); King v. New York City Transportation Authority, 266 A.D.2d 354 (1999).
164. Amabile v. City of Buffalo, *supra*.
165. N.Y. Gen. Oblig. § 9-103. Sena v. Town of Greenfield, *supra*.
166. Intentional torts to the person, include battery, assault, false imprisonment, and intentional infliction of emotional distress; intentional torts to property include trespass to land, trespass to chattels, and conversion; harm to economic and dignitary interests include defamation, invasion of right to privacy, misrepresentation, wrongful institution of legal proceedings, and interference with business relations; negligence; strict liability; products liability; and nuisance.
167. N.Y. Gen. Ob. § 9-106

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ARTICLE VII

**Ward Brothers Memorial Rowing Park
[Adopted 11-22-1999 by Ord. No. 14-99]****§ 220-28. Hours.**

No person shall be present within the Ward Brothers Memorial Rowing Park at any time between sunset and sunrise except by duly enacted license agreement or when permission is specifically granted, in writing, by the City Manager or the City Council for a special event.

§ 220-29. Conditions and rules for use.

- A. No person shall cause any barge, boat, ship or other vessel powered by any means other than wind or human muscle to be launched from or grounded at the shore of the Ward Brothers Memorial Rowing Park, nor shall any such vessel be made fast to any dock or mooring at such park except by duly enacted license agreement or when permission is specifically granted, in writing, by the City Manager or the City Council for a special event.
- B. No person shall cause any barge, boat, ship or other vessel to be launched into or removed from the Hudson River at Ward Brothers Memorial Rowing Park by means of any mechanical device except by duly enacted license agreement or when permission is specifically granted, in writing, by the City Manager or the City Council for a special event.

RESOLUTION NO. 210-99

OF

OCTOBER 12, 1999

**A RESOLUTION AUTHORIZING THE EXECUTION OF
A LICENCE AGREEMENT WITH NEWBURGH ROWING CLUB**

WHEREAS, Newburgh Rowing Club, a not-for-profit organization wishes to enter into a licence agreement with the City of Newburgh to construct a boathouse and conduct its activities on a portion of waterfront property owned by the City; and

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

WHEREAS, The role played by the Newburgh Bay area in the history of the sport of rowing is well documented; and

WHEREAS, Rowing was formerly a premier spectator sport in the City of Newburgh; and

WHEREAS, Rowing is one of the fastest growing sports in the nation, increasingly making athletic scholarships possible for students entering colleges and universities; and

WHEREAS, the Newburgh Rowing Club is comprised of students, boys and girls, grades 6-12 of the Newburgh City School District and surrounding areas; and

WHEREAS, the City Council wishes to encourage our young people to participate in this sport, and also encourage persons of all ages to offer their support to this club's efforts and attend all its events and competitions; and

WHEREAS, the City Council has examined such licence 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 is hereby authorized, to execute and enter into the aforementioned agreement on behalf of the City of Newburgh.

I, Nancy A. D'Addio, 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 10/12/99 and that it is a true and correct copy of such original.

C:658301.eres

Witness my hand and seal of the City of
Newburgh this 13th day of Oct., 19, 99

Nancy A. D'Addio
City Clerk

LICENCE AGREEMENT

BETWEEN THE CITY OF NEWBURGH

AND

NEWBURGH ROWING CLUB

THE CITY OF NEWBURGH, a municipal corporation, organized and existing under the laws of the State of New York and having its principal office for the transaction of business at City Hall, 83 Broadway, Newburgh, NY 12550, (hereinafter referred to as the "CITY"), does hereby grant a revocable licence to NEWBURGH ROWING CLUB, a not-for-profit organization duly authorized and existing pursuant to the laws of the State of New York and having its principal office for the transaction of business at c/o Richard A. Ballezza, 109 Holly Drive, New Windsor, N.Y. 12553 (hereinafter referred to as the "LICENSEE"), subject to the terms and conditions set out hereafter, in consideration of which, the Licensee agrees to faithfully perform all acts and requirements set forth herein.

1. This licence agreement is intended to replace the licence agreement entered into between the parties in July, 1998, which prior licence agreement is hereby declared, by mutual consent of the parties thereto, to be null and void and without further effect.

2. The City grants to the Licensee a revocable license to use land owned by the City, such land being described as that portion of Section 49, Block 1, Lot 5.1 on the Tax Map of the City of Newburgh more fully described in Schedule "A" of this Agreement, for the following purposes: to construct and maintain a crew boathouse having an outside dimension of 44' by 137'; to construct and maintain a suitable area for parking on such land; to store in such boathouse all equipment reasonable and necessary for the expressed purpose of the not-for-profit corporation; to train for, practice, and conduct competitions in the sport of rowing, also known as "crew"; and to enter upon such land at any date or time for such purposes.

3. Notwithstanding the terms of the dedication of the aforementioned land for public use, the Licensee shall be permitted to maintain mechanically powered watercraft, consisting of "coach's safety launches" to be equipped with small outboard engines.

4. The term of such licence shall begin on the date this agreement is entered into by both parties and shall terminate upon the mutual consent of the parties, or by unilateral action by either party, upon notice to the other or as set forth in paragraph 9 below, provided that the City Manager may at any time, in his sole discretion, determine that the best interests of the City may require the termination of such licence upon ten (10) days written notice to the Licensee, by regular first class mail, at the address set

forth below.

5. The Licensee shall pay to the City the sum of one dollar (\$1.00) annually for this licence.

6. The Licensee shall keep a policy of insurance in effect during the term of this license naming the City of Newburgh, its officers, agents, servants and employees as additional named insureds. Each policy of insurance must be written by an insurer licensed to do business in the State of New York, be approved by the City Manager, and provide for general liability, bodily injury and property damage with limits of liability of a minimum of one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$2,000,000.00) aggregate.

7. The Licensee shall cooperate and coordinate activities with other persons or organizations who may be licenced to use other portions of Section 49, Block 1, Lot 5.1.

8. The Licensee shall faithfully comply with all City Ordinances, particularly those regulating City docks and the construction of buildings, and with all directions of the City Manger, the Building Inspector and other City officers or employees designated by the City Manager.

9. The Licensee agrees to maintain the portion of the property used by it in good appearance and condition and free of any debris.

10. Any notices required by this permit shall be given to the City addressed to:

City Manager
The City of Newburgh
83 Broadway, City Hall
Newburgh, NY 12550
(914) 569-7301

or to the Licensee, addressed to :

Newburgh Rowing Club
c/o Richard A. Ballezza, Secretary
109 Holly Drive
New Windsor, NY 12553
(914) 561-7901

The parties agree that each shall provide to the other notice of any change of address or telephone number as soon as practicable.

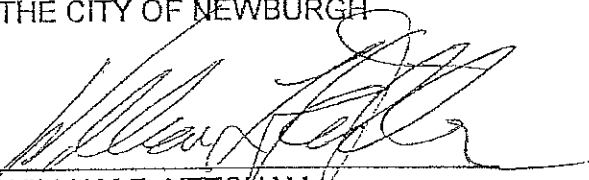
11. If either party shall fail to comply with any provision of this agreement, any City Ordinance or any direction of the City Manager or his designee(s), this agreement

and the license to use the property will terminate immediately and without further notice.

Issued this 13 day of October, 1999.

THE CITY OF NEWBURGH

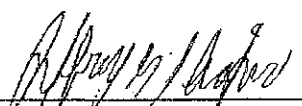
BY:

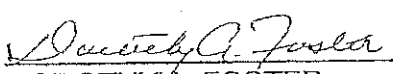

WILLIAM F. KETCHAM
Acting City Manager

I have read the above and agree to all terms and conditions therein.


RICHARD A. BALLEZZA
for Newburgh Rowing Club

Approved as to form:


JEFFREY G. SHAPIRO,
Assistant Corporation Counsel


DOROTHY A. FOSTER
Acting Comptroller

RESOLUTION NO. 83 - 2002

OF

APRIL 22, 2002

A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AMENDMENT TO THE LICENSE AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND NEWBURGH ROWING CLUB

WHEREAS, by Resolution No. 210-99, dated October 12, 1999, the City Manager was authorized to execute and enter into a License Agreement dated October 13, 1999 (the "License") with the Newburgh Rowing Club ("NRC") permitting NRC to construct a boathouse and parking facility and conduct its activities on a portion of waterfront parkland owned by the City; and

WHEREAS, pursuant to the License, a copy of which is annexed to Resolution No. 210-99, NRC will improve the City's waterfront parkland to the benefit of the City and at substantial cost to NRC; and

WHEREAS, the License will be amended to provide that in the event the City terminates the License prior to October 13, 2024, the City shall reimburse NRC for the unamortized amount of its cost for improvement to the City's waterfront parkland as of the date of such termination and a copy of the Amendment is annexed hereto and made a part of this resolution; and

WHEREAS, the City Council has examined the Amendment and determined it to be in the best interest of the City of Newburgh to enter into such.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to execute and enter into the Amendment to License Agreement on behalf of the City of Newburgh.

I, Lorene Vittek, 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 4/22/02
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 23rd day of April 2002

Lorene Vittek
Deputy

City Clerk

AMENDMENT TO LICENSE AGREEMENT

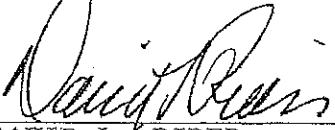
The License Agreement by and between THE CITY OF NEWBURGH (the "City") and NEWBURGH ROWING CLUB ("Licensee") dated as of October 13, 1999 (the "License") is hereby amended effective as of such date to add the following as paragraph 12 of the License:

"12. In the event this License is terminated for any reason by the City prior to October 13, 2024, the City shall reimburse Licensee the unamortized amount of Licensee's certified costs (the "Reimbursement") for the construction of a crew boathouse and parking area (collectively, the "Improvements") as permitted by this License. Upon completion of the Improvements, Licensee shall deliver to the City the list of its total costs for the Improvements (the "Costs"), which list shall be certified as to completeness and accuracy by Licensee's Certified Public Accountant. The Reimbursement shall equal 1/25 of the Costs, multiplied by the number of years and any fraction thereof, remaining until October 13, 2024 from the date of termination. The Reimbursement shall be paid to Licensee in equal annual installments with no interest to and until October 13, 2024, at which time the Reimbursement shall be paid in full."

All of the terms and conditions of the License remain in full force and effect. This Amendment along with the License constitute the entire agreement between the City and Licensee with respect to the subject matter hereof and thereof and together supersede all prior written or oral understandings, agreements, or representations from one Party to the other.

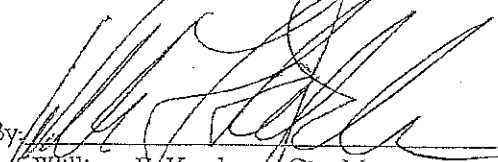
IN WITNESS WHEREOF, each of the parties have hereunto set their hands to this Amendment as of the day and year first above written.

Approved as to form:



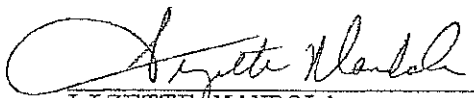
DAVID L. RIDER
Corporation Counsel

THE CITY OF NEWBURGH

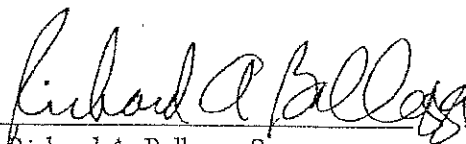
By: 

William F. Ketcham, City Manager

NEWBURGH ROWING CLUB



LIZETTE MANDOLA
City Comptroller

By: 

Richard A. Ballezza, Secretary

RESOLUTION NO. 104 -2011

OF

MAY 23, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
SECOND AMENDMENT TO THE LICENSE AGREEMENT WITH THE
NEWBURGH ROWING CLUB TO ERECT TWO UTILITY POLES TO
CARRY ELECTRICITY AND MAINTAIN CERTAIN INSURANCE POLICIES
DURING PUBLIC EVENTS

WHEREAS, the City of Newburgh ("City") and the Newburgh Rowing Club agree that the sport of rowing encourages discipline, character, teamwork, physical fitness and good health; and that rowing enjoys a prominent historical connection with the City of Newburgh, being the site of the landmark achievements of the Ward brothers, namesakes of the Ward Brothers Memorial Rowing Park; and

WHEREAS, the Newburgh Rowing Club provides valuable recreational, social and community-based opportunities to the City and the greater Newburgh area, and enhances the City's quality of life bringing renown and the esteem of schools, athletic, associations, clubs and other communities far and wide; and

WHEREAS, the City and the Newburgh Rowing Club wish to further develop and advance their relationship which is in the best interests of the people of the City, the Newburgh Rowing Club and its participants and supporters, the sport of rowing and the greater Newburgh community; and therefore wish to enter into the Memorandum of Understanding as provided hereby, and

WHEREAS, the City and the Newburgh Rowing Club entered into a License Agreement dated October 31, 1999, as authorized by Resolution No. 210-99, dated October 12, 1999, as amended by Amendment to License Agreement, as authorized by Resolution No. 83-2002 of April 22, 2002, permitting NRC to construct a boathouse and sewer connection to the Newburgh Sewage Treatment Plant, parking facility, landscape and docks; and to conduct its activities on a portion of waterfront parkland owned by the City; and

WHEREAS, the City and the Newburgh Rowing Club wish to further amend the License Agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute the Second Amendment to License Agreement with the Newburgh Rowing Club in substantially the form attached hereto with such other terms and conditions as Corporation Counsel may require, same as being required by law and in the best interests of the City of Newburgh, to authorize NRC to erect and maintain utility poles to carry electricity and to maintain certain insurance policies during public events.

I, Lorene Vittek, City Clerk of the City of Newburgh,
hereby certify that I have compared the foregoing with the
original resolution adopted by the Council of the City of
Newburgh at a regular meeting held 5/18/11
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 17 day of May, 20 11

Lorene Vittek
City Clerk

SECOND AMENDMENT TO LICENSE AGREEMENT

This SECOND AMENDMENT TO LICENSE AGREEMENT dated March 25th 2011 to License Agreement dated October 13, 1999, by and between the CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, Newburgh, New York 12550 ("City"), and the NEWBURGH ROWING CLUB, INC., a New York not-for-profit corporation with mailing address at P.O. Box 227, Newburgh, New York 12551 ("Licensee").

Whereas, the City and Licensee entered into a License Agreement dated October 13, 1999, as authorized by Resolution No. 210-99 of October 12, 1999, as amended by Amendment to License Agreement, as authorized by Resolution No. 83-2002 of April 22, 2002, copies of such License Agreement, Amendment to License Agreement, and two (2) Resolutions being attached hereto, and

Whereas, the City and Licensee wish to further amend the License Agreement, now therefore

The City and Licensee agree as follows:

1. The License Agreement shall be further amended to add a new paragraph 13 to read as follows:

13. This license shall additionally include the right to erect, maintain, remove, and replace, if necessary, two (2) utility poles to carry electrical lines to the licensed premises, the first pole to be located on the licensed premises and the second pole to be located outside the licensed premises in Ward Brothers Memorial Rowing Park, both as shown on the attached sketch. The Licensee shall pay all costs of erecting, maintaining, removing, and replacing, if necessary, the two (2) poles. The Licensee shall be responsible for obtaining all necessary permits from Central Hudson and for paying the cost of all electricity transmitted through the lines attached to such poles.

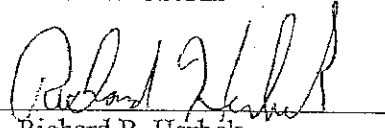
2. The License Agreement shall be further amended to add a new paragraph 14 to read as follows:

14. This license shall additionally include the right, on obtaining Public Event Permits from the City including posting of requisite insurance coverage naming the City as additional insured, to use all of Ward Brothers Memorial Rowing Park in addition to the licensed premises during official rowing meets sponsored by the Licensee.

3. All other terms and conditions of the License Agreement and Amendment to License Agreement shall continue to remain in full force and effect.

CITY OF NEWBURGH

By



Richard R. Herbek
Acting City Manager

NEWBURGH ROWING CLUB, INC.

By



Robert Frederick
President



CITY OF NEWBURGH

OFFICE OF THE CITY MANAGER

City Hall - 83 Broadway, Newburgh, New York 12550.

www.cityofnewburgh-ny.gov

citymanager@cityofnewburgh-ny.gov

Phone: (845) 569-7301

Fax: (845) 569-7370

Richard F. Herbek
Acting City Manager

November 15, 2011

Robert Frederick, President
Newburgh Rowing Club
P. O. Box 227
Newburgh, NY 12550

Re: Third Amendment to the License Agreement with the City of Newburgh

Dear Mr. Frederick:

Enclosed please find two copies of the Third Amendment to the License Agreement with the City of Newburgh. Please sign both copies and return to my attention. I will have the City Manager sign and return an original to you.

Sincerely,

Elizabeth Evans
Executive Assistant to the City Manager

/ee

Enclosure

RESOLUTION NO.: 221 -2011

OF

NOVEMBER 14, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A THIRD
AMENDMENT TO THE LICENSE AGREEMENT WITH THE NEWBURGH
ROWING CLUB TO ERECT A TIMBER FRAMED PAVILION
AND TWO CANVAS STORAGE GARAGES

WHEREAS, the City of Newburgh ("City") and the Newburgh Rowing Club agree that the sport of rowing encourages discipline, character, teamwork, physical fitness and good health; and that rowing enjoys a prominent historical connection with the City of Newburgh, being the site of the landmark achievements of the Ward brothers, namesakes of the Ward Brothers Memorial Rowing Park; and

WHEREAS, the Newburgh Rowing Club provides valuable recreational, social and community-based opportunities to the City and the greater Newburgh area, and enhances the City's quality of life bringing renown and the esteem of schools, athletic associations, clubs and other communities far and wide; and

WHEREAS, the City and the Newburgh Rowing Club wish to further develop and advance their relationship which is in the best interests of the people of the City, the Newburgh Rowing Club and its participants and supporters, the sport of rowing and the greater Newburgh community; and therefore wish to enter into the Memorandum of Understanding as provided hereby; and

WHEREAS, the City and the Newburgh Rowing Club entered into a License Agreement dated October 31, 1999, as authorized by Resolution No. 210-99, dated October 12, 1999, as amended by Amendment to License Agreement, as authorized by Resolution No. 83-2002 of April 22, 2002, as amended by Second Amendment to License Agreement, as authorized by Resolution No. 104-2011 of May 23, 2011, permitting NRC to construct a boathouse and sewer connection to the Newburgh Sewage Treatment Plant, parking facility, landscape and docks; to erect two utility poles to carry electricity and to maintain certain insurance policies during public events; and to conduct its activities on a portion of waterfront parkland owned by the City; and

WHEREAS, the City and the Newburgh Rowing Club wish to further amend the License Agreement to permit the Newburgh Rowing Club to erect and maintain a 17' x 30' timber framed pavilion and to erect and maintain two 13' x 20' canvas garages for the

storage of equipment reasonable and necessary for the expressed purpose of the Newburgh Rowing Club;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute the Third Amendment to License Agreement with the Newburgh Rowing Club in substantially the same form as attached hereto with such other terms and conditions as Corporation Counsel may require, same as being required by law and in the best interests of the City of Newburgh, and any other documents as may be required by law, rule or regulations, to authorize NRC to erect and maintain a 17' x 30' timber framed pavilion and two 13' x 20' canvas storage garages.

I, Lorena Vitek, 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 11/14/11
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 15 day of Nov 2011

Lorena Vitek
City Clerk

THIRD AMENDMENT TO LICENSE AGREEMENT

This THIRD AMENDMENT TO LICENSE AGREEMENT dated November _____, 2011 to License Agreement dated October 13, 1999, by and between the CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, Newburgh, New York 12550 ("City"), and the NEWBURGH ROWING CLUB, INC., a New York not-for-profit corporation with mailing address at P.O. Box 227, Newburgh, New York 12551 ("Licensee").

Whereas, the City and Licensee entered into a License Agreement dated October 13, 1999, as authorized by Resolution No. 210-99 of October 12, 1999, as amended by Amendment to License Agreement, as authorized by Resolution No. 83-2002 of April 22, 2002, and as amended by Second Amendment to License Agreement, as authorized by Resolution No. 104-2011 of May 23, 2011, copies of such License Agreement, Amendment to License Agreement, Second Amendment to License Agreement and three (3) Resolutions being attached hereto, and

Whereas, the City and Licensee wish to further amend the License Agreement, now therefore

The City and Licensee agree as follows:

1. The License Agreement shall be further amended to add a new paragraph 15 to read as follows:

15. This license shall additionally include the right to erect and maintain a timber-framed pavilion with structural steel supports having a dimension of 17' by 30', as shown on the attached sketch, and to erect and maintain two canvass garages having a dimensions of 13' by 20' to store equipment reasonable and necessary for the expressed purpose of the not-for-profit corporation. The Licensee shall pay all costs of erecting, maintaining, removing, and replacing, if necessary, the pavilion and the canvass garages. The Licensee shall be responsible for obtaining all necessary approvals and permits from Federal, State and local agencies and review boards with jurisdiction over the proposed construction.

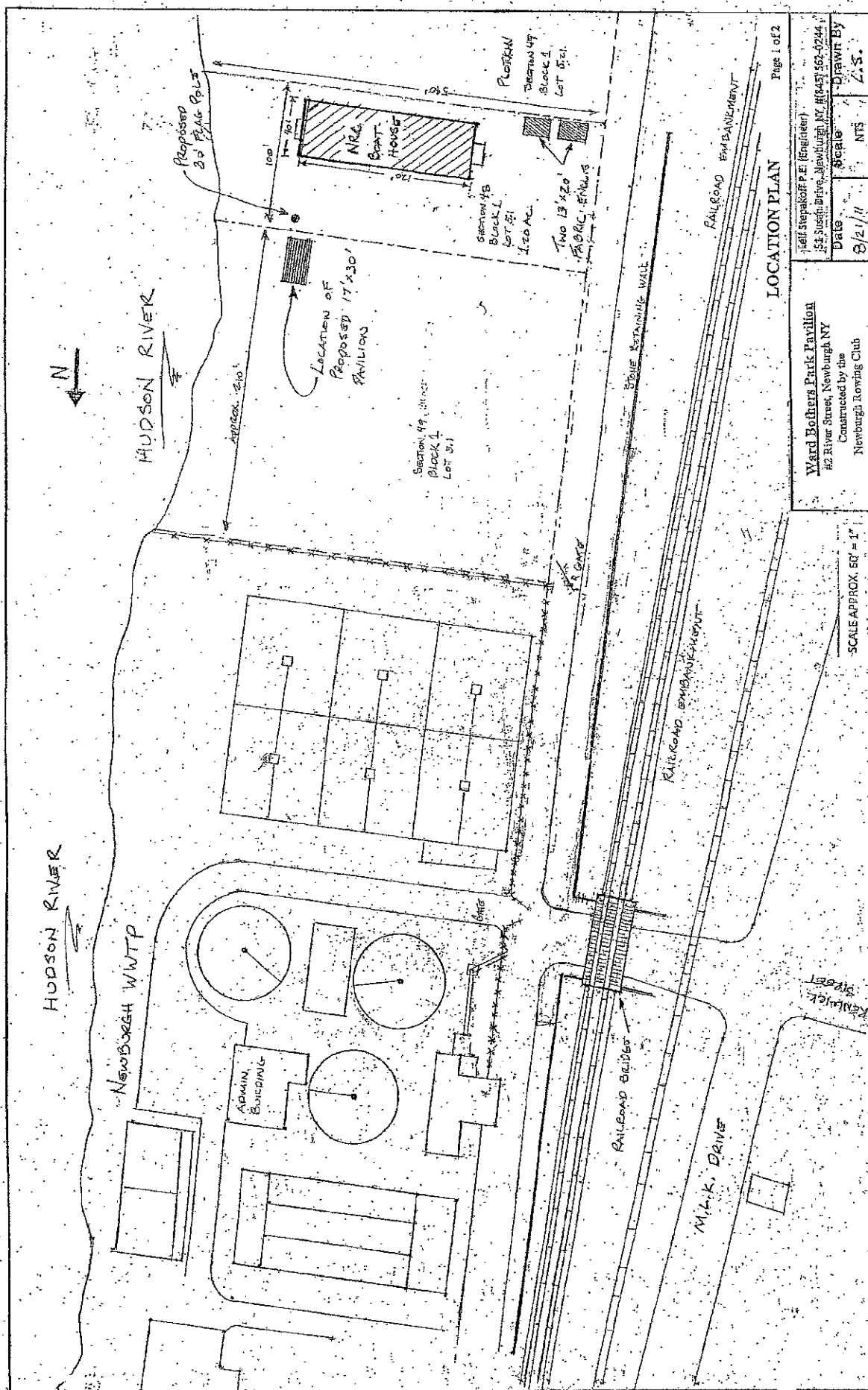
2. All other terms and conditions of the License Agreement, Amendment to License Agreement and Second Amendment to License Agreement shall continue to remain in full force and effect.

CITY OF NEWBURGH

By _____
Richard R. Herbek
Acting City Manager

NEWBURGH ROWING CLUB, INC.

By _____
Robert Frederick
President



RESOLUTION NO. 62 -2018

OF

MARCH 12, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A LICENSE AGREEMENT WITH
THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT
ALLOWING THE NEA CREW USE AND ACCESS TO
WARD BROTHERS MEMORIAL ROWING PARK

WHEREAS, by Resolution No. 211-1999, the City Council of the City of Newburgh dedicated a parcel of land identified as Section 49, Block 2, Lot 5.1-2 on the official tax map of the City of Newburgh as Ward Brothers Memorial Rowing Park for use as a place where non-mechanically powered watercraft may launched; and

WHEREAS, the Newburgh Enlarged City School District (the "District") requires a suitable location for the Newburgh Free Academy Crew Team ("NFA Crew") to hold rowing practice and competitions; and

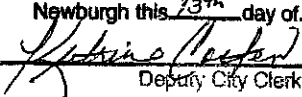
WHEREAS, the City of Newburgh (the "City") wished to encourage and support the students' ability to participate in the sport of rowing; and

WHEREAS, the District and the City recognize the need to formalize their respective obligations in providing use and access to Ward Brothers Memorial Rowing Park by the NFA Crew;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute a License Agreement with the Newburgh Enlarged City School District in substantially the same form as attached hereto with such other terms and conditions as Corporation Counsel may require, same as being required by law and in the best interests of the City of Newburgh, and any other documents as may be required by law, rule or regulations, to allow the NEA Crew use and access to Ward Brothers Memorial Rowing Park.

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 3/12/18
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of
Newburgh this 13th day of Mar. 20 18


Deputy City Clerk

This Agreement made this _____ day of March, 2018 by and between the City of Newburgh, a municipal corporation organized and existing under the laws of the State of New York with an office located at 83 Broadway, Newburgh, New York 12550 and the Newburgh Enlarged City School District, a school district organized and existing under the law of the State of New York with an office located at 124 Grand Street, Newburgh, New York 12550.

WITNESSETH

WHEREAS, by Resolution No. 211-1999, the City Council of the City of Newburgh dedicated a parcel of land identified as Section 49, Block 2, Lot 5.1-2 on the official tax map of the City of Newburgh as Ward Brothers Memorial Rowing Park for use as a place where non-mechanically powered watercraft may launched; and

WHEREAS, the Newburgh Enlarged City School District (the "District") requires a suitable location for the Newburgh Free Academy Crew Team ("NFA Crew") to hold rowing practice and competitions; and

WHEREAS, the City of Newburgh (the "City") wishes to encourage and support the students' ability to participate in the sport of rowing; and

WHEREAS, the District and the City recognize the need to formalize their respective obligations in providing use and access to Ward Brothers Memorial Rowing Park by the NFA Crew; and

WHEREAS, Article 5-G of the General Municipal Law specifically authorizes and encourages municipal corporations to enter into agreements with each other in order to provide cooperatively, jointly, or by contract any facility, service, activity, or undertaking which each participating municipal corporation has the power to provide separately;

Now, therefore, be it agreed by and between the District and the City for the consideration named herein as follows:

1. Grant of license. The City hereby represents that it owns Ward Brothers Memorial Rowing Park in the City of Newburgh, and more accurately described as Section 49, Block 1, Lot 5.1-2 on the official tax map of the City of Newburgh, and that it has duly authorized this Agreement. The City does hereby grant a revocable and non-exclusive license to the District and the NFA Crew, subject to the terms and conditions hereinafter stated, to enter and access Ward Brothers Memorial Rowing Park for the purposes of high school students to train, practice and conduct competitions in the sport of rowing.
2. Obligations of the District. Installation, maintenance, repair; compliance with laws, rules and regulations.
 - a. The District may install, repair and maintain docks, on said premises in such location and position as may be approved by the City. All such work upon or under the property of the City shall be performed in such manner as will be satisfactory to the City. The

- use of the existing bulkheads installed and constructed by the Newburgh Rowing Club as authorized by the Army Corp of Engineers permit shall be coordinated pursuant to a separate agreement between the District and the Newburgh Rowing Club.
- b. The District may install a non-permanent and removable storage container to be located on 100 feet south of existing north fence to be removed during cold-weather months.
 - c. The District shall be responsible for all costs of installation, maintenance, repair, replacement, and removal of the docks and storage container and to keep same in good, safe, and working condition throughout the term of this License.
 - d. The District shall be responsible for obtaining all permits and land use approvals that are required for the installation, maintenance, repair, replacement of the docks and storage container and comply with all applicable Federal, State, County, and City laws, ordinances, rules, and regulations throughout the term of this License.
 - e. The District shall cooperate and coordinate activities with other persons or organizations who may be licensed to use other portions of Section 49, Block 1, Lot 5.1-2.
3. Notwithstanding the terms of the dedication of the land comprising Ward Brothers Memorial Rowing Park for public use, the District shall be permitted to maintain mechanically powered watercraft, consisting of "coach's safety launches" to be equipped with small outboard engines.
 4. Term: The term of this Agreement shall commence upon execution by all parties to this Agreement and terminate on June 30, 2022. Upon termination of this Agreement, the District shall remove the docks, storage container and other equipment from the premises. This Agreement may be renewed for additional terms upon mutual written agreement of the parties.
 5. Insurance. The Licensee shall not commence or perform work nor operate machinery under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.
 - A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.
 - B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it. The City shall be named as an additional insured on all such policies to protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:
 1. General Liability Insurance in an amount not less than \$1,000,000.00 for injuries including wrongful death to any one person and subject to the same limit for each person, in an amount not less than \$3,000,000.00 on account of any one occurrence.

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

The Licensee shall furnish evidence of such insurance to the City prior to commencement of this agreement and each year this agreement is in force. Such insurance shall be maintained in force during the entire term of this License Agreement.

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

6. Damages. It is hereby mutually covenanted and agreed that the relationship of the District to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, the District will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The District shall make good any damages that may occur in consequence of the performance of the work or any part of it. The District shall assume all blame, loss and responsibility of any nature by reason of the District's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the District and/or the nature of its performance or arising out of its activities licensed hereby.
7. Indemnity and Save Harmless Agreement.
 - A. The District agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the District.
 - B. The City agrees to indemnify and save the District, its officers, agents and employees harmless from any liability imposed upon the District, its officers, agents and/or employees arising from the negligence, active or passive, of the City.
8. Assignment of License; no sub-licensing. In accordance with the provisions of Section 109 of the General Municipal Law, the District is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this agreement or its power to execute this agreement to any other person or corporation without the previous consent in writing of the City. The District may not sub-license this License to any other party.
9. Termination of License. Either party may terminate this License prior to June 30, 2022, with or without cause, on at least thirty (30) days prior written notice to the other party. In the event of such termination by either party, the District shall not be entitled to reimbursement of any of its costs, including but not limited to, those for construction,

maintenance, repair, replacement, and removal of the docks, storage container, or any other equipment. Upon termination, the District and its agents, volunteers, employees and contractors, will restore the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

10. New York law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York State Supreme Court, Orange County.
11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.
12. No Vested Rights to Land. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.
13. This License Agreement may be executed in any number of counter-parts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Michael G. Ciaravino, City Manager
Per Resolution No.: 62-2018

NEWBURGH ENLARGED CITY SCHOOL DISTRICT
LICENSEE

By: _____
Carole Mineo, Board President
Per Resolution No.:

Approved as to form:

MICHELLE KELSON
Corporation Counsel

KATHRYN MACK
City Comptroller

This Agreement made this _____ day of March, 2018 by and between the City of Newburgh, a municipal corporation organized and existing under the laws of the State of New York with an office located at 83 Broadway, Newburgh, New York 12550 and the Newburgh Enlarged City School District, a school district organized and existing under the law of the State of New York with an office located at 124 Grand Street, Newburgh, New York 12550.

WITNESSETH

WHEREAS, by Resolution No. 211-1999, the City Council of the City of Newburgh dedicated a parcel of land identified as Section 49, Block 2, Lot 5.1-2 on the official tax map of the City of Newburgh as Ward Brothers Memorial Rowing Park for use as a place where non-mechanically powered watercraft may launched; and

WHEREAS, the Newburgh Enlarged City School District (the "District") requires a suitable location for the Newburgh Free Academy Crew Team ("NFA Crew") to hold rowing practice and competitions; and

WHEREAS, the City of Newburgh (the "City") wishes to encourage and support the students' ability to participate in the sport of rowing; **and to provide park space for all children of the Newburgh Enlarged School District, as well as their clubs, sports and activities;** and

WHEREAS, the District and the City recognize the need to formalize their respective obligations in providing use and access to Ward Brothers Memorial Rowing Park by the NFA Crew **and all other students, clubs, sports and activities of the NECSD;** and

WHEREAS, Article 5-G of the General Municipal Law specifically authorizes and encourages municipal corporations to enter into agreements with each other in order to provide cooperatively, jointly, or by contract any facility, service, activity, or undertaking which each participating municipal corporation has the power to provide separately;

Now, therefore, be it agreed by and between the District and the City for the consideration named herein as follows:

1. Grant of license. The City hereby represents that it owns Ward Brothers Memorial Rowing Park in the City of Newburgh, and more accurately described as Section 49, Block 1, Lot 5.1-2 on the official tax map of the City of Newburgh, and that it has duly authorized this Agreement. The City does hereby grant a revocable and non-exclusive license to the District and the NFA Crew, **and to the students of the NECSD, their sports, clubs, and activities,** subject to the terms and conditions hereinafter stated, to enter and access Ward Brothers Memorial Rowing Park for the purposes of high school students to train, practice and conduct competitions in the sport of rowing, **and to support the activities of all the students of the NECSD, including clubs and sports;** and
2. **The NECSD and the NRC shall be co-licensees of the Ward Brothers Memorial Park.**

3. There shall be established a Ward Brothers Memorial Citizens Committee, with members from the NECSD, the NRC and other interested members of the public who are interested in beautification of and propagation of the park.

4. The two co-licensees, the NECSD and the Newburgh Rowing Club shall pay the City of Newburgh a park usage fee proportionate to usage and according to means. The City of Newburgh, in exchange, to pay the following expenses for the entire Ward Brothers Memorial Park, to be funded from Pavillion rental fees as set forth herein: electric for lighting the park, road maintenance, grass cutting, portable potty fees, and DPW to remove the garbage. Currently, 100% of this maintenance is being done by the Newburgh Rowing club and its members.

5. The NECSD shall have use of the park from 100 feet north of the stone wall. The NRC license shall continue with the NRC to have use of the park from 100 feet south of the stone wall.

6. As to the lighted Picnic Pavillion, in between the two licensee areas, this Pavillion would become the property of the people of the City of Newburgh and any group wishing to use the Pavillion (built by the NRC and members of the NFA Construction Club) would apply to the City of Newburgh. This pavilion would provide a source of revenue for maintain the park. However, there would be no charge to NECSD or NRC to use it.

7. The Newburgh Rowing Club to have exclusive use and occupancy of the 6,000 square foot boathouse which it has built.

8. The NECSD to have exclusive use and occupancy of any container or other structures which they may build with permission of the authorities.

9. The existing bulkheads have two docks on them owned and operated by the NRC. The NRC will continue to have exclusive use with the right to sublet to any group including the NECSD. The NECSD must put in new bulkheads and then build docks off of them, at their expense.

10. All students, faculty, teams and clubs of the NECSD shall have use of the North portion of the park.

2. Obligations of the District. Installation, maintenance, repair; compliance with laws, rules and regulations, **keeping their portion of the Park properly maintained in terms of road maintenance, grass and weed maintenance, and all other park maintenance and beautification deemed proper.**

a. The District may install, repair and maintain docks, on said premises in such location and position as may be approved by the City **on new bulkheads. The existing bulkheads can only be used for two docks, which have already been installed by the Newburgh Rowing Club. Nothing shall prevent the NRC and NECSD from co-operating and sharing the use of the NRC docks and any new docks installed**

in the future by the NECSD off of new bulkheads. All such work upon or under the property of the City shall be performed in such manner as will be satisfactory to the City. The use of the existing **docks** installed and constructed by the Newburgh Rowing Club as authorized by the Army Corp of Engineers permit shall be coordinated pursuant to a separate agreement between the District and the Newburgh Rowing Club.

- b. The District may install a non-permanent and removable storage container to be located on 100 feet south of existing north fence to be removed during cold-weather months.
 - c. The District shall be responsible for all costs of installation, maintenance, repair, replacement, and removal of the docks and storage container and to keep same in good, safe, and working condition throughout the term of this License.
 - d. The District shall be responsible for obtaining all permits and land use approvals that are required for the installation, maintenance, repair, replacement of the docks and storage container and comply with all applicable Federal, State, County, and City laws, ordinances, rules, and regulations throughout the term of this License.
 - e. The District shall cooperate and coordinate activities with other persons or organizations who may be licensed to use other portions of Section 49, Block 1, Lot 5.1-2.
3. Notwithstanding the terms of the dedication of the land comprising Ward Brothers Memorial Rowing Park for public use, the District shall be permitted to maintain mechanically powered watercraft, consisting of "coach's safety launches" to be equipped with small outboard engines.
4. Term: The term of this Agreement shall commence upon execution by all parties to this Agreement and terminate on June 30, 2022. Upon termination of this Agreement, the District shall remove the docks, storage container and other equipment from the premises. This Agreement may be renewed for additional terms upon mutual written agreement of the parties.
5. Insurance. The Licensee shall not commence or perform work nor operate machinery under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.
 - A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.
 - B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it. The City shall be named as an additional insured on all such policies to protect it from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

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

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

The Licensee shall furnish evidence of such insurance to the City prior to commencement of this agreement and each year this agreement is in force. Such insurance shall be maintained in force during the entire term of this License Agreement.

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

6. Damages. It is hereby mutually covenanted and agreed that the relationship of the District to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, the District will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The District shall make good any damages that may occur in consequence of the performance of the work or any part of it. The District shall assume all blame, loss and responsibility of any nature by reason of the District's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the District and/or the nature of its performance or arising out of its activities licensed hereby.
7. Indemnity and Save Harmless Agreement.
- A. The District agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the District.
- B. The City agrees to indemnify and save the District, its officers, agents and employees harmless from any liability imposed upon the District, its officers, agents and/or employees arising from the negligence, active or passive, of the City.
8. Assignment of License; no sub-licensing. In accordance with the provisions of Section 109 of the General Municipal Law, the District is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this agreement or its power to execute this agreement to any other person or corporation without the previous consent in writing of the City. The District may not sub-license this License to any other party.
9. Termination of License. Either party may terminate this License prior to June 30, 2022, with or without cause, on at least thirty (30) days prior written notice to the other party. In the event of such termination by either party, the District shall not be entitled to

reimbursement of any of its costs, including but not limited to, those for construction, maintenance, repair, replacement, and removal of the docks, storage container, or any other equipment. Upon termination, the District and its agents, volunteers, employees and contractors, will restore the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

10. New York law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York State Supreme Court, Orange County.
11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.
12. No Vested Rights to Land. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.
13. This License Agreement may be executed in any number of counter-parts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Michael G. Ciaravino, City Manager
Per Resolution No.:

NEWBURGH ENLARGED CITY SCHOOL DISTRICT
LICENSEE

By: _____
Carole Mineo, Board President
Per Resolution No.:

Approved as to form:

MICHELLE KELSON
Corporation Counsel

KATHRYN MACK
City Comptroller

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT
WITH GORICK CONSTRUCTION CO., INC. FOR THE EMERGENCY DEMOLITION OF
215 FIRST STREET AT A COST OF \$104,448.00 AND
AMENDING RESOLUTION NO: 333-2017,
THE 2018 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO FUND THE EMERGENCY DEMOLITION EXPENSES**

WHEREAS, the City of Newburgh determined that the collapsing structure located at 215 First Street represented an immediate threat to the public health and safety to the neighborhood and pedestrians and vehicular traffic along First Street; and

WHEREAS, pursuant to the City of Newburgh's Emergency Procurement Policy, it was determined that Gorick Construction Co., Inc. was fully qualified and provided the lowest price to complete the demolition of the collapsing structure located at 215 First Street; and

WHEREAS, funding for such demolition work will be derived from H1.1620.0200.8105.2016 - 2016 BAN Demolition and a budget transfer from General Fund Contingency; and

WHEREAS, this Council has determined that it is in the best interests of the City of Newburgh and its further development to enter into a contract for such demolition services and the budget transfer;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he hereby is authorized to execute a contract with Gorick Construction Co., Inc. in the amount of \$104,448.00 for the demolition of the structure located at 215 First Street; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 333-2017, the 2018 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900.1900 Contingency Emergency	<u>\$66,538.00</u>	
A.1365.0448 Property Management -Maintenance Other Services		<u>\$66,538.00</u>
TOTAL:	\$66,538.00	\$66,538.00

City of Newburgh
215 First Street, Newburgh, NY 12550

Issued for Bid
Controlled Demolition with Asbestos in Place - RFQ

City of Newburgh
215 First Street
Newburgh, NY 12550

ESTIMATE OF RACM DEMOLITION REMOVAL QUANTITIES
RESPONSIBILITY OF CONTRACTOR

EACH CONTRACTOR SHALL READ AND ACKNOWLEDGE THE FOLLOWING NOTICE.
A SIGNED AND DATED COPY OF THIS ACKNOWLEDGMENT SHALL BE SUBMITTED
WITH THE CONTRACTOR'S BID FOR THIS PROJECT. FAILURE TO DO SO MAY, AT THE
SOLE DISCRETION OF THE OWNER, RESULT IN THE BID BEING CONSIDERED
NON-RESPONSIVE AND RESULT IN DISQUALIFICATION OF THE CONTRACTOR'S BID
ON THIS PROJECT.

NOTICE

The linear and square footage listed is only approximate, and the Contractor is required to visit the building in order to take actual field measurements in each listed location. The Contractor shall base their bid on actual quantities determined, by them, at the site walk through. Estimates provided in these specifications are for informational purposes only and shall not be considered a basis for Change Orders on this project.

Acknowledgment: I have read and understood the above **NOTICE** regarding asbestos removal quantity estimates and understand that estimates provided in these specifications are for informational purposes only and shall not be considered a basis for Change Orders on this project. The Contractor's signatory represents to the Owner that he/she has the authority of the entity he/she represents to sign this agreement on its behalf.

Company Name: Gorale Construction Co., Inc.
Type or Print

BY: Alfred Gorale Jr. President 3/1/18
Signature Title Date

Print Name: Alfred Gorale Jr.

RETURN THIS EXECUTED FORM WITH COMPLETED BID SHEET

City of Newburgh
215 First Street, Newburgh, NY 12550

Issued for Bid
Controlled Demolition with Asbestos in Place - RFQ

***** BID FORM *****

DATE: 3/1/18

FROM: CONTRACTOR Gorich Construction Co., Inc.
ADDRESS 27 Park Dr.
Binghamton, NY 13904
PHONE / FAX 607-775-1765 / 607-775-1608

Quotes will be received by the City of Newburgh located at 83 Broadway, Newburgh, NY 12550.
Quotes shall be delivered via e-mail to the City's Comptroller Kathryn Mac at
KMack@cityofnewburgh-ny.gov with the following individuals included on the email transmittal:

Mr. William Horton at WHorton@cityofnewburgh-ny.gov
Mr. Jason Morris, PE at JMorris@cityofnewburgh-ny.gov
Ms. Elizabeth Garrison at EGarrison@cityofnewburgh-ny.gov
Mr. Rudy Lipinski at rlipinski@qualityenv.com

City of Newburgh
215 First Street, Newburgh, NY 12550

Issued for Bid
Controlled Demolition with Asbestos in Place - RFQ

LUMP SUM BID SHEET

Subject to the acceptance of the City of Newburgh, (Vendor Name)

Gorick Construction Co., Inc., agrees
to perform the work described in the attached plans, specifications and/or form of agreement at the
following Lump Sum Pricing.

Lump sum pricing provided below shall include all costs associated with this project, including but
not limited to insurance, labor, mobilization, materials, notification fees, transportation and
disposal cost to complete the items in compliance with ICR 56, 29 CFR 1926.1101, 40 CFR 61
Subpart M and the approved NYSDOL ESU site-specific variance. All as approved by the Owner.
Lump sum cost shall be based on performance of the work Monday through Saturday between the
hours of 7:00 AM to 4:00 PM with hours outside this time period as approved by the City of
Newburgh.

Pricing: This is a prevailing wage job. Pricing shall be a Lump Sum Price to include, but not be
limited to, all labor, materials, travel, disposal and notification fees. The City of Newburgh
reserves the right to reject or accept any or all proposals.

Lump Sum Bid

Scope: Abatement Contractor to perform

- **Controlled Demolition with Asbestos in Place of 215 First Street, Newburgh, NY 12550.**

Est. Duration 8 Weekdays 0 Weekend Days

LUMP SUM BID AMOUNT: \$ 104,448.00

LUMP SUM BID AMOUNT: ONE HUNDRED FOUR THOUSAND FOUR HUNDRED FORTY EIGHT DOLLARS
IN WORDS

VENDOR NAME Gorick Construction Co., Inc.

SIGNATURE OF PRINCIPAL [Signature] DATE 3/1/18

PRINT/TYPE NAME & TITLE Alfred Gorick Jr. PRESIDENT

END OF BID FORM

City of Newburgh
215 First Street, Newburgh, NY 12550

Issued for Bid
Controlled Demolition with Asbestos in Place - RFQ

**Asbestos Employee Medical Examination Statement
Certificate of Worker Release
Asbestos Employee Training Statement**

CERTIFICATE OF WORKER'S ACKNOWLEDGEMENT

PROJECT NAME: City of Newburgh – 215 First Street, Newburgh, NY 12550

CONTRACTOR'S NAME: Goach Construction Co., INC.

WORKING WITH ASBESTOS INVOLVES POTENTIAL EXPOSURE TO AIRBORNE ASBESTOS FIBERS. INHALING ASBESTOS FIBERS HAS BEEN LINKED WITH VARIOUS TYPES OF CANCER AND RESPIRATORY DISEASES. SMOKING CIGARETTES AND INHALATION OF ASBESTOS FIBERS INCREASES THE RISK THAT YOU WILL DEVELOP LUNG CANCER ABOVE THAT OF THE NON-SMOKING PUBLIC.

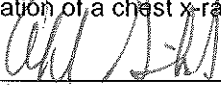
The Abatement Contract for this project requires your employer to 1) supply proper respiratory protection devices and training on their use 2) provide training on safe work practices and on use of the equipment used on the project 3) provide a medical examination meeting the requirements of 29 CFR 1926.1101. Your signature on this certificate, documents that your employer has fulfilled these contractual obligations and you understand the information presented to you.

DO NOT SIGN THIS FORM UNLESS YOU FULLY UNDERSTAND THIS INFORMATION

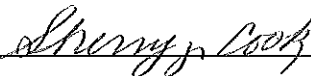
RESPIRATORY PROTECTION: I have been trained in the proper use and limitations of the type of respiratory protection devices to be used on this project. I have reviewed the written respiratory protection program manual and a copy is available for my use. Respiratory protection equipment has been provided, by the Abatement Contractor, at no cost to me.

TRAINING COURSE: I have been trained in the risks and dangers associated with handling asbestos, breathing asbestos dust, proper work procedures, personal protection and engineering controls. I have satisfactorily completed and Asbestos Safety Training Program for New York State and have been issued a New York State Department of Health Certificate of Asbestos Safety Training.

MEDICAL EXAMINATION: I have satisfactorily completed a medical examination within the last 12 months that meets the OSHA requirement for an asbestos worker and included at least 1) medical history 2) pulmonary function 3) medical examination 4) approval to wear respiratory protection devices and may have included an evaluation of a chest x-ray.

Signature:  Date 3/1/18

Printed Name: Alvin Goach, Jr. SS#: _____

Witness:  Date: 3/1/18

City of Newburgh
215 First Street Emergency Demo
Funding Analysis 3-7-18

Quest - (NYSDOL Waiver/Air Monitoring)	\$	7,990.00
Demo Bid - Gorrick	\$	104,448.00

Total Demo Cost	\$	112,438.00
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Available BAN Funds-		
H1.1620.0200.8105.2016	\$	45,900.00

Need from Contingency	\$	66,538.00
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Contingency Balance 3/7/18	\$	250,000
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Anticipated Contingency Balance after Emergency DEMO	\$	183,462.00
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Resolution GL Changes

	A.1365.0448 - PROPERTY MANAGEMENT-MAINT.-Other		
Increase	Services	\$	66,538.00
	A.1900.1900-Contingency		
Decrease	Emergency	\$	66,538.00

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH
QUALITY ENVIRONMENTAL SOLUTIONS & TECHNOLOGIES, INC. (QUES&T)
IN THE AMOUNT OF \$7,790.00 FOR ASBESTOS VARIANCE APPLICATION AND AIR
MONITORING SERVICES FOR THE EMERGENCY DEMOLITION 215 FIRST STREET**

WHEREAS, the City of Newburgh must undertake emergency demolition work as a result of the collapse of the building located at 215 First Street; and

WHEREAS, the demolition work presumes the presence of asbestos containing material which must be addressed in compliance with law, rule and regulation; and

WHEREAS, Quality Environmental Solutions & Technologies, Inc. (QUES&T) is a qualified environmental remediation consultant and has submitted a proposal for ensuring compliance with applicable laws, rules and regulations related to the demolition work including applying for appropriate variances or other permits from the New York State Department of Labor and supervision and site monitoring; and

WHEREAS, the collapse of the building was an unforeseen occurrence affecting the life, health and safety of the City residents constituting a public emergency within the meaning of the General Municipal Law and the City staff has obtained approval to follow the City's Emergency Procurement Policy in obtaining the QUES&T proposal; and

WHEREAS, the cost for these services will be \$7,990.00 and funding shall be derived from A.1365.0448 - Property Maintenance - Other Services; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he hereby is authorized to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. for asbestos related services in the amount of \$7,990.00 in connection with the emergency demolition of 215 First Street.

QuES&T

Quality Environmental Solutions & Technologies, Inc.

February 23, 2018

City of Newburgh
83 Broadway
Newburgh, NY 12550

ATTN: Jason C. Morris

Via E-mail: JMorris@cityofnewburgh-ny.gov

Re.: 215 First Street, Newburgh, NY 12550
Request for Proposal – Variance Develop/Submission, Specification/Bidding and Asbestos
Abatement Monitoring & Management Services

Dear Mr. Morris,

Quality Environmental Solutions & Technologies, Inc. (QuES&T) is pleased to submit the attached proposal to: 1) Prepare and submit a Site-Specific Variance to NYSDOL ESU; 2) Prepare a Specification with Bid Documents outlining the scope of work and Conduct Onsite Walkthrough w/Prospective Bidders to secure pricing for the project and, 3) provide Asbestos Abatement Monitoring & Management Services during controlled demolition abatement.

QuES&T is a NYS Certified Minority Business Enterprise committed to remaining a leader in the environmental training and technical consulting industry. **QuES&T's** extensive Nuclear Power Industry experience makes us uniquely qualified to provide technical support in state-of-the-art techniques for engineering and contamination control. Additionally, this experience enables us to integrate the essential concepts of "critical path" schedules and minimizing personnel exposures while maintaining a high level of attention to the specific details of each project. **QuES&T** personnel satisfy numerous ANSI and NUREG experience requirements of the Nuclear Regulatory Commission. Our staff has served in various capacities in the Health Physics and Nuclear Engineering disciplines in operational power reactors, nuclear powered vessels, radio-pharmaceuticals and government prototypes.

We are confident you recognize that selection of a qualified technical consultant for professional services, such as pre-construction inspection, project design, project management and air monitoring, represents a step as critical as selecting a reputable environmental remediation contractor. **QuES&T** feels strongly that the success of any remediation project is defined primarily in the planning and design phase. A technically sound project design combined with proper oversight provides the most cost-effective solution and ensures the gains recognized are not at the expense of future liability to the City of Newburgh.

In this regard, **QuES&T** has successfully completed remediation projects, for our client companies, in support of Nuclear and Fossil commercial power plant maintenance outages, facility renovation and demolition, cGMP facility upgrades, recovery from contamination following catastrophic events (e.g. steam line explosions, fires), school building renovations, Corporate asbestos management programs, facility Operations & Maintenance (O&M) programs, UST removals, sub-surface investigations, contaminated soil remediation, LBP stabilization and commercial/residential asbestos & lead abatements.

Technical consulting services are available in the area of regulatory compliance audits, OSHA safety, air monitoring, respiratory protection, laboratory services, building hazard assessments (EPA, HUD, commercial), LBP Risk Assessments, management plans, NYS/NESHAP pre-demolition inspections and full scope project management; including development of remediation response actions and management of all required project and personnel records. Our staff of experienced environmental professionals can prepare all required specifications and procedures to ensure your programs comply with federal, state and municipal regulatory requirements.

QuES&T offers a wide range of OSHA and environmental safety training. Our full range of asbestos safety certification training ensures that our client's employees receive the appropriate training to maximize their safety and minimize your liability. **QuES&T** offers accredited initial and refresher training programs for Operations & Maintenance (O&M), Asbestos Abatement Workers and Supervisors, Project Monitors, Asbestos Project Sampling Technicians (RH-II), Asbestos Project Designers, Asbestos Inspectors (RH-III) and Management Planners. Our accredited training facility (EPA, NYS) contains the most modern equipment to support the hands-on portion of each training program. On-site training services are available for groups of at least twenty-five students and can be tailored to meet the specific needs of the City of Newburgh.

QuES&T provides a full range of services in the area of Respiratory Protection. Our technical staff has extensive experience in the development of regulatory compliance programs for NUREG 0041 and OSHA 1910.134 Respiratory Protection Programs. Quantitative or qualitative respirator fit services can be provided at **QuES&T's** facility or yours.

For additional information concerning this submittal, please contact us at (845) 298-6031. We look forward to working with the City of Newburgh in the environmental consulting and remediation services area.

Sincerely,



Rudy Lipinski - LEED[®] AP
Director of Field Operations
NYS/AHERA Inspector/Project Designer
Cert. #AH 05-09049

**VARIANCE DEVELOPMENT/SUBMISSION, SPECIFICATION/BIDDING AND
ASBESTOS ABATEMENT MONITORING & MANAGEMENT SERVICES**

**for
CITY OF NEWBURGH**

**83 Broadway
Newburgh, NY 12550**

at

CONDEMNED 3-STORY MULTI-UNIT RESIDENTIAL BUILDING

**215 First Street
Newburgh, NY 12550**

QuES&T agrees to provide the following services:

1.) Development and Submission of NYSDOL Site-Specific Variance

- Meet onsite to identify areas impacted by controlled demolition of 215 First Street, Newburgh, NY 12550.
- Develop alternate work practices that will not expose the public or workers to elevated fiber levels.
- Develop a scope of work that will minimize the impact on the facility.
- Preparation and submittal of NYSDOL Site-Specific Variance and supporting documentation to the NYSDOL Engineering Services Unit regarding the proposed work scope.
- Act as the Petitioners Agent during the NYSDOL ESU review process and incorporate any changes or additions requested by NYSDOL ESU during their review.
- Final determination regarding approved means and methods shall be as directed by NYSDOL ESU.

2.) Asbestos Abatement Specification w/Bid Documents (Short Spec) & Bidding Process

- Develop asbestos-abatement specific contract documents and detailed work scopes for the purpose of securing competitive bidding to perform asbestos abatement.
- Conduct onsite pre-bid walk through with Environmental Remediation Contractors and prepare addendum as needed to resolve outstanding issues prior to bid due date.
- Review completed bids and contractor submittals for accuracy and content, and assist the **City of Newburgh** in the selection of an Environmental Remediation Contractor.

3.) Asbestos Abatement Management and Monitoring

Item 1: Supervision of Abatement Activities (Combined Project Monitor/Air Sampling Technician)

- Perform project monitoring, inspection and acceptance of the work.
- Provide coordination to ensure timely completion of the asbestos removal.
- Review construction phasing plans and assist in the coordination of the activities of the various contractors and building occupants to ensure compliance with applicable federal, state and municipal regulatory requirements and bid specifications.
- Complete work step lists and documentation packages for final closeout.

Services Cont'd...

Item 2: Third Party Asbestos Air Monitoring

- **QuES&T** will provide collection and laboratory analysis of the required air samples, in conjunction with Item 1, on a cost per sample basis. To maintain compliance with the requirements of 56-4.3, analysis of the air samples shall be by "an independent laboratory conforming to the requirements of 12 NYCRR 56-4.2". The sampling frequency will be as specified in Title 12 NYCRR Rule 56; Subpart 56-4 and any NYS DOL Applicable Variance or Site Specific Variances utilized in the conduct of this project.

**VARIANCE DEVELOPMENT/SUBMISSION, SPECIFICATION/BIDDING AND
ASBESTOS ABATEMENT MONITORING & MANAGEMENT SERVICES**

**for
CITY OF NEWBURGH**

**83 Broadway
Newburgh, NY 12550**

at

CONDEMNED 3-STORY MULTI-UNIT RESIDENTIAL BUILDING

**215 First Street
Newburgh, NY 12550**

➤ **1) SITE-SPECIFIC VARIANCE DEVELOPMENT & SUBMISSION**

NYSDOL Variance Prep Including Site Visit	\$ 950.00
NYSDOL Variance Filing Fee	\$ 350.00

Lump Sum Total : \$ 1,300.00

➤ **2) ASBESTOS ABATEMENT SPECIFICATION (SHORT SPEC) & BIDDING PROCESS**

Develop Abatement Work Scopes with Bid Documents	\$ 1,950.00
Conduct Onsite Walkthrough w/Prospective Bidders	\$ 350.00

Lump Sum Total : \$ 2,300.00

➤ **3) ASBESTOS ABATEMENT MONITORING & MGMT SERVICES**

Project Management Labor (1 PM, 5 Hours @ (\$90/hour)	\$ 450.00
Project Monitor "Weekday" Labor (1 Tech, 5 Shifts @ \$400/shift)	\$ 2,000.00
Project Monitor "Weekend" Labor (1 Tech, 1 Shift @ \$600/shift)	\$ 600.00
24-hr. TAT "Back/Prep/Handling" PCM Air Sample Analysis (60 @ \$15/each)	\$ 900.00
3-hr. TAT "Clearance" PCM Air Sample Analysis (12 @ \$20/each)	\$ 240.00
Travel and Misc. Materials	\$ 200.00

Estimated Total \$ 4,390.00

NOTES:

1. Client shall be charged for actual services rendered and/or samples analyzed.
2. Sample analysis turnaround time begins when samples are received within the laboratory and does not include holidays.

ACCEPTANCE OF PROPOSAL #P18-5666

.....
To Execute This Agreement, Please Review, Sign, Date & Return to QuES&T.

Payment Terms: *Payment Shall Be Net 15 Days; Following Delivery Of Final Report; Late Payments Shall Be Assessed a Penalty of 1.5% per Month.*

City of Newburgh – Authorized Representative:

By

Michael G. Ciaravino, City Manager

FEB 28 2018

Signature

Print Name & Title

Date

RESOLUTION NO.: ____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH
QUALITY ENVIRONMENTAL SOLUTIONS & TECHNOLOGIES, INC. (QUES&T)
FOR ASBESTOS AND LEAD TESTING SERVICES FOR CITY HALL
AT A COST OF \$1,729.00**

WHEREAS, by Resolution No. 32-2018 of February 12, 2018, the City Council authorized the City Manager to accept a proposal and execute a contract with McLaren Engineering Group for structural and electrical engineering services for City Hall; and

WHEREAS, the structural and electrical engineering services require asbestos and lead sampling; and

WHEREAS, Quality Environmental Solutions & Technologies, Inc. (QUES&T) is a qualified environmental remediation consultant and has submitted a proposal for asbestos and lead testing services for City Hall located at 83 Broadway; and

WHEREAS, the proposal includes sampling, evaluation and inspections; and

WHEREAS, the cost for these services will be \$1,729.00 and such funding shall be derived from A.1620.0448- Municipal Buildings - Other Services; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. in the amount of \$1,729.00 for asbestos and lead testing services for City Hall.

QuES&T

Quality Environmental Solutions & Technologies, Inc.

March 13, 2018

City of Newburgh
83 Broadway
Newburgh, NY 12550

ATTN: Jason C. Morris, PE

Via E-mail: JMorris@cityofnewburgh-ny.gov

Re.: City Hall – 83 Broadway, Newburgh, NY 12550
Request for Proposal – Limited Asbestos Bulk Sampling & XRF Lead Survey

Dear Mr. Morris,

Thank you for the opportunity to discuss the needs of the City of Newburgh in the environmental consulting and remediation services area. **Quality Environmental Solutions & Technologies, Inc. (QuES&T)** is pleased to submit the attached proposal to perform a Limited Asbestos Bulk Sampling & XRF Lead Survey at City Hall, located at 83 Broadway, Newburgh, NY 12550.

QuES&T is a NYS Certified Minority Business Enterprise committed to remaining a leader in the environmental training and technical consulting industry. **QuES&T's** extensive Nuclear Power Industry experience makes us uniquely qualified to provide technical support in state-of-the-art techniques for engineering and contamination control. Additionally, this experience enables us to integrate the essential concepts of "critical path" schedules and minimizing personnel exposures while maintaining a high level of attention to the specific details of each project. **QuES&T** personnel satisfy numerous ANSI and NUREG experience requirements of the Nuclear Regulatory Commission. Our staff has served in various capacities in the Health Physics and Nuclear Engineering disciplines in operational power reactors, nuclear powered vessels, radio-pharmaceuticals and government prototypes.

We are confident you recognize that selection of a qualified technical consultant for professional services, such as pre-construction inspection, project design, project management and air monitoring, represents a step as critical as selecting a reputable environmental remediation contractor. **QuES&T** feels strongly that the success of any remediation project is defined primarily in the planning and design phase. A technically sound project design combined with proper oversight provides the most cost-effective solution and ensures the gains recognized are not at the expense of future liability to the City of Newburgh.

In this regard, **QuES&T** has successfully completed remediation projects, for our client companies, in support of Nuclear and Fossil commercial power plant maintenance outages, facility renovation and demolition, cGMP facility upgrades, recovery from contamination following catastrophic events (e.g. steam line explosions, fires), school building renovations, Corporate asbestos management programs, facility Operations & Maintenance (O&M) programs, UST removals, sub-surface investigations, contaminated soil remediation, LBP stabilization and commercial/residential asbestos & lead abatements.

Technical consulting services are available in the area of regulatory compliance audits, OSHA safety, air monitoring, respiratory protection, laboratory services, building hazard assessments (EPA, HUD, commercial), LBP Risk Assessments, management plans, NYS/NESHAP pre-demolition inspections and full scope project management; including development of remediation response actions and management of all required project and personnel records. Our staff of experienced environmental professionals can prepare all required specifications and procedures to ensure your programs comply with federal, state and municipal regulatory requirements.

QuES&T offers a wide range of OSHA and environmental safety training. Our full range of asbestos safety certification training ensures that our client's employees receive the appropriate training to maximize their safety and minimize your liability. **QuES&T** offers accredited initial and refresher training programs for Operations & Maintenance (O&M), Asbestos Abatement Workers and Supervisors, Project Monitors, Asbestos Project Sampling Technicians (RH-II), Asbestos Project Designers, Asbestos Inspectors (RH-III) and Management Planners. Our accredited training facility (EPA, NYS) contains the most modern equipment to support the hands-on portion of each training program. On-site training services are available for groups of at least twenty-five students and can be tailored to meet the specific needs of City of Newburgh.

QuES&T provides a full range of services in the area of Respiratory Protection. Our technical staff has extensive experience in the development of regulatory compliance programs for NUREG 0041 and OSHA 1910.134 Respiratory Protection Programs. Quantitative or qualitative respirator fit services can be provided at **QuES&T**'s facility or yours.

For additional information concerning this submittal, please contact us at (845) 298-6031. We look forward to working with City of Newburgh in the environmental consulting and remediation services area.

Sincerely,



Rudy Lipinski - LEED® AP
Director of Field Operations
NYS/AHERA Inspector/Project Designer
Cert. #AH 05-09049

LIMITED ASBESTOS BULK SAMPLING & XRF LEAD SURVEY
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
CITY HALL
83 Broadway
Newburgh, NY 12550

QuES&T agrees to provide the following services:

LIMITED ASBESTOS BULK SAMPLING SURVEY

- Provide licensed NYS/AHERA Asbestos Inspector(s) to perform a Limited Asbestos Bulk Sampling Survey in compliance with the requirements of Title 12 NYCRR Part 56 and 29 CFR 1926.1101 throughout specific interior & exterior areas of the above-referenced location(s).
- Perform collection and analysis of suspect friable material using Polarized Light Microscopy (PLM) analytical protocols.
- Perform collection and analysis of suspect non-friable organically bound material using both Polarized Light Microscopy-NOB (PLM-NOB) and Confirmatory-QTEM analytical protocols.
- Perform collection and analysis of vermiculite-containing surfacing materials using Surfacing Materials with Vermiculite (SM-V) analytical protocols.
- Discussion of laboratory results for all bulk samples (PLM/PLM-NOB/QTEM/SM-V).
- Documentation of all analytical laboratory certifications.
- Preparation of one (1) Final Asbestos Report identifying hazardous materials, estimated quantities, locations, types and/or conditions.

LIMITED XRF LEAD-BASED PAINT SURVEY

- Provide Niton-certified XRF Technician(s) to perform representative In-Situ measurements using a Niton XLp Model 300A XRF Meter on accessible, representative interior and exterior painted surfaces & immovable objects. Locations and quantity of representative In-situ measurements will be based on the observed homogeneity of painted surfaces.
- Sequential and summary reports will be provided of all surfaces tested.
- Preparation of one (1) Final Asbestos Report and one (1) Final XRF Lead Report identifying hazardous materials, estimated quantities, locations, types and/or conditions.

LIMITED ASBESTOS BULK SAMPLING & XRF LEAD SURVEY
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
CITY HALL
83 Broadway
Newburgh, NY 12550

COST ESTIMATE

➤ **LIMITED ASBESTOS BULK SAMPLING & XRF LEAD SURVEY**

Inspector Labor (1 Inspector, 1 Day @ \$500/day)	\$ 500.00
XRF Analyzer Lead Based Paint Rental	\$ 175.00
PLM Asbestos Bulk Analysis – 15 @ \$14/layer	\$ 210.00 ^A
QTEM/PLM Asbestos Bulk Analysis – 14 @ \$41/layer	\$ 574.00
1 – Final Asbestos & XRF Lead Summary Report	\$ 250.00
Travel, S&H & Misc. Materials	\$ 20.00

Estimated Total: \$ 1,729.00

A. *As per the testing requirements, for surfacing materials, set forth in the NYSDOH communication, dated May 6, 2016, if vermiculite is present (regardless of the amount), one of the two approved methods must be used for the detection and quantitation of asbestos content.*

If Vermiculite is detected, within surfacing materials sampled (NYS ELAP 198.1), as per the new guidelines, samples will be analyzed in conformance with NYS ELAP 198.8:

One Week TAT Sample Analysis 198.8 (@ \$285/layer)

NOTES:

1. Estimated number of samples to be collected/analyzed.
2. Client shall be charged for actual samples analyzed and services rendered.
3. Lab analysis pricing based on Standard 5-Business Day Turnaround (TAT).
4. TAT commences upon laboratory receipt of samples and excludes weekends/holidays.

- **QuES&T** shall perform all inspections visually; using reasonable care and judgment. Localized demolition will be performed to access representative concealed surfaces, as practicable. **Client/Representatives** recognize & agree that ACM/LBP concealed within structural components & accessible only through extensive mechanical or structural demolition may not be identified as part of this survey.
- **QuES&T** shall not be responsible for damage caused to building finishes, surfaces or equipment by sampling. Responsibility and cost for repair of damaged building finishes, surfaces and equipment shall be by **Client / Representatives**.
- **QuES&T** will exercise reasonable caution to minimize disturbance of ACM/LBP during the inspection process. However, clean-up of ACM disturbed or dislodged during the inspection process shall be the responsibility of **Client / Representatives**.
- **Client / Representatives** shall be responsible for providing immediate access into all inspection areas and securing same upon completion of inspection activities.
- Inspection work to be conducted upon receipt of written Notice to Proceed and/or associated Purchase Order Number.
- Inspection work to be conducted during normal weekday business hours (Mon–Fri, 9am–5pm). **Client / Representatives** will provide access to all respective buildings concurrently.
- In the event of a conflict between this proposal and the sub-consultant agreement, the sub-consultant agreement shall prevail.

ACCEPTANCE OF PROPOSAL #P18-5692

Payment Terms: *Payment Shall Be Net 15 Days; Following Delivery Of Final Report; Late Payments Shall Be Assessed a Penalty of 1.5% per Month.*

By _____
Signature *Print Name & Title* *Date*

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

RESOLUTION AMENDING RESOLUTION NO: 310A-2016,
THE 2017 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
FOR YEAR END ADJUSTMENTS

WHEREAS, it has become necessary to reallocate available funds in the FY 2017 budget from expense lines with remaining balances to overspent expense lines;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 310A-2016, the 2017 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900.1990 Contingency-Emergency	\$243,625.84	
A.3412.0103 Overtime		\$241,974.88
A.3412.0103.0001 Overtime-Civilians	_____	\$ <u>1,650.96</u>
TOTALS:	\$243,625.84	\$243,625.84

F.1900.1990 Contingency-Emergency	\$ 5,752.00	
F.1420.0448 Other Services	_____	\$ <u>5,752.00</u>
TOTALS:	\$ 5,752.00	\$ 5,752.00

Budget Adjustment Form

Year: 2017 Period: 12 Trans Type: B1 - Transfer Status: Batch
Trans No: 77710 Trans Date: 12/31/2017 User Ref: KMACK
Requested: Approved: Created by: KMACK 03/16/2018
Description: COUNCIL RESOLUTION XX-2018 - TO COVER OVER EXPENDED BUDGET LINES Account # Order: No
FY 2017 Print Parent Account: No

Account No.	Account Description	Amount
A.3412.0103	OVERTIME..	241,974.88
A.3412.0103.0001	OVERTIME-CIVILIANS	1,650.96
A.1900.1990	CONTINGENCY - EMERGENCY	-243,625.84
F.1420.0448	OTHER SERVICES	5,752.00
F.1900.1990	CONTINGENCY - EMERGENCY	-5,752.00
Total Amount:		0.00

City of Newburgh

Ending Expense Budget Balances FY 2017

FUND	Department Head	DEPT	Department Name	YTD AVAILABLE BALANCE
A	Boards	8010	Zoning Board of Appeals	\$0.00
		8021	Planning Board	\$0.00
		8041	Architectural Rev Com	\$0.00
		8050	Police Community Relations (PCRB)	\$3,871.12
	Boards Total			\$3,871.12
	Chief of Police	1130	Traffic Violations Bureau	\$1,888.82
		3120	Police	\$195,163.08
		3122	Courthouse Officers	\$0.00
		3124	Auxillary	\$5,124.35
		3510	Public Pound	\$37,714.72
	Chief of Police Total			\$239,890.97
	City Manager	1230	Executive Office	\$52,331.87
	City Manager Total			\$52,331.87
	City Clerk	1410	City Clerk	\$11,182.54
		1450	Elections	\$42,000.00
		1460	Records Management	\$773.00
	City Clerk Total			\$53,955.54
	City Historian	7510	City Historian	\$0.00
	City Historian Total			\$0.00
	Civil Service	1430	Civil Service	\$12,697.61
	Civil Service Total			\$12,697.61
	Comptroller	1102	Robinson Ave	\$28,070.00
		1315	City Comptroller	\$15,797.25
		1330	Tax Collector	\$8,341.30
		1355	Assessor	\$0.00
		1900	Special Items	\$251,015.77
		7550	Celebrations	\$3,496.64
		9710	Bond Principal	\$0.00
		9711	Bond Interest	\$11,854.60
		9730	BAN Principal	\$31,666.00
		9731	BAN Interest	\$15,586.04
		9785	Capital Leases Principal	\$8,694.02
		9856	Installment Purchase Debt-Principal	\$0.47
		9857	Installment Purchase Debt-Interest	\$0.09
		9923	Contributions to Self Insurance	\$0.00
	Comptroller Total			\$374,522.18
	Corporation Counsel	1420	Corporation Counsel	\$58,865.79
	Corporation Counsel Total			\$58,865.79
	Director of Planning	8684	Planning & Development	\$21,634.27
	Director of Planning Total			\$21,634.27
	DPW Superintendent	1120	DPW: Grand St. Courthouse	\$0.00
		1121	Broadway Courthouse	\$0.00
		1364	Expense of Property Acquired	\$0.00
		1365	DPW: Property Management - Maintenance	\$0.00
		1620	DPW: Municipal Buildings	\$0.00
		3310	DPW: Traffic Control	\$0.00
		5010	DPW: Administration	\$8,394.39
		5110	DPW: Streets and Bridges	\$3,873.11
		5132	DPW: Garage	\$10,836.13
		5133	DPW: Police Garage	\$10,493.76
		5142	DPW: Snow Removal	\$8,493.84
		7110	DPW: Parks	\$80,477.90
	DPW Superintendent Total			\$122,569.13
	Engineer	1440	Engineering	\$95,608.13
	Engineer Total			\$95,608.13
	Fire Chief	3412	Fire	(\$243,625.84)
		3620	Code Compliance	\$0.00
	Fire Chief Total			(\$243,625.84)

City of Newburgh

Ending Expense Budget Balances FY 2017

FUND	Department Head	DEPT	Department Name	YTD AVAILABLE BALANCE	
A	IT	1670	Central Printing and Mailing	\$2,631.70	
		1680	Information Systems	\$2,706.23	
	IT Total			\$5,337.93	
	Legislative Body	1010	City Council	\$10,078.84	
		Legislative Body Total			\$10,078.84
	Recreation	7118	Landing & Waterfront	\$0.00	
		7129	Conservation Advisory Council	\$3,622.83	
		7140	Recreation	\$95,762.49	
		7149	Receation-Riverfront Facility	\$5,000.00	
		7181	Delano-Hitch Pool	\$3,732.54	
		7188	DPW: DH Park & Stadium	\$331.15	
		7320	Summer Camp	\$317.43	
		7610	Programs for Aging	\$0.00	
	Recreation Total			\$108,766.44	
	A Total			\$916,503.98	
F	Comptroller	1900	Special Items	\$160,388.31	
		9900	General Fund Services	\$0.00	
	Comptroller Total			\$160,388.31	
	Corporation Counsel	1420	Water: Legal	(\$5,752.00)	
		Corporation Counsel Total			(\$5,752.00)
	Engineer	1440	Water:Engineering	\$31,785.86	
		Engineer Total			\$31,785.86
	Water Superintendent	8310	Water: Administration	\$52,398.41	
		8320	Water: Ponds and Reservoirs	\$31,571.99	
		8330	Water: Purification	\$136,144.42	
		8340	Water: Distribution	\$26,918.76	
	Water Superintendent Total			\$247,033.58	
	F Total			\$433,455.75	
	G	Comptroller	1900	Special Items	\$200,607.93
			9900	General Fund Services	\$0.00
Comptroller Total			\$200,607.93		
Corporation Counsel		1420	Corporation Counsel	\$14,304.67	
		Corporation Counsel Total			\$14,304.67
DPW Superintendent		8120	DPW: Sewers	\$49,169.37	
		DPW Superintendent Total			\$49,169.37
Engineer		1440	Engineering	\$13,881.76	
		1900	Special Items	\$2,000.00	
		8130	Waste Water Treatment Plant (WWTP)	\$254,343.69	
Engineer Total			\$270,225.45		
G Total			\$534,307.42		
S	Comptroller	1900	Special Items	\$309.85	
		9900	Interfund Transfers	\$0.00	
		General Fund Services		\$0.00	
	Comptroller Total			\$309.85	
	DPW Superintendent	8160	DPW: Sanitation	\$173,071.26	
		DPW Superintendent Total			\$173,071.26
S Total			\$173,381.11		
Grand Total			\$2,057,648.26		

Budget Adjustment Form

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A.1900.1990	CONTINGENCY - EMERGENCY	-243,625.84
F.1420.0448	OTHER SERVICES	5,752.00
F.1900.1990	CONTINGENCY - EMERGENCY	-5,752.00
Total Amount:		0.00

City of Newburgh

Ending Expense Budget Balances FY 2017

FUND	Department Head	DEPT	Department Name	YTD AVAILABLE BALANCE
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		8021	Planning Board	\$0.00
		8041	Architectural Rev Com	\$0.00
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		3124	Auxillary	\$5,124.35
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	Chief of Police Total			\$239,890.97
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	City Manager Total			\$52,331.87
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		1460	Records Management	\$773.00
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		1315	City Comptroller	\$15,797.25
		1330	Tax Collector	\$8,341.30
		1355	Assessor	\$0.00
		1900	Special Items	\$251,015.77
		7550	Celebrations	\$3,496.64
		9710	Bond Principal	\$0.00
		9711	Bond Interest	\$11,854.60
		9730	BAN Principal	\$31,666.00
		9731	BAN Interest	\$15,586.04
		9785	Capital Leases Principal	\$8,694.02
		9856	Installment Purchase Debt-Principal	\$0.47
		9857	Installment Purchase Debt-Interest	\$0.09
		9923	Contributions to Self Insurance	\$0.00
	Comptroller Total			\$374,522.18
	Corporation Counsel	1420	Corporation Counsel	\$58,865.79
	Corporation Counsel Total			\$58,865.79
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	Director of Planning Total			\$21,634.27
	DPW Superintendent	1120	DPW: Grand St. Courthouse	\$0.00
		1121	Broadway Courthouse	\$0.00
		1364	Expense of Property Acquired	\$0.00
		1365	DPW: Property Management - Maintenance	\$0.00
		1620	DPW: Municipal Buildings	\$0.00
		3310	DPW: Traffic Control	\$0.00
		5010	DPW: Administration	\$8,394.39
		5110	DPW: Streets and Bridges	\$3,873.11
		5132	DPW: Garage	\$10,836.13
		5133	DPW: Police Garage	\$10,493.76
		5142	DPW: Snow Removal	\$8,493.84
		7110	DPW: Parks	\$80,477.90
	DPW Superintendent Total			\$122,569.13
	Engineer	1440	Engineering	\$95,608.13
	Engineer Total			\$95,608.13
	Fire Chief	3412	Fire	(\$243,625.84)
		3620	Code Compliance	\$0.00
	Fire Chief Total			(\$243,625.84)
	IT	1670	Central Printing and Mailing	\$2,631.70
		1680	Information Systems	\$2,706.23

City of Newburgh
Ending Expense Budget Balances FY 2017

FUND	Department Head	DEPT	Department Name	YTD AVAILABLE BALANCE
A	IT Total			\$5,337.93
	Legislative Body	1010	City Council	\$10,078.84
	Legislative Body Total			\$10,078.84
	Recreation	7118	Landing & Waterfront	\$0.00
		7129	Conservation Advisory Council	\$3,622.83
		7140	Recreation	\$95,762.49
		7149	Recreation-Riverfront Facility	\$5,000.00
		7181	Delano-Hitch Pool	\$3,732.54
		7188	DPW: DH Park & Stadium	\$331.15
		7320	Summer Camp	\$317.43
		7610	Programs for Aging	\$0.00
	Recreation Total			\$108,766.44
A	A Total			\$916,503.98
F	Comptroller	1900	Special Items	\$160,388.31
		9900	General Fund Services	\$0.00
	Comptroller Total			\$160,388.31
	Corporation Counsel	1420	Water: Legal	(\$5,752.00)
	Corporation Counsel Total			(\$5,752.00)
	Engineer	1440	Water:Engineering	\$31,785.86
	Engineer Total			\$31,785.86
	Water Superintendent	8310	Water: Administration	\$52,398.41
		8320	Water: Ponds and Reservoirs	\$31,571.99
		8330	Water: Purification	\$136,144.42
		8340	Water: Distribution	\$26,918.76
	Water Superintendent Total			\$247,033.58
F	F Total			\$433,455.75
G	Comptroller	1900	Special Items	\$200,607.93
		9900	General Fund Services	\$0.00
	Comptroller Total			\$200,607.93
	Corporation Counsel	1420	Corporation Counsel	\$14,304.67
	Corporation Counsel Total			\$14,304.67
	DPW Superintendent	8120	DPW: Sewers	\$49,169.37
	DPW Superintendent Total			\$49,169.37
	Engineer	1440	Engineering	\$13,881.76
		1900	Special Items	\$2,000.00
		8130	Waste Water Treatment Plant (WWTP)	\$254,343.69
	Engineer Total			\$270,225.45
G	G Total			\$534,307.42
S	Comptroller	1900	Special Items	\$309.85
		9900	Interfund Transfers	\$0.00
			General Fund Services	\$0.00
	Comptroller Total			\$309.85
	DPW Superintendent	8160	DPW: Sanitation	\$173,071.26
	DPW Superintendent Total			\$173,071.26
S	S Total			\$173,381.11
	Grand Total			\$2,057,648.26

RESOLUTION NO. _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE
EXTENSION OF TIME TO CLOSE TITLE ON THE PROPERTY
LOCATED AT 246 GRAND STREET (SECTION 12, BLOCK 2, LOT 21)
SOLD AT PRIVATE SALE TO CHARLES ORTIZ**

WHEREAS, by Resolution 284-2017 of October 10, 2017, the City Council of the City of Newburgh authorized the conveyance of property known as 246 Grand Street (Section 12, Block 2, Lot 21) to Charles Ortiz; and

WHEREAS, the City Manager granted the sixty (60) day allotted extension to close title on said premises on or before March 13, 2018; and

WHEREAS, due to continuing circumstances, specifically outstanding title issues, Mr. Ortiz, is requesting an additional extension of time to close; and

WHEREAS, this Council has determined that granting the requested extension would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that an extension of time to close title for the property located at 246 Grand Street is hereby authorized until July 31, 2018.

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

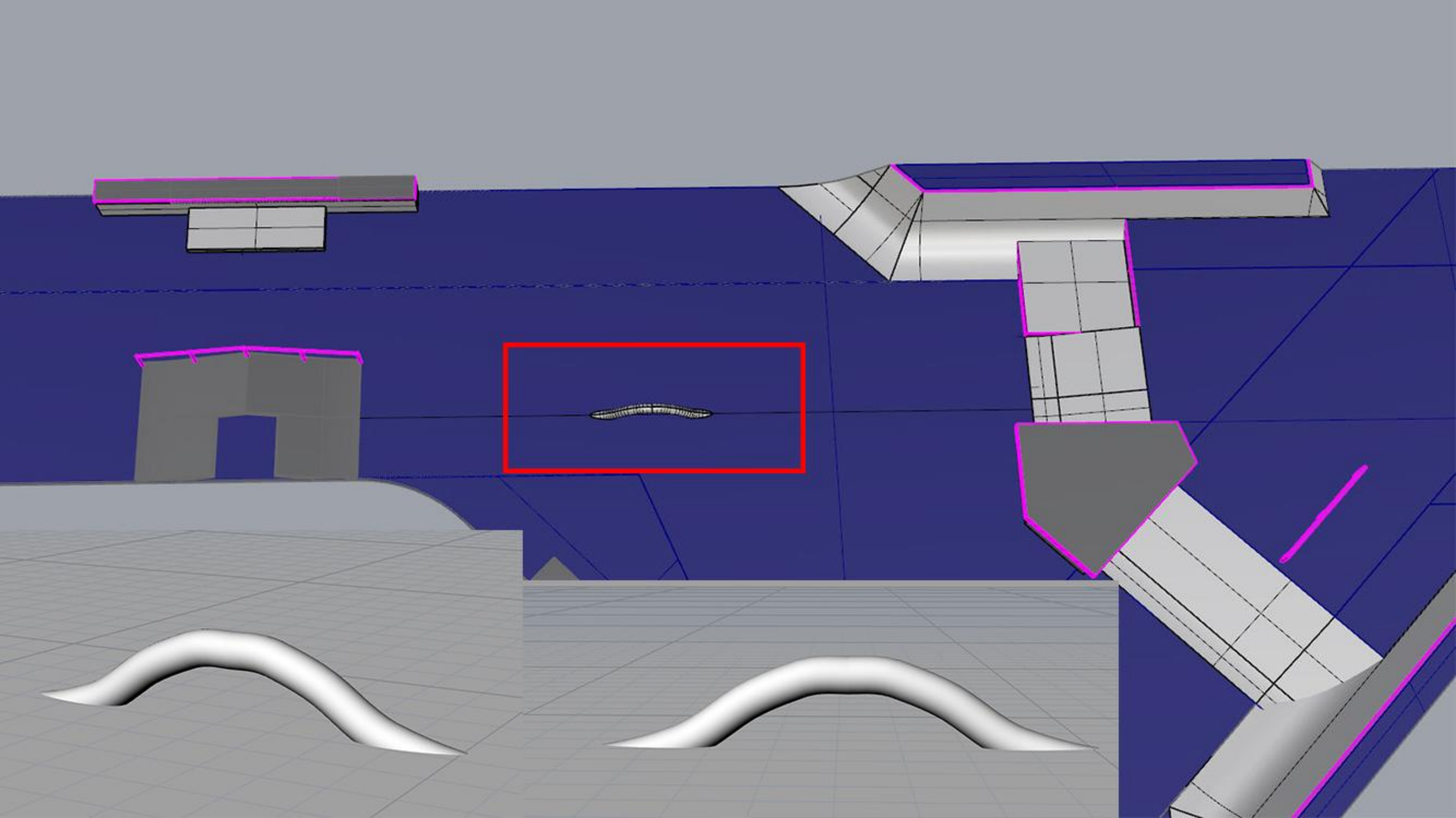
**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION OF
A “SKATEABLE” SCULPTURE FROM ERICA ENRIQUEZ
FOR USE AT THE CITY OF NEWBURGH SKATEBOARD PARK**

WHEREAS, Erica Enriquez, an early supporter of the Newburgh Skateboard Park Project and Newburgh Free Academy graduate, is working as a sculptor specializing in skateable sculptures; and

WHEREAS, Ms. Enriquez has designed and offered to donate a sculpture for the Newburgh Skateboard Park and has worked with Grindline, the City’s skateboard park designer to find a suitable location for installation; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to accept such donation, which will include the installation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to accept the skateable sculpture for the Newburgh Skateboard Park donated by Erica Enriquez, with the appreciation and thanks of the City of Newburgh.



RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY KNOWN
AS 44 JOHNES STREET, UNIT 103-J (SECTION 58, BLOCK 1, LOT 1.3)
AT PRIVATE SALE TO NICOLE BLAIR FOR THE AMOUNT OF \$33,000.00**

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell 44 Johnes Street, Unit 103-J being more accurately described as Section 58, Block 1, Lot 1.3 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before June 29, 2018, 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>
44 Johnes Street, Unit 103-J	58 - 1 - 1.3	Nicole Blair	\$33,000.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions of Sale

44 Johnes Street, Unit 103-J, City of Newburgh

(58-1-1.-3)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid school taxes for the tax year of 2017-2018, 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 2017-2018, 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. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his or her domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.

7. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
8. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
9. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
10. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
11. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office on or before June 29, 2018. Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, water and sanitation charges, 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.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
14. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
15. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not

convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.

16. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least ten (10) days in advance of closing title and approved by the City's Engineer.
17. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.
18. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RECEIVED
7/20/18

Proposal Form

Contact Information:

Name: NICOLE BLAIR MD
Business Name (If Applicable): _____
Address: 1003 Regency Ct.
City, State & Zip: MIDDLETOWN
Home phone: _____
Business Phone: _____
Mobile Phone: 973 391 6466
E-mail: nicoleblairmd@gmail.com
Federal I.D. No. (If Applicable): _____

Property Ownership Information:

Do you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - any properties in the City of Newburgh? Yes ___ No ☒

If you own property in the City of Newburgh, are any of these properties vacant and/or currently listed on the City of Newburgh's Vacant Building Registry? Yes ___ (attach explanation) No ☒ N/A ___ (No property owned in the City of Newburgh)

If you own property in the City of Newburgh, are any of these properties rented? Yes ___ No ___ N/A ☒ (No property owned in the City of Newburgh) If yes, do you have a current Rental License for each of the rental properties? Yes ___ No ___
☐ Verified (Internal Office Use Only); Date Verified: _____

Please list **all** of the addresses of properties you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - in the City of Newburgh. Also indicate if any of these properties are vacant or rented. (You may attach a list of the properties if the space below is inadequate.): _____

Are you current on all municipal obligations (taxes, water charges, etc.)? Yes ___ No ___ (attach explanation) N/A ☒ (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified _____

Do you have any outstanding code violations for properties owned in the City of Newburgh? Yes ___ (attach explanation) No ___ N/A ☒ (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified _____

Have you had a previous tax foreclosure on a property owned by you in the City of Newburgh? Yes ___ (attach explanation) No ☒

for Davis to
PR Nicole
B. B. B. B.
T. B. B.

Individual Property Bid Sheet

Information on Bid Property:

(If you are bidding on more than one property, please submit a completed copy of this page for **each** bid property. Only one copy of the other pages in this application is required even if you are bidding on multiple properties.)

Property Address: FOUNDRY - APT - 103 J

S-B-L#: 58-1-1-3

Type of Project:

☒ Single Family

☒ Multi-Family (# of Units)

☒ Mixed Use (Commercial & Residential - # of Residential Units)

For the property types listed above, will it be occupied by the purchaser: Yes ☒ No ☐

☒ Commercial ☒ Industrial

☒ Vacant Land (Proposed Use: OWELLING)

Offer Purchase Price: \$ 33,000.00

(An offer of at least the minimum purchase price is recommended. The "Offer Purchase Price" cannot be left blank.)

Does or will your proposal conform to existing zoning? Yes ☒ No ☐

Renovation Estimate (Pre-Qualifying) - How much do you anticipate investing in this project for renovations? Please consider in your estimate that most vacant properties need *significant* repairs before they can be occupied again. This estimate can be revised once you have obtained entry to the property. A more detailed repair cost estimate will be required after interior access. Do not include renovation cost estimate in the "Offer Purchase Price" listed above: \$ NONE

Who will be doing the work? ☒ Self ☒ Other (complete below)

Please keep in mind that the City of Newburgh requires electrical and plumbing work to be performed by City of Newburgh licensed electricians and plumbers.

General Contractor: NA
Architect: NA
Engineer: NA

Finances:

(Applicant should provide not only sources of funding for the purchase of the property but also sufficient funding for the rehabilitation and/or development of the property.)

I am providing: ☐ Personal Financial Statement
 ☐ Letter from Lender/Investor
 ☒ Personal or Business Bank Statement
 ☐ Evidence of project funding
 ☐ Developers should provide three years financial statements

What You Should Attach:

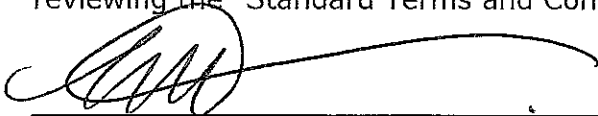
- o Description of renovation plan with preliminary budget
- o Verification of financial capacity
- o Explanation of any tax delinquency/code violations/vacant building (if applicable)

Business Relationship:

Have you had a "business relationship" as defined in Chapter 34, Article 2 (B) (2) of the municipal code, with any City elected official in the 12 months prior to the due date of this proposal? Yes ☐ No ☒

INFORMATION RELEASE:

It is our intent that all personal financial information submitted with this proposal to the Department of Planning and Development shall be considered confidential. I hereby authorize the City of Newburgh Department of Planning and Development to obtain credit reports (by completing a PathStone Credit Report Authorization Form) and verify information supplied as part of this proposal. All information provided is true and accurate to the best of my knowledge. By signing, you also acknowledge reading and reviewing the "Standard Terms and Conditions of Sale".



Signature

2/15/2018
Date

Nicole Davis
Print Name

Social Security

Date of Birth:

Submit Application to:

Department of Planning & Development
123 Grand Street, 1st Floor
Newburgh NY 12550



HudsonValley[®]

FEDERAL CREDIT UNION

P.O. Box 1071 | Poughkeepsie, NY | 12602-1071
845.463.3011 | hvfcu.org

January 2018 Statement of Accounts

Member Account Number

Reporting Activity 01/01/18 - 01/31/18

Page 1 of 1

NICOLE A BLAIR
1003 REGENCY CT
MIDDLETOWN NY 10940 - 1710

Account Balances At A Glance

Share Accounts	Balance	YTD Dividends Earned
0000 PRIMARY SAVINGS	\$46,535.46	\$0.00
0200 CHECKING	\$13,543.39	\$0.58
Share Totals	\$60,078.85	\$0.58

PRIMARY SAVINGS ID 0000

	Beginning Balance	Deposits	Withdrawals	Ending Balance
	\$42,035.46	\$4,500.00	\$0.00	\$46,535.46

Tran Date	Description of Transaction	Withdrawals	Deposits	Balance
01/01/18	Starting Balance			42,035.46
01/22/18	Deposit by Check		4,500.00	46,535.46
01/31/18	Ending Balance			46,535.46

CHECKING ID 0200

	Beginning Balance	Deposits	Withdrawals	Ending Balance
	\$13,542.81	\$0.58	\$0.00	\$13,543.39

Tran Date	Description of Transaction	Check No.	Withdrawals	Deposits	Balance
01/01/18	Starting Balance				13,542.81
01/31/18	Deposit Dividend 0.050%			0.58	13,543.39
01/31/18	Ending Balance				13,543.39

For the period 01/01/2018 to 01/31/2018 your Annual Percentage Yield earned was 0.05%



Purchase Proposal Summary

Location: 44 Johnes Street, Unit 103-J (The Foundry)
Tax Map Number: 58-1-1.-3
Property Class: 210C—One-Family Condo
Zoning: DN—Downtown Neighborhood; EEHD—East End Historic District
Description: Condominium unit—Year built: 1989; 952sf; 2 bedrooms; 2 baths
Condition: Average
Assessed Value: \$ 62,100
Annual Taxes: \$ 2,482 +/-
Selling Price: \$ 31,000

The city acquired this property: February 2015

Offer Information:

Name: Nicole Blair
Offer Price: **\$ 33,000**
Proof of Financing: Hudson Valley Federal Credit Union Account.
Comments: There were several applicants interested in purchasing this unit. Dr. Blair was the highest bidder. The purchaser currently rents in the Middletown area, but she wants to be a part of the Newburgh community. Dr. Blair will be an owner-occupant. This is the last unit that the City of Newburgh owns in The Foundry. Like most of the units that the City owned in this condominium complex, it could use some updating and some cosmetic repairs. It contains most of its original 1980s finish.



RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 53 BENKARD AVENUE (SECTION 45, BLOCK 13, LOT 3)
AT PRIVATE SALE TO AMBER FRANCE FOR THE AMOUNT OF \$43,000.00**

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell 53 Benkard Avenue, being more accurately described as Section 45, Block 13, Lot 3, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before June 29, 2018, 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>
53 Benkard Avenue	45 - 13 - 3	Amber France	\$43,000.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions Sale

53 Benkard Avenue, City of Newburgh (45-13-3)

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 2017-2018, 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 2017-2018, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: obtain a Certificate of Occupancy for all buildings on the property; make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or demolish such buildings. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.
6. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
7. Notice is hereby given that the property is vacant and unoccupied. The 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 property and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
8. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.

9. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
10. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
11. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office on or before June 29, 2018. 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.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
14. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
15. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
16. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed.

18. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

Proposal Form

Contact Information:

Name: AMBER FRANCE
Business Name (If Applicable): PARKER DIMENSIONS LLC
Address: 120-45 201 STREET
City, State & Zip: ST. ALBANS, NY 11412
Home phone: _____
Business Phone: 732 646 5503
Mobile Phone: 917 337 0497
E-mail: PARKERDIMENSIONS@GMAIL.COM
Federal I.D. No. (If Applicable): 74-3249674

Property Ownership Information:

Do you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - any properties in the City of Newburgh? Yes ___ No ☒

If you own property in the City of Newburgh, are any of these properties vacant and/or currently listed on the City of Newburgh's Vacant Building Registry? Yes ___ (attach explanation) No ___ N/A ☒ (No property owned in the City of Newburgh)

If you own property in the City of Newburgh, are any of these properties rented? Yes ___ No ___ N/A ☒ (No property owned in the City of Newburgh) If yes, do you have a current Rental License for each of the rental properties? Yes ___ No ___
☐ Verified (Internal Office Use Only); Date Verified: _____

Please list **all** of the addresses of properties you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - in the City of Newburgh. Also indicate if any of these properties are vacant or rented. (You may attach a list of the properties if the space below is inadequate.): N/A

Are you current on all municipal obligations (taxes, water charges, etc.)? Yes ___ No ___ (attach explanation) N/A ☒ (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified: _____

Do you have any outstanding code violations for properties owned in the City of Newburgh? Yes ___ (attach explanation) No ___ N/A ☒ (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified: _____

Have you had a previous tax foreclosure on a property owned by you in the City of Newburgh? Yes ___ (attach explanation) No ☒

Examples of Purchaser's Previous Renovation or Development Experience:

(Alternatively, applicants can attach a list of renovated properties or development experience that contains the information listed below.)

Property/Project No. 1

Property/Project No. 2

Property Address: Please list all addresses (not merely project name). Include street number, street, city and zip code.	929 CARNEGIE AVE. PLAINFIELD, NJ 07060	117 REMINGTON AVE PLAINFIELD, NJ 07060
Role (i.e. owner, partner, general contractor, architect, investor.)	INVESTOR	INVESTOR
Type of Project: (i.e. new construction, existing building requiring substantial rehabilitation or moderate rehabilitation.)	EXISTING PROPERTY REHABILITATION	EXISTING PROPERTY REHABILITATION
Property Type: (i.e. single-family, multi-family rental or commercial.)	SINGLE FAMILY	SINGLE FAMILY
Number of Buildings in Project	1	1
Total Number of Residential Units in Project/Building	1	1
If commercial, total square footage of project	N/A	N/A
Total Estimated Development/Rehabilitation Costs		
Current Status of Building (Pre-development, under construction/renovation or completed - include date completed.)	RENOVATION COMPLETED; SOLD	RENOVATION COMPLETED; SOLD
Government Program , if any (Provide name of program and agency, name and current phone of reference.)	N/A	N/A

Finances:

(Applicant should provide not only sources of funding for the purchase of the property but also sufficient funding for the rehabilitation and/or development of the property.)

I am providing: ☐ Personal Financial Statement
☐ Letter from Lender/Investor
☒ Personal or Business Bank Statement
☐ Evidence of project funding
☐ Developers should provide three years financial statements

What You Should Attach:

- o Description of renovation plan with preliminary budget
- o Verification of financial capacity
- o Explanation of any tax delinquency/code violations/vacant building (if applicable)

Business Relationship:

Have you had a "business relationship" as defined in Chapter 34, Article 2 (B) (2) of the municipal code, with any City elected official in the 12 months prior to the due date of this proposal? Yes ☐ No ☒

INFORMATION RELEASE:

It is our intent that all personal financial information submitted with this proposal to the Department of Planning and Development shall be considered confidential. I hereby authorize the City of Newburgh Department of Planning and Development to obtain credit reports (by completing a PathStone Credit Report Authorization Form) and verify information supplied as part of this proposal. All information provided is true and accurate to the best of my knowledge. By signing, you also acknowledge reading and reviewing the "Standard Terms and Conditions of Sale".

Amber _____ 12/22/17
Signature Date

AMBER FRANCE Social Security # [REDACTED] Date of Birth: [REDACTED]
Print Name

Submit Application to:

Department of Planning & Development
City Hall – 83 Broadway
Newburgh NY 12550

53 Benkard Avenue Property Plan

Development Plan

The plan for this property is to restore it to a 2 family home for rental. The scope of work shall be confirmed upon my inspection of the property. I anticipate the scope shall include gutting the interior finishes; resurfacing with sheetrock walls and ceilings; installing new kitchens and bathrooms; and installing new mechanical, electrical and plumbing systems

Capacity

Attachment 1.1 is my curriculum vitae which depicts over 15 years of experience in construction management. I have worked on several multi-million dollar commercial projects for governmental, retail and educational clients.

As an investor I have purchased, rehabilitated and sold single family homes. In working for corporate and handling my personal investments, I have proven ability to work on and complete the proposed work.

Financial Resources

Attached please find a bank statement depicting funds that will be used for the proposed purchase and rehabilitation. I also have a relationship with two private money lenders to help in the rehabilitation. I seek to form new relationships with the City's referenced resources for financing.

Attachment 1.1

Project: 53 Benkard Avenue, Newburgh, NY

Performa

Date: 12/22/17; Updated 2/18/18

Project costs	
Property acquisition	\$ 30,000
Appraisal	\$ 650
Planning, design & approvals	\$ 5,000
Permits	\$ 800
Construction/ renovations	\$ 135,004
Amenities, off-site costs	\$ -
Marketing (Sales, Rentals)	\$ 2,000
Utilities	\$ 3,600
Taxes	\$ 2,500
Insurance	\$ 2,000
Legal fees	\$ 4,000
Closing costs	\$ 8,500
Misc. management & overhead	\$ 2,000
Financing interest/ Cost of financing (10%)	\$ 20,000
Total project costs	\$ 196,054
Project Revenue	
Number of units	2
Gross sales/ Refinancing	\$ 175,000
Less commissions, fees (3%)	n/a
Project Equity	\$ (56,054)
Gross income	\$ 26,400
Refinanced mortgage	\$ 9,600
Miscellaneous expenses	\$ 4,800
Net income	\$ 12,000
Payback period	4.67

Attachment 1.1a

Project: 53 Benkard Avenue, Newburgh, NY

Renovation breakdown costs

Date: 12/22/17; Updated 2/18/18

	Material	Labor
Demo		
Interior Demo	\$ 1,800	
Exterior		
Windows	\$ 10,000	included
Doors	\$ 1,850	
Front/ rear steps	\$ 2,000	
Driveway	\$ -	
Landscaping & tree removals	\$ 800	
Roof, gutters	\$ 8,000	included
Façade restoration	\$ 2,000	
Decks	\$ -	
Fencing		
sidewalk	\$ 1,000	
waterproofing/ grading	\$ 1,000	
garage fitout, door change	\$ -	
Porch fitout	\$ 500	
Interior		
new hardwood flooring throughout	\$ 6,400	
Ceramic, misc. flooring	\$ 900	
sheetrock walls and ceiling	\$ 11,625	
Paint Walls/Trim	\$ 1,000	
Electrical - rough, lights	\$ 8,000	included
Plumbing - Rough	\$ 3,000	included
HVAC Install - Rough	\$ 6,000	included
Basement fitout	\$ 3,000	
Attic fitout	\$ -	
Kitchen	\$ 7,400	
Baths	\$ 2,000	
Appliances	\$ 5,200	
Smoke detectors, misc accessories	\$ 300	
Post Repair Cleaning	\$ 300	
structural and waterproofing remediation	\$ 3,000	
Drawings/ Permits	\$ 1,000	
Lead and asbestos abatement testing and remediation	\$ 8,500	included
Subtotal	\$ 96,575	\$ 32,000
Contingency (5%)	\$ 4,829	\$ 1,600
SubTotal (M+L)	\$ 101,404	\$ 33,600
	Total:	\$ 135,004

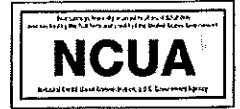
Separate contractors/ vendors \$ 36,100 incl. in above total



PO BOX 520487
Flushing, NY 11352-0487

Ph 718.961.7585
Fax 718.359.0433
www.tpfcu.net

NOTICE:
SEE REVERSE SIDE FOR IMPORTANT INFORMATION
REGARDING YOUR RIGHTS TO DISPUTE BILLING
ERRORS OR QUESTIONS ABOUT YOUR ELECTRONIC TRANSFERS.



8.1.2865 1 AB 0.405 06999S11.pbk 266248 1-1 29450318bHk1_e



AMBER FRANCE
12045 201ST STREET
SAINT ALBANS NY 11412-3811

Account#:

Statement Date: 02/28/2018
Page#: 1

Suffix A - PRIMARY SAVINGS

TRAN	EFF	DESCRIPTION	AMOUNT	BALANCE	TRAN	EFF	DESCRIPTION	AMOUNT	BALANCE
02/01		PREVIOUS BALANCE		88276.91	02/28	02/28	DIVIDEND	67.72	88344.63
					02/28		NEW BALANCE		88344.63

02/28 DIVIDEND Information: TERM: 28 DAYS AVERAGE DAILY BALANCE: 88,276.91 *APYE: 1.01
Dividend Rate: 1.00%, YTD Dividend: 142.63
*APYE = ANNUAL PERCENTAGE YIELD EARNED

YTD TAX INFORMATION

YTD Taxable Dividends:	\$	142.63
YTD Taxable Interest:	\$	.00
YTD Finance Charges:	\$	.00

* * * VISIT WWW.TPFCU.NET FOR THE LATEST UPDATES * * *
* * * APPLY FOR VISA CREDIT CARD * * *
>> SIGN UP FOR OUR MOBILE APP TODAY <<
* HAVE YOUR TAX REFUND DEPOSITED DIRECTLY TO YOUR CREDIT UNION ACCOUNT
ROUTING # 226 075 291*



March 6, 2018

To whom it may concern,

Parker Dimensions, LLC, has been approved by our company to borrow funds of \$25,000 for the purpose of purchasing and \$80,000 for renovating investment related real estate at 53 Benkard Avenue, Newburgh, NY 12550. We are prepared to fund transactions up to this amount.

Within 10 business days of receipt by this office of contract acceptance and proof of clear title, certified funds for the contract balance due can be available at closing. If you need to verify this information or have any questions, please contact me at the number below.

Sincerely,

Matthew Weber

Matthew Weber
Alpha Funding Solutions, LLC
732-657-2014

Amber France
917-337-0497
parkerdimensions@gmail.com

Ms. France has over 15 years of experience managing high profile and challenging projects for various institutions including museums, financial, court, penal, governmental, office and transportation projects for clients such as city agencies, charities and entertainment producers. Ms. France has defined the scope of work for and managed various trades and staff on these projects. Ms. France has also created and updated complex progress schedules and budgets in accordance with the project requirements. She also independently negotiated, procured, renovated and leased/ sold distressed residential real estate units in different states. She performed over \$1.1 Million of real estate acquisitions. My mission is to use my knowledge, experience and efficiency to successfully manage construction projects and develop real estate for a favorable return on the investment.

Education: Home Inspection Continuing Education, Molloy College, Hempstead, NY
Real Estate Development Courses, Baruch College, NY, NY
Real Estate Development Courses, New York University, NY, NY
Property Inspection Courses, LaGuardia Community College, Queens, NY
Business Management Courses, Pace University, New York, NY
BS in Civil Engineering, Polytechnic University, Brooklyn, NY

New York Junior League Exterior Rear Stair Replacement, New York, NY

Works-in-Progress Associates (WPA) provided project management services to the New York Junior League (NYJL). The NYJL's exterior rear egress stair was failing. As senior project manager, Ms. France provided a schedule, budget and material ideas to the NYJL to replace the existing metal stair and balcony. She vetted and selected the design team and contractor to implement the replacement. Ms. France provided oversight to obtain Landmark's approval for the stair replacement. As a result of the work, the NYJL had a more aesthetic stair and complementary lighting for their events.

James Church Mechanical Upgrades, New York, NY

St. James Church required mechanical upgrades to serve their Church and office spaces which included a sensitive pipe organ system. WPA provided owner's representative services to the Church. Ms. France performed the scope of work which included drafting and issuing RFPs for the design team and contractor; vetting and interviewing the bidders for an optimal team; overseeing the development of the design and construction documents; and overseeing the construction work.

401 State Street Building Renovation, Brooklyn, NY

WPA provided owner's representative services for a Foundation that relocated its office from Manhattan to Brooklyn. The renovated building consisted of three floors with a cellar and the scope included adding a fourth floor, creating an off the street, private entry; individual and shared offices; flexible meeting rooms; new mechanical, electrical, plumbing, sprinkler, audio visual, and security systems; and a roof deck. As senior project manager for WPA, Ms. France onboarded and managed the design team, construction team, construction and client relocation. Her responsibilities included oversight of the schematic, design and construction documents; selection of the design consultants and construction manager through RFPs and interviews; establishment of the GMP; and oversight of the field work to ensure safety, quality, budget and schedule compliance.

Sirius XM Various Projects, New York, NY

As senior project manager for the SiriusXM office renovation and densification projects, Ms. France assessed budgets and schedules for the facility directors' and staff information. Ms. France provided oversight to on-site staff and contractors and advised on remediating potential delays and cost impacts.

City Hall Renovation Project, New York, NY

Hill International provided construction management services for the expansion of the City Hall Renovation Project. As senior project manager, Ms. France managed the scope which included excavating a quadrant of City Hall to create a new cellar level, the gut and renovation of the City Council Chamber and offices; the installation of life safety and MEP systems throughout City Hall; and Roofing work. Ms. France managed the contractors and coordinated with the clients to direct the work and satisfy their needs. The challenges that were met include coordinating all work amidst an occupied building, implementing a total redesign of the electrical infrastructure and working around the mayor's office impromptu noise embargos and changing deadlines. Ms. France also successfully managed four general contractors and their subcontractor.

Riker's Island Shower Reconstruction Projects, Queens, NY

At the Riker's Island correctional facility, Ms. France successfully replaced a project manager in the middle of a project without schedule disruption. To accomplish this, Ms. France coordinated and worked with the Department of Corrections and other stakeholders to perform the studied scope of work. Ms. France was able to perform the scope of work in close proximity with occupied inmate areas without effecting normal operations.

Jet Blue Terminal 5 Restaurant and Concessions Fit Out, JFK International Airport, OTG Client, Queens, New York.

Hill International provided Owner's Representative services for the interior fit-out of 16 restaurants, bars and kiosks and 10 interactive tables located inside the new Jet Blue Terminal 5 at JFK International Airport. As project manager, Ms. France facilitated field operations by providing viable technical solutions in the field given the remote A/E team and incomplete drawings; coordinated the existing conditions with the specified scope of work, deficient of as-builts; worked with JetBlue facilitates and the Port Authority and directed the field operations to ensure a quality workmanship, compliance with the standards and an efficient workforce. Overall, Ms. France managed the installation of an average of \$2M of work in place for 16 weeks. Ms. France negotiated and processed requisitions and over 300 change orders to ensure timely and reasonable payments. Ms. France prepared cost impact reports for the client to allow the recovery of lost funds.

DASNY Bronx Criminal Courthouse Complex, Dormitory Authority of the State of New York (DASNY).

Hill was providing change order services, punch list inspection, allowances, schedule delay analysis, parking garage and pre-cast inspection, and claims support services as part of DASNY's team. Ms. France interceded in ongoing issues to manage the remediation of the contractors' required punchlist work and verifying quality assurance and Code compliance. Ms. France often convened with the representatives of DASNY, the Department of Corrections, the Police Department and the Office of Court Administration to collect and coordinate their requirements. Ms. France also reviewed, negotiated and recommended requisitions and change orders.

Schomburg Center for Research in Black Culture, New York City Department of Design and Construction (NYCDDC), New York. This \$12M project entailed the gut, renovation and restoration of interior staff offices, galleries, and reading rooms; the upgrade of major HVAC systems and the installation of a curtain wall system. Ms. France served as project manager and led the team of separate prime trades in the drawing and field coordination of the various levels including the rooftop machine room. Ms. France ensured the work in place was in accordance with the construction documents and recommended safety, code and quality compliance. Ms. France prepared detailed reports for the client's information and actions including estimates, change orders, delay analysis, claims, monthly reports and schedules. Ms. France provided conflict resolution and minimized risks by my attention to detail, technical and practical management skills and through my interactions with the client, end users, the design team, and the contractors. Ms. France effectively processed requisitions for timely and reasonable payments.

Museum of Modern Art, New York City. At Morse Diesel, Inc., as part of the \$265 million project to renovate the galleries, offices and back of house spaces and in constructing new gallery floors, a 16 story office tower and machine rooms, Ms. France defined the scope of work for and managed the miscellaneous metals, elevators, escalators, millwork and window washing equipment trades. The miscellaneous metal work valued at \$2.65 million involved such coordination of the steel dunnage and framing for the mechanical units and ductwork in the two floor machine room and shafts. The coordination of the steel supports for art displays was also performed. The elevator scope of work valued at \$32.6 million included 8 traction passenger and freight elevators with custom metal cab interiors and the modernization of 4 passenger and freight elevators. In managing the various trades, Ms. France visited manufacturing shops to verify the schedule and workmanship. Ms. France managed the fit out of the conservation lab spaces by supervising the project managers to ensure the trades' works are fabricated and installed per the schedule, construction documents and art conservators. As part of my technical duties, Ms. France prepared cost impact statements and estimates for the client's information and action. Ms. France used AutoCAD to revise and maintain the site logistics plans for City approval. To facilitate the management of the documentation, Ms. France customized, maintained and trained coworkers in the use of Prolog to document and track logs

New York Stock Exchange Projects Trading Floor Expansion, New York, NY

One significant project at NYSE included the \$30 million expansion of the trading floor which entailed the installation of the state of the art trading booths and kiosks. At Morse Diesel, Ms. France took part in defining the scope of work for and managed various trades including millwork, ornamental metals and glazing work. Her work involved the coordination of the trades' work with the end user's data device interface.

Another project at the NYSE was the Supply and Exhaust Fan Replacement where Ms. France managed the mechanical and electrical work of installing new supply and exhaust fans and air handling units for the NYSE maintenance areas and cafeteria. The new fans and units were constructed and tied into the existing systems with minimal schedule shutdowns. The project scope also included the demolition of the old mechanical units upon the testing and operation of the new fans and units.

Another project Ms. France was integral at the NYSE was their Elevator Modernization Project. This particular project involved the upgrade of eleven sets of elevator motors, controller, machines and the fit out of the cabs' interior. Only one elevator was permitted to be shutdown at a time, therefore, the phasing of the elevators and the schedule of work was coordinated and expedited to accelerate the completion of the modernization.

Ayres Ave Property, North Plainfield, NJ

Ms. France purchased this single family house and rehabbed it with a renovation budget of \$45,000. The scope included gutting and installing a new kitchen and bathroom and adding a new bathroom to an attic suite. The basement was also rehabilitated to a comfortable living space. The result was a 18% return on my investment after 8 months.

Remington Avenue Property, Plainfield, NJ

Ms. France purchased this foreclosed single family house and rehabbed it with a renovation budget of \$50,000 and 6 week timeframe. The scope included gutting and installing a new kitchen and two bathrooms, replacing the roof and modernizing all interior spaces. The result was a 12% return on my investment after 4 months.

Carnegie Avenue Property, Plainfield, NJ

Ms. France purchased this foreclosed single family home and renovated it within a \$37,000 renovation budget and within a 2 month schedule. The renovation work included the gut and installation of the kitchen and bathroom; installation of new water heater and furnace; sanding and polishing of all hardwood floors and a new roof. The result was a 36% return on my investment after 8 months.

Harvard Street Property, Long Island, NY

Ms. France purchased this single family house and modernized it with a renovation budget of \$30,000. The result was a mother-daughter dwelling that is earning two rental incomes. She manages the property solely.

AWARDS/HONORS:

2014 Women's Builder's Council Outstanding Women

2000 Interior Design/Fit-Out Project of the Year, for the NYSE Trading Floor Expansion Project

CMAA Honorable Mention for Project of the Year for the Schomburg Center

Project

Schomburg Project Feature in the Real Estate & Construction Review Edition

Construction Communications Editorial Board named Schomburg Center Project as 100 Most Innovative

Project in the Tri-State and Philadelphia area

REGISTRATIONS/ CERTIFICATIONS/ AFFILIATIONS:

Certified Construction Manager

LEED Accredited Professional

OSHA 10 Hour Training Course

Passive House Project Experience

Certificate, 4 Hour User/Erector Supported Frame Scaffold Safety Training

Home Inspection License, NYS No. 16000040431

HUD Program (203K) Inspector, ID# P1832

New York Cares Volunteer

Property Proposal Summary

Location: 53 Benkard Avenue (on the south side between South Lander and Little Monument)

Tax Map Number: 45-13-3

Property Class: 220 – 2-Family Residence

Zoning: RM— Residential Medium Density; EEHD—East End Historic District

Description: 2-story, brick detached building. Year built: 1890+/-; 1814sf; lot size—25 x 117.

Condition: Poor

Assessed Value: \$ 25,300

Estimated Annual Taxes: \$ 1,283 +/-

Selling Price: \$ 25,300

The city acquired this property: April 2017

Offer Information:

Name: Amber France (Parker Dimensions LLC)

Offer Price: **\$ 43,000**

Construction Estimate: \$101,000 +/-

Proof of Financing: Alpha Funding, Triboro Postal FCU

Comment: This building has been vacant for several years; it is in poor condition. It needs complete renovation. The building had two apartments—one on each floor. There is no central heating system. Extensive repairs are needed throughout the building.

We received several proposals from qualified bidders; Ms. France's was the highest bid.

The purchaser plans a complete and thorough renovation of the two apartments. She is an experienced contractor in the New York City area who is very interested in trying her renovation skills in the City of Newburgh. She wants to be part of the movement to revitalize Newburgh. She has friends and relatives who live in the surrounding region.





Interior Photos



RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 221 THIRD STREET (SECTION 22, BLOCK 2, LOT 11)
AT PRIVATE SALE TO DENA SHOTTENKIRK FOR THE AMOUNT OF \$3,060.00**

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 221 Third Street, being more accurately described as Section 22, Block 2, Lot 11 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyer for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before June 29, 2018, 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>
221 Third Street	22 - 2 - 11	Dena Shottenkirk	\$3,060.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions Sale

221 Third Street, City of Newburgh (22-2-11)

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 2017-2018, 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 2017-2018, 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. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.

7. Notice is hereby given that the property lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provision of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
8. Notice is hereby given that the property is vacant and unoccupied. The parcel is being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the property and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
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. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
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 June 29, 2018. 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 property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
16. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
17. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
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 property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 173 FULLERTON AVENUE (SECTION 15, BLOCK 5, LOT 3)
AT PRIVATE SALE TO ODAI SOOKRAMNAUTH AND SHALENEE SOOKRAMNAUTH
FOR THE AMOUNT OF \$25,000.00**

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real property Tax law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell 173 Fullerton Avenue, being more accurately described as Section 15, Block 5, Lot 3 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have offered to purchase this property at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said property to the prospective buyers for the sum as outlined below, and upon the same terms and conditions annexed hereto and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before June 29, 2018, 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>
173 Fullerton Avenue	15 - 5 - 3	Odai Sookramnauth Shalenee Sookramnauth	\$25,000.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions Sale

173 Fullerton Avenue, City of Newburgh (15-5-3)

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 2017-2018, 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 2017-2018, 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. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.

7. Notice is hereby given that the property is vacant and unoccupied. The parcel is being sold subject to the City's Vacant Property Ordinance and all provisions of law applicable thereto. At closing, the purchaser will be required to register the property and remit the vacant property fee. It is the sole responsibility of the purchaser to redevelop such parcel in accordance with same.
8. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
9. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
10. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
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RECEIVED
2/28/18

Proposal Form

Contact Information:

Name: Odai Sookramnauth & Shalene Sookramnauth
Business Name (If Applicable): _____
Address: 499 Clarendon Road
City, State & Zip: Uniondale, NY 11553
Home phone: 516-851-5534
Business Phone: _____
Mobile Phone: _____
E-mail: ssookramnauth81@gmail.com
Federal I.D. No. (If Applicable): _____

Property Ownership Information:

Do you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - any properties in the City of Newburgh? Yes ___ No x

If you own property in the City of Newburgh, are any of these properties vacant and/or currently listed on the City of Newburgh's Vacant Building Registry? Yes ___ (attach explanation) No ___ N/A ___ (No property owned in the City of Newburgh)

If you own property in the City of Newburgh, are any of these properties rented? Yes ___ No ___ N/A ___ (No property owned in the City of Newburgh) If yes, do you have a current Rental License for each of the rental properties? Yes ___ No ___
☐ Verified (Internal Office Use Only); Date Verified: _____

Please list **all** of the addresses of properties you own – as an individual, member of an LLC, partner in a partnership, or officer in a corporation - in the City of Newburgh. Also indicate if any of these properties are vacant or rented. (You may attach a list of the properties if the space below is inadequate.): _____

Are you current on all municipal obligations (taxes, water charges, etc.)? Yes ___ No ___ (attach explanation) N/A x (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified _____

Do you have any outstanding code violations for properties owned in the City of Newburgh? Yes ___ (attach explanation) No ___ N/A x (No property owned in City of Newburgh)
☐ Verified (Internal Office Use Only); Date Verified _____

Have you had a previous tax foreclosure on a property owned by you in the City of Newburgh? Yes ___ (attach explanation) No x

Individual Property Bid Sheet

Information on Bid Property:

(If you are bidding on more than one property, please submit a completed copy of this page for **each** bid property. Please limit the total number of properties to a maximum of **three (3)**. Only one copy of the other pages in this application is required even if you are bidding on multiple properties.)

Property Address: 173 Fullerton Ave

S-B-L#: 15-5-3

Type of Project:

 ^x Single Family (includes a condominium unit)

____ Multi-Family (# of Units____)

_____ Mixed Use (Commercial & Residential - # of Residential Units _____)

For the property types listed above, will it be occupied by the purchaser: Yes ~~X~~ No

_____ Commercial _____ Industrial

_____ Vacant Land (Proposed Use: _____)

Offer Purchase Price: \$ 25,000

(An offer of **at least** the minimum purchase price is recommended. The "Offer Purchase Price" cannot be left blank.)

Does or will your proposal conform to existing zoning? Yes x No

Renovation Estimate (Pre-Qualifying) - How much do you anticipate investing in this project for renovations? Please consider in your estimate that most vacant properties need *significant* repairs before they can be occupied again. This estimate can be revised once you have obtained entry to the property. *A more detailed repair cost estimate will be required after interior access.* Do not include renovation cost estimate in the "Offer Purchase Price" listed above: \$ 75,000

Who will be doing the work? x Self x Other (complete below)

Please keep in mind that the City of Newburgh requires electrical and plumbing work to be performed by City of Newburgh licensed electricians and plumbers.

General Contractor: Newburgh on the Hudson LLC

Architect: As Needed

Engineer: As Needed

Finances:

(Applicant should provide not only sources of funding for the purchase of the property but also sufficient funding for the rehabilitation and/or development of the property.)

I am providing: ☐ Personal Financial Statement
☐ Letter from Lender/Investor
☒ Personal or Business Bank Statement
☒ Evidence of project funding
☐ Developers should provide three years financial statements

What You Should Attach:

- o Description of renovation plan with preliminary budget
- o Verification of financial capacity
- o Explanation of any tax delinquency/code violations/vacant building (if applicable)

Business Relationship:

Have you had a "business relationship" as defined in Chapter 34, Article 2 (B) (2) of the municipal code, with any City elected official in the 12 months prior to the due date of this proposal? Yes ☐ No ☒

INFORMATION RELEASE:

It is our intent that all personal financial information submitted with this proposal to the Department of Planning and Development shall be considered confidential. I hereby authorize the City of Newburgh Department of Planning and Development to obtain credit reports (by completing a PathStone Credit Report Authorization Form) and verify information supplied as part of this proposal. All information provided is true and accurate to the best of my knowledge. By signing, you also acknowledge reading and reviewing the "Standard Terms and Conditions of Sale".

Odai Sookramnauth
Odai Sookramnauth

Signature

Odai Sookramnauth

Date

Shalene Sookramnauth

Social Security #

Date of Birth:

Print Name

Submit Application to:

Department of Planning & Development
123 Grand Street, 1st Floor
Newburgh NY 12550

Buildout Cost Estimate

Property Address	173 Fullerton St, Newburgh NY 12250
Contact Person	Alvin Moonesar
Contact Phone	917-697-6960
Contact Email	amoonesar@live.com

Date	March 5, 2018
------	---------------

Building Issue	Notes	Projected Cost
Roof	Repair	\$ 15,000
Windows		\$ 4,000
Interior Walls, Doors, closets		\$ 15,000
Bathrooms	one and half	\$ 6,000
Floor	sub & carpet	\$ 8,500
Cellar	Clean up only	\$ 1,000
Plumbing, Heat & Hot water		\$ 10,000
Electrical		\$ 4,500
Kitchen		\$ 6,000
Exterior Work		\$ 5,000

Totals	\$ 75,000
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Total Project Cost	\$ 75,000
---------------------------	------------------

Funding Plan			
Loan	\$	200,000	\$ 200,000
Rate/Term		5.5 / 30	4.5 / 30
Principal & Interest/month	\$	1,136	\$ 1,013



Page 1 of 10

Year-To-Date Statement

January 1, 2017 - December 31, 2017

05918 SH PF118015

#BWNB8JW

#48S4LWSLC51#

SHEILA JADUNANDAN

499 CLARENDON RD

UNIONDALE, NY 11553

Have you made your 2017 IRA contributions yet? You have until April 17, 2018 to make your prior year contributions. It's also never too early to make your 2018 IRA contribution! To assist you with navigating through your tax preparation for this coming year, we created an easy-to-use online resource to help you prepare your state and federal tax returns for 2018. The tax guide information booklet is located at <https://primerica.impress-net.com/forms/taxguide.pdf>. PFSI representatives are not tax advisors. For tax advice concerning your unique tax situation, please consult your tax advisor. If you have any other questions, please contact Shareholder Services at 800-544-5445 or your PFSI representative. Thank you for your business and support through the years. We really appreciate it!

Household Value Summary

Retirement Account	\$34,124.48
Non-Retirement Account	\$2,407.83
Total Household Value	\$36,532.31

Household Accounts

Account Name	Account Number	Representative	Value
Retirement			
PFS INVESTMENTS CUST FOR THE ROTH IRA OF SHEILA JADUNANDAN	208328898	Gurpreet Kaur-Singh 516-881-7670	\$34,124.48
Non-Retirement			
SHEILA JADUNANDAN	210285083	Gurpreet Kaur-Singh 516-881-7670	\$2,407.83

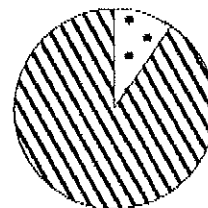
Retirement Summary**Activity Summary**

Beginning Value as of 01/01/17	\$30,872.00
Purchases*	\$0.00
Withdrawals*	\$0.00
Fees	-\$25.00
Dividends and Capital Gains Reinvest	\$2,143.20
Investment Results	\$1,134.28
Ending Value as of 12/31/17	\$34,124.48

* Includes Transfers

Asset Allocation

☒	0%	Aggressive Equity	\$0.00
☐	0%	Large Cap	\$0.00
☐	0%	Aggressive Bond	\$0.00
☐	10%	Sector/International	\$3,255.50
☐	0%	Bond/Income	\$0.00
☒	90%	Balanced	\$30,868.98
100%	Total Retirement	\$34,124.48	



Primerica Shareholder Services, P.O. Box 9662, Providence, RI 02940-9662

www.primerica.com

1-800-544-5445

Dalbar mutual fund service
award winner 14 years in a row.005918 - 0001 of 0005 - NNYNN - 029027 - PF118015 - J0826716
PFI - SFI - 210285083 - 00468 - 11111

Prospect Mortgage, LLC
42-40 Bell Blvd. Suite 101 Bayside NY, 11361



*Experienced.
Reliable.
On Time.*

February 12, 2018

Conditional Pre-Approval Letter for Odai Sookramnauth & Shalenee Sookramnauth

Dear Odai / Shalenee,

Based on the information you have provided and a preliminary review of your credit history, income, and assets, you are **pre-approved** for a mortgage loan up to the terms and amounts listed:

Purchase Price: \$300,000.00

Down Payment: \$60,000.00

Loan Type: Conventional

Rate Type: Fixed

Maximum Qualifying Loan Amount

1st Mortgage: \$240,000.00

2nd Mortgage: \$

Loan Term: 360 (in months)

Automated Underwriting System Response #:

Comments:

Property Type: Detached/Attached

Occupancy: Primary Residence

Payment: Principal & Interest

If Adjustable Rate Mortgage:

Index: **Annual Cap:**

Margin: **Life Cap:**

Mortgage Insurance:

This pre-approval is valid for 60 days from the date indicated above and is conditional on the following:

- x Verification of all information provided by you;
- x Satisfactory appraisal of the subject property;
- x Satisfactory title search; x Fully
executed sales contract; and
- x Underwriter review and approval of the complete loan file

Each loan application is reviewed on its own merits on a case-by-case basis. This pre-approval is not a commitment to lend or for a specific rate. If interest rates, points, and/or fees increase, it is possible that you may not qualify for the maximum purchase price and loan amount indicated above. Any adverse material changes to the information you have provided may affect final loan approval causing us to change or void this opinion without further notice.

I look forward to working with you on your transaction. We encourage you to apply and receive a full underwriting consideration. Please feel free to call me with any questions or concerns.

Sincerely,

Kennedy Mykoo

Loan Originator, NMLS #404358

718-533-3133

Fax. Cell

kennedy.mykoo@prospectmtg.com



Loan inquiries and applications in states where I am not licensed will be referred to a Loan Officer who is licensed in the property state. Equal Housing Lender. Prospect Mortgage is located at 15301 Ventura Blvd., Suite D300, Sherman Oaks, CA 91403, 800-464-2484. Prospect Mortgage, LLC, NMLS ID #3296, (www.nmlsconsumeraccess.org) is a Delaware limited liability company licensed by the Department of Business Oversight under the California Residential Mortgage Lending Act and operates with the following licenses: AZ Mortgage Banker License #BK0903027; Georgia Residential Mortgage Licensee #16984; Illinois Residential Mortgage Licensee; MA Mortgage Lender/Broker License #MC3296; MS Licensed Mortgage Co.; Licensed by the NH Banking Dept.; Licensed by the NJ Dept. of Banking and Insurance; Licensed Mortgage Banker – NYS Department of Financial Services located at 711 Westchester Avenue, Suite 304, White Plains, NY 10604; RI Licensed Lender, RI Licensed Loan Broker; In Texas, located at 8650 Freeport Parkway, Suite 130, Irving, TX 75063. This is not an offer for extension of credit or a commitment to lend. Loans are currently being closed and committed at the expressed rates, however these rates may change or may not be available at the time of your loan lock-in, commitment or closing. All loans must satisfy company underwriting guidelines, interest rates and APRs are based on recent market rates, are for informational purposes only, are subject to change without notice and may be subject to pricing add-ons related to property type, loan amount, loan-to-value ratio, credit score and other variables. Terms and conditions apply. Additional loan programs may be available. This is not an offer to enter into a rate lock agreement under MN law, or any other applicable law. Call for details. 3/2015

Property Proposal Summary

Location:	173 Fullerton Avenue (West side between South Street and Third Street)
Tax Map Number:	15-5-3
Property Class:	210 – 1-Family Residence
Zoning:	RL— Residential Low Density
Description:	2-story detached, single family home. Year built: 1921; 1275sf ; lot size—35 x 110.
Condition:	Fair
Assessed Value:	\$ 87,500
Estimated Annual Taxes:	\$ 4,438+/-
Selling Price:	\$ 35,000 @ 40%

The city acquired this property: April 2017

Offer Information:

Name:	Odai Sookramnauth & Shalene Sookramnauth
Offer Price:	\$ 25,000
Construction Estimate:	\$ 75,000 +/-
Proof of Financing:	Primerica account; Prospect Mortgage.

Comments: The purchasers are planning to move from Uniondale to the City of Newburgh. They would like to become homeowners in the City of Newburgh. Their mother, Sheila Jadunandan, is helping them financially with the purchase. This house, like many City-owned properties, needs some work. Among the repair items needed: a new roof, repairs to the bath and kitchen, new windows, etc.

The purchaser have reached out to professionals to get estimates on the work that is needs to be done. They estimate about \$75,000 in repairs to make this home habitable once again.





Exterior Photos



Interior Photos



RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND
ACCEPT IF AWARDED A NEW YORK STATE DEPARTMENT OF TRANSPORTATION
PEDESTRIAN SAFETY ACTION PLAN GRANT IN AN AMOUNT
NOT TO EXCEED \$635,500.00 WITH NO CITY MATCH FOR
A COMPREHENSIVE PEDESTRIAN IMPROVEMENT PLAN
FOR THE WEST END GATEWAY IN THE CITY OF NEWBURGH**

WHEREAS, the intersection of Washington and Lake Streets is a key link between Independent Living/Independence Square and Delano-Hitch Recreation Park and is near Muchattoes Lake, the Lake Street Apartments, Cerone Place, the Armory Unity Center, Cornerstone Family Health Center and the Save-a-Lot market and also has the highest number of accidents per mile of any street within the City of Newburgh; and

WHEREAS, the City, through an AARP Community Challenge Grant and in conjunction with Orange County Planning, Orange County Health Department, Independent Living, and Cornerstone Health implemented a Complete Streets Demonstration Project to be located at the intersection of Washington Street and Lake Street to provide increased pedestrian safety and accessibility; and

WHEREAS, the City of Newburgh proposes to undertake a comprehensive pedestrian improvement scheme for the entire West End Gateway, to include high-visibility crosswalks, clearly announcing “no-turn on red” or “yield on turn” rules to motorists, and at many intersections providing bump-outs and pedestrian refuges to limit the distance pedestrians need to cross the streets, some of which have already been installed temporarily through the City's Complete Street Demonstration Projects; and

WHEREAS, no matching funds are required from the City and the City Council finds that it is in the best interests of the City of Newburgh and its further development to apply for and accept the grant if awarded;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that the City Manager be and he hereby is authorized to apply for and accept if awarded a New York State Department of Transportation Pedestrian Safety Action Plan in an amount not to exceed \$635,500.00 with no City match for a comprehensive pedestrian improvement plan for the West End Gateway in the City of Newburgh; and that the City Manager is authorized to execute all such documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.



General Overview

Please consult the **Pedestrian Safety Action Plan (PSAP) Local Call for Projects Guidelines** and the PSAP Local Call Application Instructions before beginning the application. The guidelines and instructions can be found at <https://www.dot.ny.gov/divisions/operating/osss/highway/psap>.

Application Information

This application can be used to apply for pedestrian safety improvement projects consistent with the **Pedestrian Safety Action Plan Call for Local Projects Guidelines**.

To use the Adobe LiveCycle form, save a copy of the form to your computer. From your computer, open the saved form to start entering the requested information.

Web browsers such as Apple Safari, Google Chrome, and Mozilla Firefox may have their own non-Adobe PDF readers set as the default reader. If using one of these browsers, ensure that the default PDF viewer is changed to Adobe Reader. If Internet Explorer is used as the browser, typically no further action is needed. Applicants need Adobe Reader version 9 or higher to maximize the functionality in the form.

Unless otherwise indicated, use the "Tab" function to navigate through the form to ensure questions are answered in the correct order. Applicants are required to complete all required fields as they appear in the application. **Required fields are designated by a preceding asterisk (*) and may be highlighted in red.**

General Instructions for Completing the Application

Applicants must complete all sections of the application (Parts A-H)

PART A: Enter the Sponsor and/or Applicant Contact Information in the designated boxes. Municipalities that are interested in participating in the program but cannot sponsor their own project may leave the sponsor information blank.

PART B: Enter the project data in the designated boxes.

PART C: Enter data for each signalized intersection in the designated boxes.

PART D: Enter data for each uncontrolled crosswalk in the designated boxes.

PART E: Enter the PSAP funds requested and any other funds to be used in the designated boxes.

PART F: Enter the status and expected completion date for each deliverable.

PART G: Enter any other information pertinent to the project.

PART H: Sign the form, attach any additional supporting documentation such as backup for cost estimates and location maps to the email and submit the application.

Questions regarding this application may be directed to the NYSDOT Regional Planning contact or the MPO contact in your area. A contact list can be found at <https://www.dot.ny.gov/divisions/operating/osss/highway/psap>.

A completed application must be emailed to the
NYSDOT Regional Planning contact or the MPO contact in your area
no later than 3/9/2018.
Late applications will not be considered for funding.



PART A: APPLICANT INFORMATION

Applicants must complete all required fields as they appear in the application. Required fields are designated by a preceding asterisk (*).

SPONSOR INFORMATION:

*Sponsor Entity Name:	City of Newburgh				
*Salutation:	Mr.	*First Name:	Michael	*Last Name:	Ciaravino
*Title:	City Manager				
*Address 1:	83 Broadway				
Address 2:					
*City:	Newburgh	*State:	NY	*Zip Code:	12550
*Phone #:	845-569-7353	Fax Number:		*E-mail:	MCiaravino@cityofnewburgh-ny.gov

OTHER ENTITY:

If you are sponsoring this project on behalf of a municipality or other entity, enter the name here. If not applicable, enter "None."

*Other Entity Name:	
---------------------	--

CONTACT INFORMATION:

*Salutation:	Ms.	*First Name:	Alexandra	*Last Name:	Church
*Title:	City Planner				
☒ Check here if contact address information is the same as above. If not, please provide the following:					
*Address: 1	83 Broadway				
Address 2:					
*City:	Newburgh	*State:	NY	*Zip Code:	12550
*Phone #:	845-569-7388	Fax Number:		*E-mail:	achurch@cityofnewburgh-ny.gov



PART B: PROJECT DATA

*Project Name: Enter a project name

West End Gateways

*County: Pick the County from the drop down list

Orange

*Location: Enter one or more cities, towns or villages

City of Newburgh

MPO: Pick the MPO from the drop down (if applicable)

Orange County Transportation Council

*Urban Area: Pick the 2010 federal urban area from the drop down.

Poughkeepsie-Newburgh

Location Types: Enter the number of signalized intersections and uncontrolled crosswalks included in this project.

8 *Signalized Intersections

1 *Uncontrolled Crosswalks

*Enter a detailed project description below (Attach more information if necessary):

The City of Newburgh is looking to further the pedestrian realm on a targeted area of the City that has the highest incidents of traffic accidents, including pedestrian accidents, in the City. SLOSS data indicates that Lake Street has the highest incidents per linear feet of any street in the City, and Broadway has the highest number of incidents overall. At the intersection of Lake Street and Washington Street alone, there were 86 crashes between 2012-2016. This segment of the City connects high density housing (including specialized housing for those with disabilities), especially around Muchattoes Lake (along Lake Drive and Cerone Place); with services and attractions across Lake Street and across Broadway, such as the community health center, supermarket, parks, Armory Unity Center, and Broadway shopping. These streets are also both extremely wide, greatly increasing the distance that pedestrians must cross and the potential for a vehicle pedestrian conflict.

The City proposes to undertake a comprehensive pedestrian improvement scheme for the entire West End Gateway, especially by adding high-visibility crosswalks, clearly announcing "no-turn on red" or "yield on turn" rules to motorists, and at many intersections providing bump-outs and pedestrian refuges to limit the distance pedestrians need to cross the streets. These interventions have already been installed temporarily through the City's "Complete Street Demonstration Projects," which have used paint and plastic bollards to "try out" pedestrian improvements. However, high-speeds of travel and rough winters make these paint only interventions only last 1-2 years, and a more permanent solution will greatly improve safety.

The project proposes improvements to 8 signalized intersections and one additional non-signalized intersection which will provide access directly to and between parks and activities and housing developments. This will also work towards the City's and Orange County's plans for a trail system that links the Hudson River with Snake Hill. CONT. on ATTACHED

Describe any related education or enforcement efforts targeting pedestrian safety below:

The City of Newburgh has been implementing its Complete Streets demonstration projects for the last 2.5 years, including along Lake Street and Washington Street. This project includes substantial public outreach on pedestrian safety, including graphics development, public meetings, and most importantly "Demonstration Projects" where the community comes out to help install painted curb extensions, bump-outs, and other mock-ups of safety improvements, while we discuss why these improvements are necessary. This project was undertaken in 2017 at the Lake Street/ Washington Street intersection, funded through a AARP grant, and in conjunction with Orange County Planning, Orange County Health Department, Independent Living, and Cornerstone Health.

Detailed Project Description

The City of Newburgh is looking to further the pedestrian realm on a targeted area of the City that has the highest incidents of traffic accidents, including pedestrian accidents, in the City. SLOSS data indicates that Lake Street has the highest incidents per linear feet of any street in the City, and Broadway has the highest number of incidents overall. At the intersection of Lake Street and Washington Street alone, there were 86 crashes between 2012-2016. This segment of the City connects high density housing (including specialized housing for those with disabilities), especially around Muchattoes Lake (along Lake Drive and Cerone Place); with services and attractions across Lake Street and across Broadway, such as the community health center, supermarket, parks, Armory Unity Center, and Broadway shopping. These streets are also both extremely wide, greatly increasing the distance that pedestrians must cross and the potential for a vehicle pedestrian conflict.

The City proposes to undertake a comprehensive pedestrian improvement scheme for the entire West End Gateway, especially by adding high-visibility crosswalks, clearly announcing “no-turn on red” or “yield on turn” rules to motorists, and at many intersections providing bump-outs and pedestrian refuges to limit the distance pedestrians need to cross the streets. These interventions have already been installed temporarily through the City’s “Complete Street Demonstration Projects,” which have used paint and plastic bollards to “try out” pedestrian improvements. However, high-speeds of travel and rough winters make these paint only interventions only last 1-2 years, and a more permanent solution will greatly improve safety.

The project proposes improvements to 8 signalized intersections and one additional non-signalized intersection which will provide access directly to and between parks and activities and housing developments. This will also work towards the City’s and Orange County’s plans for a trail system that links the Hudson River with Snake Hill. Specific project information and reports can be found at the following locations:

<https://www.cityofnewburgh-ny.gov/planning-development/pages/lake-street-complete-streets>

https://www.cityofnewburgh-ny.gov/sites/newburghny/files/u576/kdlc_2015_dec_9_-_ncsp_ip.pdf

This project will also have the added benefit of tying together the West End’s recreation areas, some of which are the focus of major redevelopment, especially Crystal Lake and Snake Hill—both areas now being developed by Scenic Hudson. The neighborhoods directly served by these intersections have the largest parks in the City both by land mass and by use, including the Armory Unity Center, a flagship community center in the Hudson Valley with thousands of visitors a week.

Pedestrian safety is of an utmost concern in the City of Newburgh, where over 70% of households have access to 1 or fewer vehicles, and 33% of households do not have any access to a vehicle. Additionally, most housing units do not have access to driveways, meaning that even for those who have access to vehicles, walking along and crossing streets is a multi-daily occurrence.



PART C: LIST OF SIGNALIZED INTERSECTIONS

Enter data for each signalized intersections in the project. All locations must be identified.

*Priority	*Municipality	*Intersection Name or Cross Streets	*Latitude	*Longitude	*Potential Improvements (select all that apply)
1	City of Newburgh	Lake Street at Washington St/ Terr.	41.499416	-74.026850	☐ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☒ Standard No Turn on Red Signs ☒ Overhead blank-out NTOR ☒ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☒ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☒ Raised Pedestrian Median Refuge/Curb Extension ☒ Illumination Other:

Pedestrian Safety Action Plan Call for Local Projects Application

*Priority	*Municipality	*Intersection Name or Cross Streets	*Latitude	*Longitude	*Potential Improvements (select all that apply)
4	City of Newburgh	Little Britain Road/ West St at Washington Terrace	41.500784	-74.030916	☒ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☒ Standard No Turn on Red Signs ☒ Overhead blank-out NTOR ☒ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☒ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☒ Raised Pedestrian Median Refuge/Curb Extension ☒ Illumination Other:
5	City of Newburgh	West Street at Broadway	41.501381	-74.030830	☒ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☐ Standard No Turn on Red Signs ☒ Overhead blank-out NTOR ☒ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☒ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☒ Raised Pedestrian Median Refuge/Curb Extension ☒ Illumination Other: Standard No Turn on Red Signs (check box doesnt work here)
6	City of Newburgh	Little Britain Road at Cerone Place	41.499868	-74.033200	☐ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☐ Standard No Turn on Red Signs ☐ Overhead blank-out NTOR ☐ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☒ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☐ Raised Pedestrian Median Refuge/Curb Extension ☐ Illumination Other:



Pedestrian Safety Action Plan
Call for Local Projects
Application

*Priority	*Municipality	*Intersection Name or Cross Streets	*Latitude	*Longitude	*Potential Improvements (select all that apply)
7	City of Newburgh	Broadway at Fullerton	41.501071	-74.026572	☐ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☒ Standard No Turn on Red Signs ☒ Overhead blank-out NTOR ☒ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☒ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☒ Raised Pedestrian Median Refuge/Curb Extension ☐ Illumination Other:
8	City of Newburgh	Broadway between West and Fullerton	41.501279	-74.029343	☐ Signal Timing ☐ Backplates ☐ Countdown timers ☒ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☐ Standard No Turn on Red Signs ☐ Overhead blank-out NTOR ☐ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☐ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☒ Raised Pedestrian Median Refuge/Curb Extension ☐ Illumination Other:
					☐ Signal Timing ☐ Backplates ☐ Countdown timers ☐ High Vis Xwalk Mark ☐ Restrict Pkg ☐ Left Turn Phasing ☐ Accessible Ped Signal ☐ Leading Ped Int ☐ Standard No Turn on Red Signs ☐ Overhead blank-out NTOR ☐ No Turn on Red Optional Plaques (R10-11, R10-30, NYR7-4P, NYR7-5P) ☐ Turning Vehicle Yield to Ped Sign ☐ Signal Ahead Signs ☐ Advance Cross Street Name Signs ☐ New Ped Signal ☐ Raised Pedestrian Median Refuge/Curb Extension ☐ Illumination Other:



PART D: LIST OF UNCONTROLLED CROSSWALKS

Enter data for each uncontrolled crosswalk in the project. All locations must be identified.

*Priority	*Municipality	*Road Name	*Latitude	*Longitude	*Basic Pkg	Potential Enhanced Treatments (Select all that apply)
1	City of Newburgh	Lake Street	41.498211	-74.027929	☒ Yes ☐ No	☒ In-street Ped Signs ☐ Restrict Pkg ☒ Additional Signs and/or Markings in advance of X-Walk ☒ RRFB ☐ HAWK ☐ Illumination Other: Explain why enhanced treatments are appropriate. Lake Street is extremely wide and straight = fast cars
					☐ Yes ☐ No	☐ In-street Ped Signs ☐ Restrict Pkg ☐ Additional Signs and/or Markings in advance of X-Walk ☐ RRFB ☐ HAWK ☐ Illumination Other: Explain why enhanced treatments are appropriate.
					☐ Yes ☐ No	☐ In-street Ped Signs ☐ Restrict Pkg ☐ Additional Signs and/or Markings in advance of X-Walk ☐ RRFB ☐ HAWK ☐ Illumination Other: Explain why enhanced treatments are appropriate.
					☐ Yes ☐ No	☐ In-street Ped Signs ☐ Restrict Pkg ☐ Additional Signs and/or Markings in advance of X-Walk ☐ RRFB ☐ HAWK ☐ Illumination Other: Explain why enhanced treatments are appropriate.



PART E: FUNDING SUMMARY TABLE

*Enter the total amount of PSAP funding being requested as well as any other fund sources planned to deliver the project. Enter a value for all cells in the PSAP Funds Requested column. If zero, enter zero. Please include backup for the cost estimates and attach to the email when the form is submitted.

Use of Funds	*PSAP Funds Requested	Amount of Other Funds(if applicable)	Other Fund Source (if applicable)	Total
*ROW Incidental				
*ROW Acquisition	0			0
*Preliminary Design	45,000			45,000
*Design	77,000			77,000
*Construction	446,500			446,500
*Construction Insp	67,000			67,000
Total	635,500			635,500

First Instance

* Local sponsors are required to first instance project costs and will receive reimbursement from NYSDOT per the terms of a State Local Agreement. In the space below, identify the fund source that will be used to first instance project costs. Also identify when the first instance funds will be available.

The City's general fund can be used to first instance project costs.

PART F: PROJECT SCHEDULE

In the table below, select the status that best represents the project deliverable. Enter an anticipated completion date for any phase that is not yet complete.

Project Deliverables	*Status	Anticipated Completion Date
*Initial Project Proposal	Initiated	6/01/2018
*Plans, Specifications, and Estimate (PS&E)	Not Started	11/1/2018
*Project Letting	Not Started	12/1/2018
*Construction	Not Started	11/15/2019

*Describe any impediments to delivery by the dates stated above. If none, enter none.

None.

*Describe any assistance needed to deliver the project. If none, enter none.

None.



Department of Transportation

Pedestrian Safety Action Plan Call for Local Projects Application

PART G: OTHER INFORMATION

Enter any other information pertinent to the project.

PART H: APPLICATION SUBMISSION

☐ By checking this box, the applicant certifies that the funding applied for herein adheres to the Application Instructions and Guidance.

Signing the Application: The Sponsor's Chief Executive Officer (or designee) authorized to enter into an agreement with the New York State Department of Transportation must sign this application. The person signing the agreement should be the same person empowered to accept federal funds on behalf of their agency.

Applicant Signature:

Save Form

Print Form

Submitting the Application: Click on the "Submit by Email" button to submit the application to NYSDOT.

Attach any additional supporting documentation such as backup for cost estimates and location maps to the email.

Submit By Email

FOR NYSDOT USE ONLY:

☐ Fund as requested ☐ Fund with modification(s) ☐ Consider State let local project ☐ Not Eligible

Notes:

Signature:

Legend

West End Gateways Streets

Intersections

Type

- Signalized
- Un-Signalized

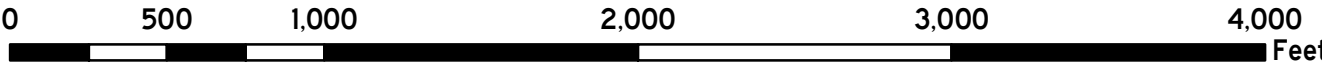
FOR VISUAL REFERENCE ONLY



West End Gateways Project



DISCLAIMER: City of Newburgh makes no representations and provides no warranties, expressed or implied, concerning the accuracy, completeness, or suitability of this map for any particular purpose, and/or for title infringement and assumes



NYSDOT Quick Estimator Reference - Downstate							
Item No.	Item	Unit	Unit Price	Quantity	Subtotal	NYSDOT Item Numbers for Bid History	Note
608.01100409	Concrete Sidewalk (4" thick)	SF	39.00		\$0.00	608.0101 - CONCRETE SIDEWALKS AND DRIVEWAYS 627.50140008 - CUTTING PAVEMENT 203.02 - UNCLASSIFIED EXCAVATION AND DISPOSAL 304.12 - SUBBASE COURSE, TYPE 2 633.14 - REMOVAL AND REPAIR OF HMA PAVEMENT 630.1403 - TOPSOIL - LAWNS 630.1602 - TURF ESTABLISHMENT - LAWNS 609.0401 - CAST-IN-PLACE CONCRETE CURB	Includes removal of the existing sidewalk, saw cutting, excavation, disposal, fill, subbase material, compaction, and the construction of the new sidewalk with associated curbing, patching and repairs to affected asphalt and concrete, topsoil, establishing turf and finish work. All material and labor required to perform these tasks is included. DOES NOT include required adjustments to utilities
608.01100015	Concrete Sidewalk (4" thick, 5' wide)	LF	195.00		\$0.00	608.0101 - CONCRETE SIDEWALKS AND DRIVEWAYS 627.50140008 - CUTTING PAVEMENT 203.02 - UNCLASSIFIED EXCAVATION AND DISPOSAL 304.12 - SUBBASE COURSE, TYPE 2 633.14 - REMOVAL AND REPAIR OF HMA PAVEMENT 630.1403 - TOPSOIL - LAWNS 630.1602 - TURF ESTABLISHMENT - LAWNS 609.0401 - CAST-IN-PLACE CONCRETE CURB	Includes removal of the existing sidewalk, saw cutting, excavation, disposal, fill, subbase material, compaction, and the construction of the new sidewalk with associated curbing, patching and repairs to affected asphalt and concrete, topsoil, establishing turf and finish work. All material and labor required to perform these tasks is included. DOES NOT include required adjustments to utilities
608.020102	Multiuse Asphalt Path (10' wide)	LF	92.00		\$0.00	608.020102 - HMA SIDEWALKS DRIVEWAYS AND BICYCLE PATHS	Includes all prep of subgrade, sawcutting and tack coat. Doesn't include curbing, grading or turf establishment. NOTE: Prices have been volatile over the past 3 years.
608.0105-09	ADA Curb Ramp	EA	4,050.00		\$0.00	608.0101 - CONCRETE SIDEWALKS AND DRIVEWAYS 627.50140008 - CUTTING PAVEMENT 203.02 - UNCLASSIFIED EXCAVATION AND DISPOSAL 304.12 - SUBBASE COURSE, TYPE 2 633.14 - REMOVAL AND REPAIR OF HMA PAVEMENT 630.1403 - TOPSOIL - LAWNS 630.1602 - TURF ESTABLISHMENT - LAWNS 609.04 - CAST-IN-PLACE CONCRETE CURB (AS DETAILED) 608.2 - DETECTABLE WARNING UNIT	Includes demolition, saw cutting, excavation, disposal, fill, subbase material, compaction, construction of the new curb ramps, landings and associated curbing, detectable warning units, repairs to affected asphalt and concrete, topsoil, establishing turf on disturbed areas, and finish work. NOTE: There are significant variations in the complexity and price of curb ramps. This figure represents an average.
685.20000015 (Pavement Markings)	LS Type (Ladder) Crosswalk	EA	1,500.00	25	\$37,500.00	685.01 - WHITE EPOXY REFLECTORIZED PAVEMENT SYMBOLS - 15 MILS 635.0103 - CLEANING AND PREPARATION OF PAVEMENT SURFACES	Assume 700 LF of 4" striping per crosswalk. Includes application, removal and covering of pavement lines, letters, symbols, stop bars, crosswalks and any other markings, and any required cleaning and preparation of the surface to receive the markings
609.10010209 609.10010015	Concrete Curbing	LF	100.00		\$0.00	609.04 - CAST-IN-PLACE CONCRETE CURB (AS DETAILED) 627.50140008 - CUTTING PAVEMENT 203.02 - UNCLASSIFIED EXCAVATION AND DISPOSAL 304.12 - SUBBASE TYPE II 630.1403 - TOPSOIL - LAWNS 630.1602 - TURF ESTABLISHMENT - LAWNS 633.14 - REMOVAL AND REPAIR OF HMA PAVEMENT	Includes demolition, saw cutting, excavation, disposal, fill, subbase material, landscaping (adjustments and grading of existing ground), compaction, and the construction of new curb, repairs to affected asphalt and concrete as necessary, topsoil, establishing turf (to disturbed areas), finish work. Item 609.10010015 includes required adjustment to utilities. Item 609.10010209 DOES NOT include required adjustment of utilities
N/A	Asphalt Paved Snow Storage Area	SF	12.00		\$0.00	608.020102 - HMA SIDEWALKS DRIVEWAYS AND VEGETATION CONTROL STRIPS 304.12 - SUBBASE TYPE II	Price for textured or colored asphalt will be higher.
N/A	Raised crosswalk	EA	15,000.00		\$0.00		
N/A	Bumpout	EA	18,000.00	17	\$306,000.00		
N/A	Mini roundabout	EA	175,000.00		\$0.00		
645.86000015	Small Single Post-Mounted Signs	EA	875.00		\$0.00	645.5101 - GROUND MOUNTED SIGN PANELS 645.8 - SIGN POST	Includes sign supports, sign foundations, necessary hardware, demolition, excavation, removal of sign panels, posts, supports, foundations, and the relocation of existing signs (to include new sign post or relocated sign post), disposal of any material removed, patching and repairs to affected asphalt and concrete as necessary, topsoil, establishing turf, Landscaping (adjustments and grading of existing ground), finish work, and any required adjustments to utilities.
645.80000X15	Solar powered radar speed sign	EA	9,000.00		\$0.00		Limited price data. Includes demolition, saw cutting, excavation, disposal, fill, subbase material, compaction, adjustments and grading of existing ground, patching, repairs to affected asphalt and concrete as necessary, topsoil, establishing turf on disturbed areas, finish work, and any required adjustments to utilities, breakaway transformer base, furnishing electrical service, controls and control cabinet, and concrete foundation for pole.
N/A	Wooden Bollard	EA	300.00		\$0.00	Based on old price data for 615.75 - TIMBER BOLLARDS FIXED (Disapproved)	Includes the cost of excavation and backfill and furnishing all labor, materials, and equipment necessary to complete the work
680.8225	Pedestrian push button on existing signal	EA	300.00		\$0.00	680.8225 - PEDESTRIAN PUSHBUTTON AND SIGN - WITHOUT POST	
680.01030015	New pedestrian signal with push buttons	EA	8,700.00		\$0.00	680.510501 - PULLBOX, RECTANGULAR 680.520108 - CONDUIT, METAL STEEL, ZINC COATED, 3" 680.8142 - PEDESTRIAN SIGNAL POST TOP MOUNTED ASSEMBLY 680.730514 - SIGNAL CABLE, 5 CONDUCTOR, 14 AWG 206.03 - CONDUIT EXCAVATION AND BACKFILL INCLUDING SURFACE RESTORATION 680.6708 - TRAFFIC SIGNAL POLE -TOP MOUNT, 8FT MOUNT HEIGHT 680.81310010 - AUDIBLE PEDESTRIAN SIGNAL (Includes button and sign) 680.813103 - PEDESTRIAN SIGNAL SECTION, TYPE I, 12 INCH 680.813104 - INSTALL LED PEDESTRIAN SIGNAL MODULE	Includes demolition, saw cutting, excavation, disposal, fill, topsoil, establishing turf (to disturbed areas), repairs to affected asphalt and/or concrete as necessary, Traffic Signal Systems, and components (removed and or supplied / installed), Traffic Signal Systems wiring, including vehicle detection (removed and or supplied / installed), furnishing electrical service, finish work, and any required adjustments to utilities.
554.50000009 554.50000015	Low Height Retaining Wall	SF	95.00		\$0.00	554.40 - FILL TYPE RETAINING WALL (0 - 6FT.)	Includes demolition, saw cutting, excavation, disposal, fill, adjustments and grading of existing ground, sub-base material, compaction, drainage material, drain pipe, geotextile material and all labor and material necessary, including backfill, leveling pads, joint fillers, geotextiles, face units and coping units, subsurface drainage system; necessary patching and repairs to affected asphalt or concrete, topsoil, establishing turf on disturbed areas, finish work. 554.50000009 does NOT include adjustments to utilities. 554.50000015 includes adjustment to utilities.
610.10000015	Landscape Development (Establishing turf)	SY	14.00		\$0.00	630.1602 - TURF ESTABLISHMENT - LAWNS 630.1403 - TOPSOIL - LAWN	Price is for the establishment of turf, but spec includes pruning of trees and/or shrubs, removal of trees and/or stumps, erosion control measures (including check dams, silt fence and mulch), and the establishment of any plants; finish work, and required adjustments to utilities.
% WZTC based on project complexity		10%	Percentage	1	\$34,350.00		
% for Incidentals, Inflation and Contingencies		20%	Percentage	1	\$68,700.00		
				Total Construction Cost =		\$446,550.00	
% for Survey		10%	Percentage	1	\$44,655.00		
\$10,000 + 10% for Design (adjust for project complexity)		10%	Percentage	1	\$76,982.50		
% for Construction Inspection (adjust for project complexity)		15%	Percentage	1	\$66,982.50		
				Total Project Cost =		\$635,170.00	
Additional cost information for design features can be found in "Costs for Pedestrian and Bicyclist Infrastructure Improvements," UNC Highway Safety Research Center, October 2013 http://katana.hsrc.unc.edu/cms/downloads/Countermeasure%20Costs_Report_Nov2013.pdf							

Updated: Feb 2018

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT
A NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF
\$152,592.00 TO FUND A CITY OF NEWBURGH POLICE DETECTIVE IN SUPPORT OF
THE NON-FATAL SHOOTINGS INITIATIVE PROGRAM**

WHEREAS, the City of Newburgh has been awarded a New York State Division of Criminal Justice Services Edward Byrne Memorial Justice Assistance Grant in the amount of \$152,592.00; and

WHEREAS, such grant funding will be used to fully fund a City of Newburgh Police Detective position including fringe benefits and overtime to work with the Orange County District Attorney Investigator and the City's Crime Analyst in support of the Non-Fatal Shootings Initiative Program; and

WHEREAS, this Council has determined that accepting such grant would be in the best interests of the City of Newburgh and the City of Newburgh Police Department;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept from the New York State Division of Criminal Justice Services Edward Byrne Memorial Justice Assistance Grant in the amount of \$152,592.00 to fund a City of Newburgh Police Detective position in support of the Non-Fatal Shootings Initiative Program; and

BE IT FURTHER RESOLVED, that the City Manager is authorized to execute any documents and to take appropriate action to effectuate the purposes of the grant and the program funded thereby.

CITY OF NEWBURGH, NY

Account Balance Report

Account No	Description	Type	2018 Act Bal	2018 Bud Bal
CG.3120.3388.3305.2019	JAG GRANTS.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	R	0.00	152,592.00
CG.3120.0101.3305.2019	SALARY.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	77,910.00
CG.3120.0103.3305.2019	OVERTIME.NON-FATAL SHOOTINGS INITIATIVE PROG DCJS#BJ16632854	E	0.00	10,000.00
CG.3120.0105.3305.2019	HOLIDAY PAY.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	4,182.00
CG.3120.0107.3305.2019	LONGEVITY.BYRNE MEMORIAL JAG PROGRAM	E	0.00	1,900.00
CG.3120.0461.3305.2019	TRAVEL AND CONFERENCE.NON-FATAL SHOOTINGS INITIATIVE PROG - PROJ#BJ16-1024-D00	E	0.00	2,000.00
CG.3120.0815.3305.2019	POLICE/FIRE RETIREMENT.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	20,584.00
CG.3120.0830.3305.2019	SOCIAL SECURITY.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	6,401.00
CG.3120.0835.3305.2019	MTA TAX.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	284.00
CG.3120.0860.3305.2019	HEALTH INSURANCE.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	27,931.00
CG.3120.0880.3305.2019	EMPLOYEE BENEFIT.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	500.00
CG.3120.0890.3305.2019	LIFE INSURANCE.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	155.00
CG.3120.0891.3305.2019	EMPLOYEE ASSISTANCE PRGM.NON-FATAL SHOOTINGS INITIATIVE PROG - DCJS#BJ16632854	E	0.00	29.00
Total Number of Accounts:	13	Total:	0.00	(716.00)



City of Newburgh

GRANT APPLICATION FORM



Grant Requestor:

Please complete the following form and submit the form along with either a hard copy of the grant announcement or the grant announcement website address to the City of Newburgh Grants Coordinator for processing. You will be notified when your grant request has been approved to be sent for City Council Resolution.

NOTE: All fields are required unless marked "OPTIONAL."

SECTION A. COMPLETED BY GRANT REQUESTOR

NAME OF PROJECT FOR GRANT: Non-Fatal Shootings Initiative Program	NAME OF DEPARTMENT REQUESTING GRANT: Police Department	NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT: Doug Solomon Chief of Police
NAME OF GRANT/NAME OF AWARING AGENCY: Byrne Justice Assistance Grant (JAG) DCJS #BJ16632854	GRANT SUBMITTAL DATE: February 28, 2018	AMOUNT OF AWARD: \$152,592.00
MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND) NO	AMOUNT REQUIRED BY THE CITY OF NEWBURGH: NONE	(OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS:

PROJECT PLAN: Grant funding will be utilized to fully fund a City of Newburgh Police Detective position (including fringe and overtime) to work with an O.C. District Attorney investigator and crime analyst to support the Non-Fatal Shootings Initiative Program

Scope of Project: **Assign a Detective to the position.**

Project Timeline: (ex. Dates) Funding period is for one year. Funding period runs from 3/01/18 through 02/28/2019

SECTION B. FOR REVIEW BY CITY COMPTROLLER



City of Newburgh

GRANT APPLICATION FORM

GRANT MATCH REQUIREMENT REVIEWED? YES/NO:

COMMENTS:

IN-KIND SERVICES REQUIREMENT REVIEWED? YES/NO

COMMENTS:

STAFFING ISSUES REVIEWED? YES/NO:

COMMENTS:

ANY ADDITIONAL COMMENTS:

→ APPROVED BY CITY COMPTROLLER? YES/NO

CITY COMPTROLLER
SIGNATURE: _____

DATE: _____

NOTE: IF GRANT APPROVED, CITY COMPTROLLER WILL FORWARD TO CITY MANAGER FOR REVIEW. IF GRANT NOT APPROVED, CITY COMPTROLLER TO RETURN TO GRANTS COORDINATOR FOR FURTHER REVIEW BY PROJECT SPONSOR.

SECTION C: FOR REVIEW BY CITY MANAGER

→ APPROVED BY CITY MANAGER? YES/NO

CITY MANAGER
SIGNATURE: _____

DATE: _____

SECTION D: FOR REVIEW BY CORPORATION COUNSEL

→ APPROVED BY CORPORATION COUNSEL FOR RESOLUTION? YES/NO

CORPORATION COUNSEL
SIGNATURE: _____



City of Newburgh

GRANT APPLICATION FORM

DATE: 3/5/2018

DATE RESOLUTION TO BE SENT TO CITY COUNCIL MEETING:

Also prepared for 3/22/18 W.S. + 3/26/18 Council meeting

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**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 2018**

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 11 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 2018.



EMPLOYMENT & TRAINING ADMINISTRATION

Stephen Knob
Director

18 Seward Avenue, Suite 103
Middletown, NY 10940

TEL: (845) 615-3630 • FAX: (845) 346-1173

E-MAIL: eta@co.orange.ny.us

www.orangecountygov.com

Steven M. Neuhaus
County Executive

Mary DeFreitas, Chair
Workforce Development Board

TO: Prospective Summer Youth Employment Program Worksites
FROM: Carmen Lucinares, Youth Services Coordinator
DATE: March 1, 2018

RE: 2018 SUMMER YOUTH EMPLOYMENT & TRAINING PROGRAM WORKSITE APPLICATION

**Applications can be downloaded at www.orangecountygov.com/syep
Click on the Worksite Application**

The Orange County Employment & Training Administration (OCETA) operates a countywide federally-funded Summer Youth Employment Program (SYEP) for disadvantaged youth between the ages of 14 and 20. The SYEP provides youth with 5 weeks of employment, up to 30 hours per week, at minimum wage, and worker compensation coverage.

We are in the process of coordinating the 2018 federally-funded Summer Youth Employment Program (SYEP). The program tentatively will run from Monday, July 3rd through Friday, August 4th. The participants will obtain Labor Market/Work Readiness Training before the Summer Youth Program, after they will continue their employment at their perspective worksite.

As in years past, the funding for this program is uncertain, however, we are moving forward with anticipation that support will be forthcoming. If you are interested in serving as a Worksite, please complete and return the application by **Monday, April 2, 2018** either by:

Fax to Carmen at (845) 346-1173 or email clucinares@co.orange.ny.us

Worksites are selected based on a commitment to provide a learning-enriched employment experience for young workers. Please be advised that all **summer youth participants are insured by the Orange County for worker compensation coverage.**

After you have completed and returned your application, we will contact you to schedule a Worksite Orientation at which time a contract will be completed. If you have any questions, please feel free to contact me at (845) 346-1112 or (845) 615-3630.

We hope to work with you this summer. Thank you in advance for your willingness to guide and nurture the County's developing workforce.

Carmen Lucinares
Orange Works
33 Fulton Street 2nd Floor
Middletown, NY 10940
(845) 346-1112



Steven M. Neuhaus
County Executive

Mary DeFreitas, Chair
Workforce Development Board

EMPLOYMENT & TRAINING ADMINISTRATION

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Director

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E-MAIL: eta@co.orange.ny.us
www.orangecountygov.com

SUMMER YOUTH EMPLOYMENT PROGRAM Worksite Application 2018

Agency's Legal Name	
Address	
Phone Number:	
Fax:	E-Mail:
Proposal Prepared By	
Person to Contact (if different than above):	
Phone Number	
Fax:	E-Mail:
Summer Contact Person	
Phone Number:	
Fax:	E-Mail:
Total Number of Positions Requested:	

IMPORTANT INFORMATION

- ***Participants can work up to 30 hours per week (excluding lunch).***
- ***Based on NY State Labor Laws participants can take half hour or one hour of unpaid lunch.***
- ***Participants cannot work more than 6 hours per day.***
- ***Participants can work from 8:30AM to 5:00PM, Monday through Friday (NO WEEKENDS).***
- ***Participants cannot participate in any recreational field trips.***

SUMMER YOUTH WORKSITE APPLICATION 2018

Will your agency be able to accommodate youth participating in the program who must work less than 30 hours per week?	
Yes	No
If yes, please provide new hours of work:	
If applicable, how does the worksite plan to use youth during inclement weather?	
Does your agency require youth participants to meet any specific qualifications in order to perform Work duties? (Please keep in mind program participants have little or no work experience)	
Yes	No
Does your agency require youth pre-screening prior to program start up?	
Yes	No
If yes, please explain:	

JOB DESCRIPTION: Provide a job description for each position you are requesting. Please be specific about the tasks the participant(s) will be responsible for. If more space is needed, please attach separate sheets.

A.	JOB TITLE	Number of Positions Requested							
Hours of Work		Days of Work							
Supervisor's Name		Phone Number							
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

B.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			
JOB DESCRIPTION:			

WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

C.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			
JOB DESCRIPTION:			

WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

E.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			

JOB DESCRIPTION:

WORK SCHEDULE									
---------------	--	--	--	--	--	--	--	--	--

MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

F.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			

JOB DESCRIPTION:

WORK SCHEDULE									
---------------	--	--	--	--	--	--	--	--	--

MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

G.	JOB TITLE	Number of Positions Requested							
Hours of Work		Days of Work							
Supervisor's Name		Phone Number							
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

CHECK THE FOLLOWING STATEMENTS ACCORDINGLY:		YES	NO
1.	Can your agency provide transportation for SYEP participants?		
2.	Agency is a bona fide non-profit organization operating on a Year Round basis with verification of tax exempt status?		
3.	SYEP participants must have a supervisory ratio of 12:1. The number of regular employees plus program participants equals this ratio.		
4.	Work location is large enough to accommodate both staff and the number of participants requested.		
5.	Sheltered facilities are available in the event of inclement weather.		
6.	Is your worksite(s) free from hazardous conditions?		
7.	Location has all the equipment and supplies necessary for youth to perform work activities.		
8.	Work activities proposed are sufficient to employ each youth working 30 hours per week.		
9.	Has your agency previously participated in the SYEP?		
	If yes, when?		

PLEASE NOTE

The program is tentatively scheduled to run from Monday, July 2nd, 2018 to Friday, August 3rd, 2018.

The following criteria must be met **BEFORE** the program's inception:

- All work locations must be inspected and monitored by the SYEP staff.
- Worksite must complete worksite agreement with SYEP staff.
- Worksite supervisors or support staff **must** attend the worksite orientation provided by SYEP staff.

Recreation Seasonal Youth Employees 2018

Position	Number of Employees	Job Description	Hours
Junior Counselor	5	Under the direction of the Camp Director, the Junior Camp Counselor is responsible for the direct supervision of camp participants in a seasonal camp setting. Maintain positive relations with parents and other staff. Performs other duties as assigned.	8:00am to 3:00pm
Swimming Pool Aide	4	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 errandranner.	12:00pm to 6:00pm
Recreation Aide	6	Assist with the operation of the summer basketball program, to include setting up prior to games, operating the score clock, maintaining the scorebook, and cleaning up at the conclusion of games.	3:00pm to 9:00pm
Total	15		3:00pm to 9:00pm

Recreation Seasonal Youth Employees 2018

Position	Number of Employees	Job Description	Hours
Junior Counselor	5	Under the direction of the Camp Director, the Junior Camp Counselor is responsible for the direct supervision of camp participants in a seasonal camp setting. Maintain positive relations with parents and other staff. Performs other duties as assigned.	8:00am to 3:00pm
Swimming Pool Aide	4	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 errandrunner.	12:00pm to 6:00pm
Recreation Aide	6	Assist with the operation of the summer basketball program, to include setting up prior to games, operating the score clock, maintaining the scorebook, and cleaning up at the conclusion of games.	3:00pm to 9:00pm
Total	15		3:00pm to 9:00pm



EMPLOYMENT & TRAINING ADMINISTRATION

Stephen Knob
Director

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Middletown, NY 10940

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www.orangecountygov.com

Steven M. Neuhaus
County Executive

Mary DeFreitas, Chair
Workforce Development Board

TO: Prospective Summer Youth Employment Program Worksites

FROM: Carmen Lucinares, Youth Services Coordinator

DATE: March 1, 2018

RE: 2018 SUMMER YOUTH EMPLOYMENT & TRAINING PROGRAM WORKSITE APPLICATION

**Applications can be downloaded at www.orangecountygov.com/syep
Click on the Worksite Application**

The Orange County Employment & Training Administration (OCETA) operates a countywide federally-funded Summer Youth Employment Program (SYEP) for disadvantaged youth between the ages of 14 and 20. The SYEP provides youth with 5 weeks of employment, up to 30 hours per week, at minimum wage, and worker compensation coverage.

We are in the process of coordinating the 2018 federally-funded Summer Youth Employment Program (SYEP). The program tentatively will run from Monday, July 3rd through Friday, August 4th. The participants will obtain Labor Market/Work Readiness Training before the Summer Youth Program, after they will continue their employment at their perspective worksite.

As in years past, the funding for this program is uncertain, however, we are moving forward with anticipation that support will be forthcoming. If you are interested in serving as a Worksite, please complete and return the application by **Monday, April 2, 2018 either by:**

Fax to Carmen at (845) 346-1173 or email clucinares@co.orange.ny.us

Worksites are selected based on a commitment to provide a learning-enriched employment experience for young workers. Please be advised that all **summer youth participants are insured by the Orange County for worker compensation coverage.**

After you have completed and returned your application, we will contact you to schedule a Worksite Orientation at which time a contract will be completed. If you have any questions, please feel free to contact me at (845) 346-1112 or (845) 615-3630.

We hope to work with you this summer. Thank you in advance for your willingness to guide and nurture the County's developing workforce.

Carmen Lucinares
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SUMMER YOUTH EMPLOYMENT PROGRAM Worksite Application 2018

Agency's Legal Name	
Address	
Phone Number:	
Fax:	E-Mail:
Proposal Prepared By	
Person to Contact (if different than above):	
Phone Number	
Fax:	E-Mail:
Summer Contact Person	
Phone Number:	
Fax:	E-Mail:
Total Number of Positions Requested:	

IMPORTANT INFORMATION

- ***Participants can work up to 30 hours per week (excluding lunch).***
- ***Based on NY State Labor Laws participants can take half hour or one hour of unpaid lunch.***
- ***Participants cannot work more than 6 hours per day.***
- ***Participants can work from 8:30AM to 5:00PM, Monday through Friday (NO WEEKENDS).***
- ***Participants cannot participate in any recreational field trips.***

SUMMER YOUTH WORKSITE APPLICATION 2018

Will your agency be able to accommodate youth participating in the program who must work less than 30 hours per week?	
Yes	No
If yes, please provide new hours of work:	
If applicable, how does the worksite plan to use youth during inclement weather?	
Does your agency require youth participants to meet any specific qualifications in order to perform Work duties? (Please keep in mind program participants have little or no work experience)	
Yes	No
Does your agency require youth pre-screening prior to program start up?	
Yes	No
If yes, please explain:	
JOB DESCRIPTION: Provide a job description for each position you are requesting. Please be specific about the tasks the participant(s) will be responsible for. If more space is needed, please attach separate sheets.	

A.	JOB TITLE	Number of Positions Requested							
Hours of Work		Days of Work							
Supervisor's Name		Phone Number							
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

B.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			

JOB DESCRIPTION:

WORK SCHEDULE

MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

C.	JOB TITLE	Number of Positions Requested	
Hours of Work		Days of Work	
Supervisor's Name		Phone Number	
Address (If different from above)			

JOB DESCRIPTION:

WORK SCHEDULE

MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

E.	JOB TITLE	Number of Positions Requested							
Hours of Work		Days of Work							
Supervisor's Name		Phone Number							
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	
F.	JOB TITLE				Number of Positions Requested				
Hours of Work					Days of Work				
Supervisor's Name					Phone Number				
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

G.	JOB TITLE	Number of Positions Requested							
Hours of Work		Days of Work							
Supervisor's Name		Phone Number							
Address (If different from above)									
JOB DESCRIPTION:									
WORK SCHEDULE									
MON		TUE		WED		THU		FRI	
Start		Start		Start		Start		Start	
Lunch		Lunch		Lunch		Lunch		Lunch	
End		End		End		End		End	

SUMMER YOUTH WORKSITE APPLICATION 2018

CHECK THE FOLLOWING STATEMENTS ACCORDINGLY:		YES	NO
1.	Can your agency provide transportation for SYEP participants?		
2.	Agency is a bona fide non-profit organization operating on a Year Round basis with verification of tax exempt status?		
3.	SYEP participants must have a supervisory ratio of 12:1. The number of regular employees plus program participants equals this ratio.		
4.	Work location is large enough to accommodate both staff and the number of participants requested.		
5.	Sheltered facilities are available in the event of inclement weather.		
6.	Is your worksite(s) free from hazardous conditions?		
7.	Location has all the equipment and supplies necessary for youth to perform work activities.		
8.	Work activities proposed are sufficient to employ each youth working 30 hours per week.		
9.	Has your agency previously participated in the SYEP?		
	If yes, when?		

PLEASE NOTE

The program is tentatively scheduled to run from Monday, July 2nd, 2018 to Friday, August 3rd, 2018.

The following criteria must be met **BEFORE** the program's inception:

- All work locations must be inspected and monitored by the SYEP staff.
- Worksite must complete worksite agreement with SYEP staff.
- Worksite supervisors or support staff **must** attend the worksite orientation provided by SYEP staff.

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**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, by Resolution No. 104 of April 24, 2017, the City of Newburgh renewed the contract with MLSS for an additional 1 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 three 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 _____, 2018, 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, 2018, and ending March 31, 2021.

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 Broad form contractual Liability, bodily injury and property damage	\$1,000,000 aggregate \$2,000,000 each occurrence each claim
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. VENDOR'S obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

ARTICLE 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 F. WOEBSE
PRESIDENT & CEO

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.**

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

Under this 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.

Emergency 911 EMS Coverage

MLSS will provide a minimum of two (2) fully equipped and staffed 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 ambulances located in and near the City will be dispatched to either respond to the scene or to standby to await additional calls.

Stand-by Coverage

MLSS will provide additional staffed ambulances for approved stand-by assignments within the City. 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 can be for a single incident such as a working structure fire, or for multi-day events at the waterfront for example. Other than for public safety emergency incidents, this coverage would be for City of Newburgh sponsored events only. While MLSS will normally provide no-cost coverage to local community agencies for events they host that need EMS present, but 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 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 public caused by an unnecessary emergency response. With this clarification to the RFP criteria, we propose the following:

- **Response time:** MLSS will adhere to response time criteria of *eight (8) minutes (defined as 0:08:59) 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.
- **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 eight (8) minutes. For example: If the monthly response time performance for the month was 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. 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 of calls 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:

Mobile Life Support Services 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.

Agreement duration and renewal options:

Mobile Life Support Services has provided continuous high-quality Emergency Medical Services to the City of Newburgh and proposes to continue this service with a minimum of a three (3) year agreement. Renewals and longer-term agreements are also available. We have learned that a successful EMS system design often depends on effective planning and the management of assets and resources. The stability of a three-year agreement allows our organization to more accurately predict costs and better allocate resources.

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 duration of the agreement. The agreement would be for a three (3) year period with renewal options. 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.

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.

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 eight (8) minutes (0:08:59) in 90% of all 911 EMS emergency calls (excluding non-emergent "ALPHA" responses), as identified previously in this proposal.

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: 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 (EMT). 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: Continued Sponsorship for the Newburgh National Night Out Against Crime

MLSS has supports the National Night Out Against Crime throughout our service area, in addition to the other charitable organizations we support in the Newburgh Community, we will continue to dedicate funds and resources necessary to assist in promoting a successful Night Out Against Crime event for the duration of our partnership with the City as their EMS provider.

Corporate Profile

The following information sheet will help to familiarize you with Mobile Life Support Services

Legal Corporate Name: Mobile Life Support Services, Inc.

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

Contact Information: Telephone: (845) 561-5698
Fax: (845) 562-4055
E-Mail: Mail@Mobilelife.com
Website: www.Mobilelife.com

24-hour Emergency Communications Center: 1-800-858-1025

Type of Business: Commercial Ambulance Service
Equal Opportunity Affirmative Action Employer

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

Owner: Gayle Metzger-Houser RN
Chair of the Board of Directors

Founded: June 21, 1981 in Newburgh, NY

Area of Operation: Orange, Ulster, Dutchess, Rockland & Westchester
Counties of NY

Current Employment: 475 Full and Part Time Staff

Emergency Vehicles: 68

Operations Stations: 25

Services Provided:

Comprehensive EMS Operations and Training

911 Emergency Paramedic Ambulance (64 Ambulances)

Municipal 911 EMS Contracting

Basic and Advanced Life Support Ambulances

Paramedic First Response Services (6 Response Units)

Emergency and Non-Emergency Ambulance Transportation

Special Operations Response Team (SORT)

Tactical Emergency Medical Services (TEMS) Team

HAZMAT Response with Orange and Ulster County

Emergency Communications Center (Secondary 911 PSAP)

Leased Staffing Ambulance Services

Mobile Integrated Health Care Programs

Special Event EMS Planning and Operations

Community Event Stand by Services

Disaster Planning and Training Programs

Medical Facility Evacuation Planning

Medical Billing Services

EMS Educational Services

CPR and First Aid Training

EMS System Design Consultation Services

Operations Stations

Designation	Address	Municipality
Headquarters	3188 US Route 9W	New Windsor
Station 1	69 Dickson Street	Newburgh-City
Station 3	299 North Plank Road	Newburgh-Town
Station 5	35 Peach Place	Middletown
Station 6	489 Route 17M	Middletown-East
Station 7	200 Midway Park Drive	Circleville
Station 8	2359 Albany Post Road	Walden
Station 10	1786 Kings Highway	Chester
Station 12	100 Ramapo Street	Monroe
Station 13	2044 Route 32	Modena
Station 14	52-56 Cornell Street	Kingston
Station 15	2039 Route 32	Rosendale
Station 16	1776 Route 9W	Lake Katrine
Station 17	216 Route 299	Highland-West
Station 18	25 Milton Avenue	Highland
Station 19	Hudson Bluff Circle	Marlboro
Station 20	1092 Main Street	Fishkill
Station 21	2502 Route 52	East Fishkill
Station 23	2886 Route 9D	Wappingers Falls
Station 25	12 Tioronda Avenue	Beacon
Station 26	16 Pershing Avenue	Poughkeepsie
Station 27	1 East Dorsey Lane	Hyde Park-Fairview
Station 28	13 Charles Street	Pleasant Valley
Station 29	695 Dutchess Turnpike, Suite 118	Arlington
Station 40	3199 Albany Post Road	Peekskill

Communities Served:

Primary 911 Services to the following communities:

City of Newburgh	Town of Fishkill
City of Middletown	Town of Lloyd
City of Kingston	Town of Marlborough
City of Poughkeepsie	Town of Ulster
Village of Fishkill	Town of Chester
Village of Wappingers Falls	Town of Wawayanda
Town of Poughkeepsie	Town of Rosendale
New Hamburg Ambulance District	Town of Otisville/Mt. Hope
Arlington Fire District	Town of Pleasant Valley

Providing Paramedic and EMS Mutual Aid Services to the following communities:

City of Beacon	Town of Woodbury
Town of Newburgh	Town of Fishkill
Town of Highlands	Town of East Fishkill
Town of Montgomery	Town of Marlborough
Town of Crawford	Town of New Paltz
Town of Wallkill	Town of Plattekill
Town of Goshen	Town of Rochester
Town of Greenville	Hamlet of Wallkill
Town of Hamptonburgh	Town of Shawangunk
Village of Florida	
Town of Monroe	

Providing Medical Transportation Services to the following facilities:

Bon Secours Community Hospital

Caste Point VA Hospital

Ellenville Community Hospital

Hudson Valley Health Alliance Kingston & Benedictine Campuses

Keller Army Hospital

Mid-Hudson Regional Medical center

Montrose VA Hospital

Orange Regional Medical Center

St. Anthony's Community Hospital

St. Luke's Cornwall Hospital

Vassar Brothers Medical Center

Annual Call Volume: Over 96,000 emergency, non-emergency and standby
and tactical responses

Senior Leadership:

Gayle Metzger
Co-Founder
Chair of the Board of Directors

Scott F. Woebse
President &
Chief Executive Officer

Timothy G. Scannell
Vice President & Chief Financial Officer

William T. Jeffries
Chief of Operations & Compliance Officer

Richard E. Miller
Director of Operations

Kevin T. Hayes
Director of Client Relations

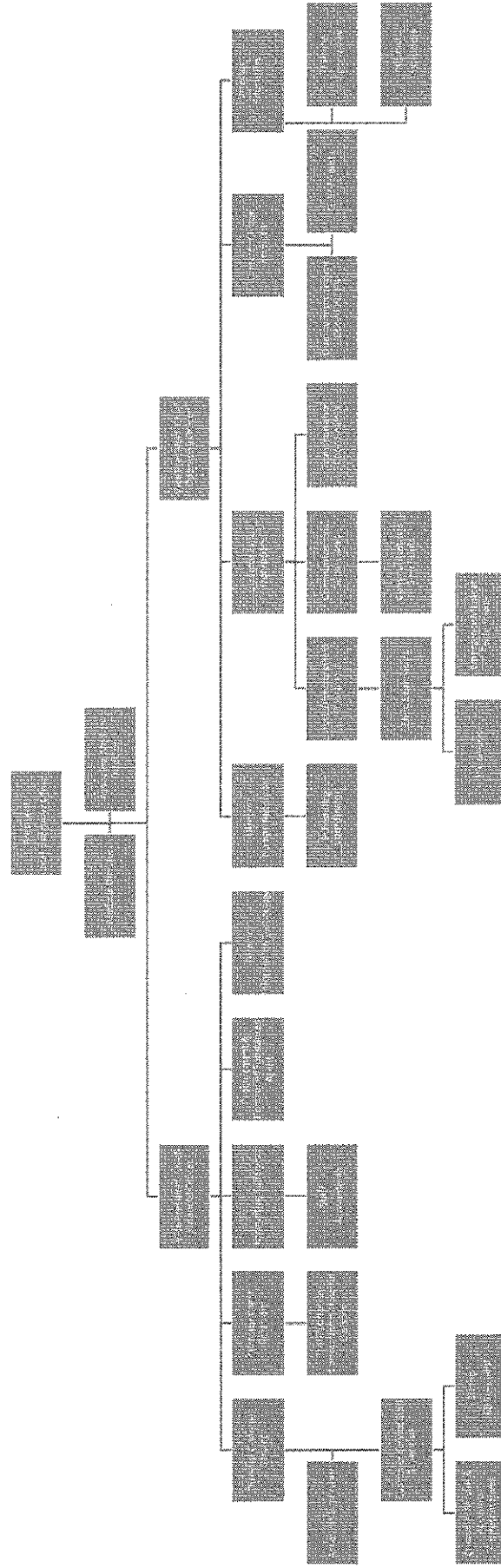
David Grass
Director of EMS Education

Matthew T. Brennan
Director of Clinical Services

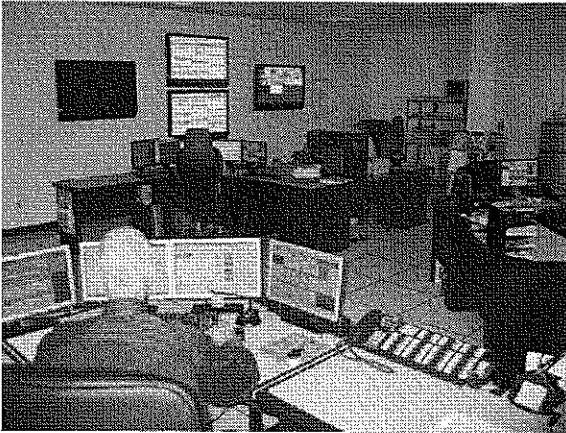
Emily R. Smith
Director of Human Resources

Christopher Martinez
Director of Information Technology

Mobile Life Support Services Organizational Chart



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 Centers.

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 Communications 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. This uses satellite global positioning system technology and updates itself every six (6) seconds

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 four (4) SORT teams, currently deployed for response in the Cities of Newburgh, Middletown, Poughkeepsie 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 deployment 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.

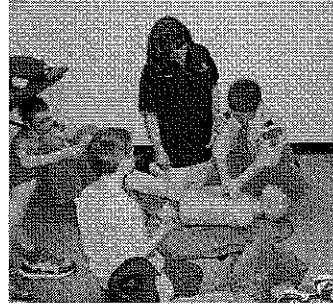
Personnel

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 drills and can be recalled while off-duty for an active deployment.

TEMS team members are not armed 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 with the City of Newburgh Police Department and has deployed with them numerous times.

Mobile Life Support Services EMS & Community Education Division



Mission

The MLSS Education Division has three primary missions:

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

Accreditations

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

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-Paramedic (EMT-P) Refresher Programs
- Continuing Medical Education (CME) Conventional and Internet Based

The American Heart Association

- Basic Life Support (BLS) CPR – All original and refresher courses
- First Aid and CPR – All original and refresher courses
- Advanced Cardiac Life Support (ACLS) Original and Refresher courses
- Pediatric Advanced Life Support (PALS) Original and Refresher courses

The National Association of Emergency Medical Technicians (NAEMT)

- Pre-Hospital Trauma Life Support (PHTLS)
- Advanced Medical Life Support (AMLS)
- Geriatric Emergency Care (GEMS)
- Emergency Pediatric Care

Coaching Systems: Coaching the Emergency Vehicle Operator (CEVO)

Personnel

The MLSS Education Division is comprised of over forty (40) instructors and instructor trainers. Each year they train over 500 members of local emergency service agencies, and over 1100 members of the community.

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 performance 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 Interaction

The MLSS Medical Director, Anthony Ruvo MD, FACEP, and Associate Medical Director, Pamela Murphy, MD, FACEP, provide system-wide oversight for our Quality Improvement Committee and our team of Quality Improvement Coordinators and Quality Improvement Specialists. The QI Committee is comprised of MLSS Paramedics, Emergency Medical Technicians (EMT) and provides peer reviews. The QI Coordinators are responsible for the daily review and monitoring of all calls, and 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 team, 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.

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**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, 2013 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, by Resolution No. 103-2017 of April 24, 2017 the parties renewed the license agreement of an additional 1 year term commencing on April 1, 2017 and terminating on March 31, 2018; and

WHEREAS, the parties wish to renew the license agreement for an additional three (3) year term commencing on April 1, 2018 and terminating on March 31, 2021; 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 eighteen, 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, 2018 and terminating on March 31, 2021. 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 its municipal buildings 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 Licensor a license fee of \$50,000.00 per year, to be paid in quarterly payments of \$12,500.00 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, 2018. Licensor shall not charge Licensee any additional use or maintenance fees for the Classroom Space.

Fourth: Licensee shall notify the Licensor 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 Licensor 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, Licensor 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 Licensor.

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 Licensor 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 Licensor 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 Licensor'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 Licensor 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 Licensor 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.

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THE CITY OF NEWBURGH
LICENSOR

By:

MICHAEL G. CIARAVINO, City Manager
Per Resolution No.

MOBILE LIFE SUPPORT SERVICES, INC.
LICENSEE

By:

SCOTT WOEBSE, President & CEO

Approved as to Form:

KATHRYN MACK
City Comptroller

Approved as to Form:

MICHELLE KELSON
Corporation Counsel

RESOLUTION NO.: _____ - 2018

OF

MARCH 26, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE
POLICE CHIEF AS MANAGER'S DESIGNEE TO EXECUTE AN
INTER-MUNICIPAL AGREEMENT WITH THE COUNTY OF ORANGE CONFIRMING
CITY OF NEWBURGH PARTICIPATION IN THE STOP-DWI PROGRAM
FOR THE ENFORCEMENT PERIOD OF MARCH 15, 2018 TO JANUARY 1, 2019 AND
TO ACCEPT AN AWARD NOT TO EXCEED \$3,145.00 COVERING 60 PERSON-HOURS
FOR THE FIRST ENFORCEMENT PERIOD OF 2018 (MARCH 15, 2018 – MAY 29, 2018)**

WHEREAS, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an Inter-Municipal Agreement for a full year of participation to provide for the funding of the STOP-DWI Program within the City of Newburgh and an award notification for the enforcement period of March 15, 2018 and ending January 1, 2019; and

WHEREAS, the City of Newburgh agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows: First Enforcement Period – March 15, 2018 through May 29, 2018, which includes St. Patrick's Day and the Memorial Day holiday weekend; Second Enforcement Period – June 30, 2018 through September 4, 2018, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns; and the Third Enforcement Period – November 1, 2018 through January 1, 2019, which includes Thanksgiving, Christmas and New Year's holiday enforcement campaigns; and

WHEREAS, the County shall reimburse the City of Newburgh for increased patrol and court time in connection with enhanced enforcement of laws prohibiting driving while intoxicated; and

WHEREAS, based on the data submittals submitted for the prior year the City of Newburgh is eligible for an award not to exceed \$3,145.00 covering 60 person-hours for the First Enforcement Period of 2018; and

WHEREAS, the County will notify the City in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2018 by a separate written award letter prior to the commencement of each such enforcement period; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager or the Police Chief as Manager's designee be and he is hereby authorized to execute an Inter-Municipal Agreement with the County of Orange confirming the City's participation in the STOP-DWI Program for the period February 15, 2018 through January 1, 2019 in order to fund the additional cost of stepped-up police patrols and related court appearances and providing the City of Newburgh with an award not to exceed \$3,145.00 covering 60 person-hours for the First Enforcement Period of 2018 (March 15, 2017 through May 29, 2018); and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh, New York that the City Manager or the Police Chief as Manager's designee be and he is hereby authorized to accept subsequent awards for the Second Enforcement Period (June 30, 2018 through September 4, 2018) and Third Enforcement Period (November 1, 2018 through January 1, 2019) covered by the 2018 STOP-DWI Agreement; and to execute all necessary documents to receive and comply with the terms of such Agreement and to carry out the program funded thereby.



INTER-MUNICIPAL AGREEMENT

THIS INTER-MUNICIPAL AGREEMENT ("IMA") is entered into this 15th day of February, 2018, by and between the **COUNTY OF ORANGE**, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services ("COUNTY"), and the **CITY OF NEWBURGH**, a City of the State of New York, with its principal offices at 55 Broadway, Newburgh, NY 12550, by and through its Police Department ("MUNICIPALITY").

ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY is a municipal corporation chartered under the authority of the State of New York. Among other powers and duties, the COUNTY, by and through its Department of Emergency Services, administers the COUNTY's Special Traffic Options Program for Driving While Intoxicated in accordance with New York State Vehicle and Traffic Law Section 1197 ("STOP DWI Program"). The purpose of the STOP DWI Program is to coordinate and fund Orange County's town, city, and village efforts to reduce alcohol-related traffic injuries and fatalities. To facilitate this goal the COUNTY and the MUNICIPALITY recognize that police patrol enforcement campaigns are an effective tool towards ensuring safe and sober roadways.

It is the intention of the COUNTY, in order to carry out the goals of the STOP DWI Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable campaign periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York ("State"), and local laws.

ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on February 15, 2018 and end January 11, 2019.

ARTICLE 3. PROCUREMENT OF AGREEMENT

The MUNICIPALITY represents and warrants that no person or selling agency has been employed or retained by the MUNICIPALITY to solicit or secure this IMA upon an agreement for, or upon an understanding of, a commission, percentage, a brokerage fee, contingent fee

or any other compensation. The MUNICIPALITY 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. The MUNICIPALITY makes such representations and warranties to induce the COUNTY to enter into this IMA and the COUNTY relies upon such representations and warranties in the execution hereof.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or to take any other action provided for by law or pursuant to this IMA.

ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, 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 COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, 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 IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (2) submits such a Disclosure form and (a) discloses his/her interest in this IMA, or (b)

seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY'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 IMA.

ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

ARTICLE 6. BOOKS AND RECORDS

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

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

ARTICLE 7. RETENTION OF RECORDS

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of expenditures or fees under this IMA as may be required

by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 9. INDEMNIFICATION

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

ARTICLE 10. TERMINATION

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

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

Any rights and remedies of the COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this IMA.

ARTICLE 11. GENERAL RELEASE

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

ARTICLE 12. SET-OFF RIGHTS

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

ARTICLE 13. GOVERNING LAW

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

ARTICLE 14. ENTIRE AGREEMENT

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

ARTICLE 15. MODIFICATION

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

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

COUNTY OF ORANGE

By: _____
Steven M. Neuhaus
County Executive

DATE: _____

MUNICIPALITY

By: _____
Name: _____
Title: _____

DATE: _____

SCHEDULE A-1
NEW YORK STATE VEHICLE AND TRAFFIC LAW §1197 FUNDS

ENFORCEMENT CAMPAIGNS/AGREEMENT TO PARTICIPATE.

MUNICIPALITY agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows:

First Enforcement Period – March 15, 2018 through May 29, 2018, which includes St. Patrick's Day and the Memorial Day holiday weekend.

Second Enforcement Period – June 30, 2018 through September 4, 2018, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns.

Third Enforcement Period – November 1, 2018 through January 1, 2019, which includes Thanksgiving, Christmas, and the New Year's holidays enforcement campaigns.

Each of the three (3) enforcement campaigns coincides with state and national enforcement campaign efforts.

DATA SUBMITTAL.

MUNICIPALITY agrees to deliver to the COUNTY enforcement activity data in the form provided by the COUNTY, in its sole discretion, and required to be completed by the COUNTY, no later than ten (10) calendar days after the end of each enforcement period. Failure to timely submit the data may result in the MUNICIPALITY receiving the calculated minimum amount of hours/dollars for the next succeeding enforcement period or no award at all.

AWARD OF FUNDS.

Provided that MUNICIPALITY has performed in accordance with the terms of this IMA, the COUNTY, to the extent that funds are appropriated and available, will make up to three (3) awards of funds to support the MUNICIPALITY's STOP DWI Program enforcement campaigns. Each such award shall be data driven based upon the data submitted by the MUNICIPALITY to the COUNTY for enforcement activities occurring during the preceding enforcement period.

FIRST ENFORCEMENT PERIOD AWARD.

Based on data submittals from the MUNICIPALITY for the prior enforcement period November 1, 2017 through January 1, 2018, which submittals were required to be submitted to the COUNTY pursuant to a separate IMA between MUNICIPALITY and COUNTY, MUNICIPALITY is eligible for an award not to exceed **THREE THOUSAND ONE HUNDRED FORTY-FIVE DOLLARS AND 00/100 (\$3145)** covering 60 man-hours for the first enforcement period of 2018. The actual award payment to MUNICIPALITY shall be that amount earned as a result of man-hours expended by the MUNICIPALITY for STOP DWI Program enforcement activities during each preceding enforcement period as supported by the data submitted by the MUNICIPALITY.

WRITTEN NOTIFICATION OF AWARDS FOR THE SECOND AND THIRD ENFORCEMENT PERIODS OF 2018.

COUNTY will notify MUNICIPALITY in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2018 by a separate written award letter delivered to MUNICIPALITY prior to the

commencement of each such enforcement period. Each award letter shall state a not to exceed dollar value of the funds available to the MUNICIPALITY for reimbursement of man hours expended operating enforcement patrols during the applicable enforcement period and shall be annexed to and made a part of this IMA.

*Disburse
Item*

Resolution number 64 2018
Of
March 12, 2018

Resolution directing Corporation counsel to
define the legal protocol
for any and all Requests for Proposals[RFP]

Whereas; all elected officials and their
subordinates know and understand that any
and all conflicts of interest should be
identified prior to any or all proposals be
considered

Whereas; This resolution is in the best
interest for all elected Officials and their
subordinates to understand, what a conflict
of interest is, and abstaining from any and
all voting will be required

Now, be it resolved, we here by direct
Corporation counsel Michelle Kelson, to

**provide any circumstance and or scenario
that defines or identifies a conflict of
interest**

**Be it further resolved, The urgency of this
matter, requires immediate action, as,
transparency is paramount**