

A regular meeting of the City Council of the City of Newburgh was held on Tuesday, November 13, 2018 at 7:00 PM in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Prayer/ Rezo

The Prayer was led by Pastor Jesus Maldonado with Dare to Dream Christian Ministries Church followed by the Pledge of Allegiance.

Pledge of Allegiance/Juramento a la Alianza

Roll Call/ Lista de Asistencia

Present: Mayor Harvey, presiding; Councilman Grice, Councilman Jacobson, Councilwoman Mejia (arrived at 7:40 p.m. after roll call), Councilwoman Monteverde, Councilwoman Rayford, Councilwoman Sofokles - 7

COMMUNICATIONS

Approval of Minutes for the meeting of October 22, 2018

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Monteverde, Rayford, Sofokles, Harvey - 6

Carried

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

After months of preparation the Water Department switched our source water to Brown's Pond and the water level is excellent. We expect our residents to see no change in water quality and our levels have actually increased as a result of the recent rainfall. They started constructing a temporary connection with the Town of Newburgh on upper Broadway and when completed we estimate we will have the ability to obtain approximately five hundred thousand gallons of water a day from the Town. Last week a contractor on the storm sewer separation project on Clinton Street between Liberty and Grand had a water main collapse during work in that area. The Water Department shut the main down within minutes and all necessary repairs were done with city staff. Due to the loss of pressure and the amount of main that had to be replaced a precautionary water boil notice was issued for the residents on Clinton Street between Liberty and Grand. He announced that we received an additional \$155,000.00 from New York State for the replacement of lead service lines. This brings our total to \$699,745.00 for 2018 and 2019 so any residents interested in replacing their lead lines or if they have questions they should contact the Water Department for additional information.

The Department of Health was attending a meeting today in Albany titled "*Recognizing*

Our Clean Water Challenges and Creating a Shared Vision for Solutions in 2019". He believes the agenda was also subtitled *"Creating a Unified Clean Water Advocacy Agenda for the 2019 Budget and Legislative Campaigns"*. One of the comments made was that some of the chemical compounds break down through carbon but are less toxic. He is concerned by what they mean by, "less toxic" particularly if it's the City of Newburgh residents that will act as secondary filters with their bodies. As we prepare for Thursday's meeting with the Department of Defense, he reminded everyone that we have been asking for a direct meeting with the Department of Defense for almost two to three years now. We thank them for their efforts by coordinating with Orange County for the first time since this water crisis and we want to recognize Senators Schumer and Gillibrand for their tremendous efforts to focus on this problem. We ask that Recreation Pond, which is measuring at five thousand nine hundred parts per trillion for PFOS, just simply be addressed. Stop that water at its source and quit talking and having meetings about it. We are very concerned that there are a lot of unanswered questions and the State of New York as the land owner and the United States of America as the licensee through the Air Force and Air National Guard have a liability that we need to pay attention to. We believe that this problem is more pervasive and that Department of Health is now acknowledging that something is going on with short chain PFOS that breaks through granular activated carbon. The argument now is that it breaks through but we are not sure at what stage and level. The good news is that they have their temporary facility on Route 300 where they can do all of the science. He has a letter from 1992 that he is going to provide copies of to the Council regarding radiation. It was addressed to the Air Force regarding an allegation received by the Nuclear Regulatory Commission relating to their operations. They requested they do inspections and any investigation necessary to prove or disprove this allegation with the completed action made available to the Commission. They requested corrective actions be prompt and diligent. This was related to radiation levels found near some leaking drums in a dump like area at Stewart Airforce Base Compound in New York. We are trying to find out what the follow up and follow through was with regard to these radiation levels. We have been hearing since the beginning of this crisis about other problems at Stewart Air Force Base and we have been asking for follow up correspondence from the DEC and the DOH. He doesn't believe that granular activated carbon holds back radiation and he wants to make certain that before Albany sells us a bill of goods that we understand what we are doing now and what we are negotiation for is for the next two hundred years for the City of Newburgh. We need to slow down and identify exactly what is going on. The State of Minnesota sued the manufacturers of this firefighting foam with roughly a two billion dollar settlement. We know now that the State of New York has also sued the manufacturers but curiously they did not name the United States Government as a license holder at Stewart Airforce Base as one of the defendants. Let's assume that they also similarly achieve a two billion dollar settlement with the manufactures of this firefighting foam. We appreciate that they spent thirty millions dollars on rectifying a problem that they and their licensee created at Stewart Air Force Base. Compare thirty million dollars to two billion dollars and what you get is a sense of the scale of what the City of Newburgh should not be willing to do. We have heard them ask repeatedly to run Washington Lake Water through our brand new state of the art Treatment Plant to do a test but they can do that test right now on Route 300 and when they are done with that granular activated carbon they can haul it away to a waste disposal facility that will take this and incinerate it properly. We don't have a way to dispose of that water so it ends up at our plant at Severn Trent which is a liability we do not need to incur at this time. We have to understand that they have a different concern and be able to tell

them to do all of their science on Route 300 but do not ignore the fact that there are design defects in our new treatment plant and there is a problem with granular activated carbon holding back short chain PFOS. It is even being determined that long chain PFOS breaks through a lot quicker than anyone anticipated. As fiduciaries for the City we need to look out for what we believe is a preservation of the status quo. Right now we have some of the best water in the State of New York which we are getting from the Catskill's so before we muck up our brand new plant and create liability issues, let the Department of Health on behalf of the State of New York do all of their science on Route 300. There is a lot of leg work being done and he will continue to report on this as information becomes available. In the Building Department for October, 2018 there were one hundred and eighty one permits issued, seven hundred and fourteen inspections, one hundred and seventy five complaints investigated twenty two rental inspections, fifty six vacant building inspections and seventy title searches. Chief Horton will continue to provide additional data.

Some local sponsors will be hosting a free Thanksgiving Feast for those in need from 11:30 a.m. to 2:00 p.m. at Sacred Heart Church, 24 S. Robinson Avenue on Thursday, November 22nd. This will be sponsored by Vesuvio's Restaurant and Papaleo's Auto Body.

Mr. Duffy continues to work on developing a Budget Dashboard. Last week they met with representatives from the State Comptroller's Office and they identified a number of concerns for us to pay attention to. He hopes that the event on Friday will be well attended by the community as it relates to our Budget.

2019 Budget with Charles Duffy, CPA

Mr. Duffy explained the 2019 Budget Dashboard with some proposed changes making a reduction in taxes and putting us below the tax cap.

Michelle Kelson, Corporation Counsel, reminded everyone that revenue forecasting is not money in the bank. When those projections are made carelessly or without a proper foundation is where the City has gotten into financial trouble in past. As much as we would like to bring those numbers down as low as possible, there is an obligation to be responsible to make sure that the revenue you project is achievable and will actually be collected.

Mr. Duffy said to keep in mind that our Budget has to be approved by the New York State Comptroller. They might not like it and say to put something back and if they do that then we are over the cap. The only penalty you are going to experience for going over the cap is that any amount over the cap you collect has to be put into an interest bearing account and you can't touch it for a year. We have to look at this Budget and be diligent in living by it so if there are savings we put a fence around them throughout the year to have a fund balance moving forward.

Mayor Harvey said he is really happy with all of the work on this. If you look at where we were a few weeks ago with the proposed budget to where we are now it is amazing work and it needs to be recognized.

Mr. Duffy noted that the staff in the Comptroller's Office has been fielding all of the calls and doing all of the work by filling the former Comptroller's shoes. He commends them

because he has not been there for the day to day work.

Councilwoman Sofokles asked for an explanation again before we don't vote for the tax cap. She doesn't think that everyone understands that once the Budget goes to the Comptroller we may have to put all of that money into escrow for a year. Right now it looks pretty good but it has to go the State Comptroller for approval.

City Manager, Michael Ciaravino noted that the final step of this process is a review by the State Comptroller and they could push this back at us. As Ms. Kelson described, the tax cap legislation is a tool so that if the State Comptroller pushes back and says our projections are too rosy and they want more conservative numbers we would at least still have that option to fall back on. When they met with the State Comptroller they identified some areas that Mr. Duffy should be concerned with.

Mr. Duffy said that the calculation of the tax cap consists of a number of factors so they might look at it and say that our tax cap calculation is \$50,000.00 off. Although it's nice to have this \$300,000.00 cushion it could disappear very quickly because they might say they want us to reserve money for non-collectable taxes because they are looking at that issue in our tax revenues. Some of the bullet points are our debt service inquiries, research the Capital Fund use and they are looking at our Deficit Certification which was never done back in 2009. They say that no allowance exists for delinquent taxes and prior year delinquent taxes should be recorded as a tax receivable and not thought of as current income. The overtime expenses are much higher than budgeted and it could eat up this \$300,000.00 tomorrow. They also said that with expiring contracts with the Firefighters we don't have a reserve for that. Also compliance with our Fiscal Recovery Act is one of the points mentioned. On a conservative basis, he would love to be able to reserve half a million dollars to make the Office of the State Comptroller audit go by quickly and then we are over the cap. Being that there is no economic effect to voting for your ability to go over the cap, he recommends it. When the cap first came out there was a real charge for elected officials to say they are fiscally responsible and won't second the thought of going over the cap but now it has become something that is discussed and understood. Some municipalities put it in their organizational meeting at the beginning of the year just in case they go over by mistake.

PRESENTATIONS

Public Hearing -- 2019 Budget

Mayor Harvey called a Public Hearing that was advertised for this meeting to hear comment on the 2019 Budget for the City of Newburgh.

Dwayne Jordan, City of Newburgh applauded the efforts being made to try to lower taxes. He feels we need to look at ticket and court revenues generated by the Police Department. We need to look at generating revenues so we have an excess moving forward. There has to be other options instead of just taxation after taxation. Let's get as many different options as possible.

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

COMMENTS FROM THE PUBLIC REGARDING AGENDA AND GENERAL MATTERS OF CITY BUSINESS

Omari Shakur, City of Newburgh congratulated the election winners. He had a young man with him who went to vote and then started back to school through the Park where Police put a gun to his head. They were lead to believe that someone called the Police saying that there was a young male in the Park with a gun. When they asked to hear the phone call, they were told that it was not a phone call and that someone approached a Police Officer. When they asked to see the video, there was nobody on it so now they are saying that someone called an Officer who was off duty telling him that there was a Black male in Park with an orange shirt. Someone has filed a false report and this needs to be investigated. Also, his grandson was playing basketball on the weekend and when he was going home down DuBois Street a car got behind him and stopped him at the second light on Broadway. He was given a ticket for speeding but there was a car in front of him all that way so why didn't they stop that car for speeding? Did they run his plate and when they found out what his name was harass him? Or did they profile a young Black man with a new car and a hoodie on? There is a problem in our Police Department. They are putting all of this stuff together and sending it to the Attorney General's Office.

Barbara Smith, Powell Avenue talked about the four freedoms that Roosevelt gave in 1948 to the United Nations. Roosevelt insisted that the people in all Nations of the World share American's entitlement of our four freedoms. The Freedom of Speech and Expression. The Freedom of Worship. The Freedom from Want and the Freedom from Fear. You can say what you want but be ready to defend it. For every action there is an equal and opposite reaction. She can applaud someone for having the courage to stand up for their convictions but that doesn't give you free will to talk to people in certain ways. In the City's Rules of Order and Procedure it states that the speaker shall observe the commonly accepted rules of courtesy, decorum, dignity and good taste. No profanity shall be used and no personal or slanderous remarks should be made. Council members, the Mayor and staff should be treated with respect. If I treat you with respect, I want you to treat me with respect. In regard to the Skateboard Park, remember that the CDBG Committee all had input with regard to that Park. They were all very serious and even went to Senator Larkin to ask for money so she doesn't believe it is proper to take one person's name from

that Committee and name the Park for that one individual.

Carla Johnson, Community Voices Heard wanted to give a shout out to Chief Horton. Since 2013 she has been living in condemned apartments but she has seen him cracking down on these landlords. She sees a change so he is doing a good job.

Tom Roberts, Central Avenue said they are doing good work with the taxes and the residents appreciate it. He asked who takes care of the parking meters because recently he was walking and went past twenty meters that said they were failed so they were not making any money. If we want to collect money, we have to make sure they are working. He asked for an explanation on what is going on with Liberty Street. Is it going to be fixed up or blacktopped because you can't even drive on it? He wanted to make everyone aware of a scam that's going on with people having packages delivered to homes and they don't belong to them. A vehicle then drives up and collects the packages. He made the Police aware and gave them a license plate. This is happening more and more so he is trying to find out what is going on.

A resident at 56 Lander Street thought that the Fire Department Grant was going to be on the agenda tonight. He asked for clarity on terms and the dollar amounts associated with that Grant. His understanding is that it's a three year term where the City is required to put up 25% of the asking and then the Grant would cover the remaining 75%. He heard that the dollar value is \$180,000.00 per year? So that's 25/75, 25/75 and 60/40? Was that somehow allocated in the Budget? Is it projected in the Budget not only for next year but for the two remaining years associated with that Grant?

Mayor Harvey said we only budget for one fiscal year in advance so we haven't budgeted for 2020 or 2021 yet. What you saw is the Budget for fiscal year 2019 where we are responsible for 25% of that Grant funding. We will do the others in the following years.

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilman Grice thanked everyone for coming out tonight. The issue most pressing for him is how that young African-American gentleman was treated in the Park. He hopes an investigation can be done and that they can include Mr. Shakur in the findings. He agrees on the parking meters and finding other revenue sources. He reminded everyone about the three minute time limit and to be respectful about it. He knows that everyone is passionate and they have a lot to say but it would be greatly appreciated if they could keep within that time limit. He is concerned about Liberty Street also with snow coming on Thursday and they were told that they would be able to pave before winter sets in. He added that the Empire State After School Program for middle school and high school students is still accepting registrations. This is an excellent program. He thanked everyone who voted for him and he appreciates it from the bottom of his heart. This is a relationship that is built on honor, trust and respect and he does not take that lightly.

Councilman Jacobson thanked all who voted last Tuesday and said he is honored by the overwhelming support for his election to the Assembly. He will work hard every day to be

worthy of the voters trust and he congratulated his opponent on a spirited and positive campaign. He believes the issues he campaigned on resonated with the voters and he looks forward to getting started. The election of James Skoufis and Jen Metzger in the western part of the County to the State Senate issues in a new era of politics and government for the Hudson Valley and the State. He and James Skoufis will be a very effective team and he looks forward to that. No one should worry that he will forget where he came from. On tonight's agenda, as we were shown earlier by our Consultant on the Budget, there is no need to exceed the tax cap and we should continue to look for ways to save money. He thinks there is going to be more money saved with what we did with the Fire Department and promotions concerning overtime. Concerning the Federal government and the hearing on Thursday, he thought they did a great job of trying to make sure that the least number of people could attend. The Federal Government has to live up to its responsibility and they have to clean up Stewart and the mess going in before we hook up to anything. He wants us to continue getting water from the New York City Aqueduct when we can get back on. We have to continue to press hard on that with all who are responsible for polluting it and we have to watch new development along the watershed.

Councilwoman Mejia thanked all who came out to exercise their rights on Election Day. From the outpour that we saw here in the City of Newburgh it was probably one of the most engaging turnouts we have had and she hopes that will continue. It puts us on a different platform with both our County and Federal representatives about the type of power we have here once we exercise it. She congratulated the winners of the election and trusts that they will represent us in the best light and keep lines of communication open. It is going to be interesting to see what can be done in the next two years with that type of support not just for the City of Newburgh but for the region as a whole. In regard to resolution #325-2018, for the surplus on the Bluestone, they talked a little bit about it at the Work Session. She has thought about it since they last spoke and she is not opposed to citizens having access to it but her recommendation would be to table it so City staff can come up with a process. There is no process for surplus materials and she thinks that needs to be clearly stated and it should be open to everybody not just one particular location. In general, she thinks the Police Department has come a long way in terms of how we are engaging with the community and the residents. She is concerned about how we are interacting with our young Brown and Black males in the City of Newburgh. She wants to make sure we are always mindful that our city is a diverse city and we need to be cognizant of that when the Police Department is engaging our community. She is very mindful of what happened in Chicago with Jemel Roberson; the uniformed Security Guard who saved a lot of lives but ended up losing his.

Councilwoman Monteverde thanked everyone for coming out and she appreciates their comments. On the Budget process she commended the staff and Consultant for spending a lot of time and doing their due diligence. Several of the Council members have met with Mr. Duffy and he has been very helpful. She believes this is a start but we still have a long way to go and once we get through this budget season we have to start looking at generating revenue. We need to start with parking and she hopes that the Parking Committee is working on a plan so we need to give them a deadline to come up with something. It will not save the day but that is revenue that we could be collecting if we get smart. We also need to upgrade our meters and collect the meter money in a different and safe way. With the water situation she appreciates the work by the City Manager. She believe he has been a great advocate and has handled the situation professionally and we will need to continue to fight for clean water because it is our right. She congratulated

Councilman Jacobson on his win and said she will miss his presence here. He has been a great Council member and she has learned a lot from him so she told him not to forget Newburgh, please. She can't wait to sit down and start talking about ways to generate revenue as she has some ideas herself.

Councilwoman Rayford thanked everyone for staying and speaking. She offered condolences to the family members who lost loved ones here in the City of Newburgh with the gun violence. It is hard for her because her little Cousin lost her father, who was a twin and then her Aunt's son, Trent Zachary lost his life through a drive by and last week his best friend was murdered. Her heart is very heavy and she is hoping that we can bring back the gun buy-back program that we have had in the past. Our City is doing well when it comes to relationships with the Police Department and in the area where the murders happened we have the ShotSpotter and cameras. With the ShotSpotter, if the person with the gun is traveling they can't monitor where the gun is. She added that this week the Hook Elite Boxing Program is going to Ireland so we want to say Prayers for them. To the community she said, *"I have been truthful to all of you. I have been transparent to all of you. I don't have to hide anything because I am from Newburgh. I stand for Newburgh and with Newburgh. I know there has been a lot of slander out there but I will take a stand on what is truth. God Bless you."*

Councilwoman Sofokles said in regard to Barbara Smith's comments that the Council agreed not to name anything after anybody so that has to be readdressed and looked at. In regard to the tax cap, she urged her fellow Council members to understand exactly why we should vote for it tonight. It doesn't mean that it's going to increase taxes. It protects the residents and us just in case the Comptroller rejects something that Mr. Duffy has worked very hard on and there is a possibility that could happen. If it does happen, we are not protecting ourselves. George Green in the Town of New Windsor said in the paper that you vote for it because you are supposed to. Because it protects you in case of a problem. It doesn't mean that we are going to increase taxes and it looks like we aren't going to have to. In regard to the Bluestone, she would like to find out if the insurance company is going to pay for the piece of Bluestone. This is a surplus in the City of Newburgh and we really aren't allowed to just give it away so she agrees with Councilwoman Mejia that we should find a process on how to do this. Someone has to be responsible for breaking that Bluestone so we should really investigate that first of all and do a little homework on what the procedure is to release it. With all of the damage that's being done on the streets, we might have a lot of people coming for this. She wants to help but agrees we should table this for tonight and look into it more. One of those Bluestones costs almost a thousand dollars so we should first try to find out who did it and collect from their insurance.

Mayor Harvey thanked everyone for coming out tonight and the comments that were made. He reiterated the hard work that went into the numbers we saw with the possible 2019 Budget with the Comptroller's Office, Mr. Duffy, Council members and Michelle Mills. We all took a fine toothed comb and became budget analysts the last few weeks to get that tax increase from 7.1 % down to and below the tax cap. It is not final but we are looking at the numbers. He thanked Newburgh for their support with the recent election. With Councilman Jacobson winning the Assembly seat, we are really proud of him but will be sad to see him go. We now have a partner in Albany. Between his presence, State Senator Skoufis's presence and the Democrats not only having control over the State Assembly but the State Senate and having a Democratic Governor with Cuomo's re-

election, we should be able to get some serious funding for Newburgh. The Public Safety building is our number one priority. He has received word from Mr. Skoufis on this as well as the Governor, Senator Chuck Schumer and Congressman Sean Patrick Maloney that they are all on board. We have some partners who will be working on that Public Safety building and the funds for that. We do need to look at our parking meters and maximize our revenue with the enforcement. Through Motor Vehicle we want to find out how to suspend licenses of the people who are not paying parking tickets. He thanked everyone for all of their input tonight. We will continue to work on behalf of the people and move this City forward.

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

CITY MANAGER'S REPORT

Resolution No. 321 - 2018 Proposal with O'Brien & Gere for Engineering Services at Brown's Pond

Councilwoman Sofokles moved and Councilwoman Monteverde seconded.
Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7
Adopted

Resolution No. 322 - 2018 Contract Agreement with Inframark, LLC to Operate the WWTP

Councilman Grice moved and Councilwoman Sofokles seconded.
Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7
Adopted

Resolution No. 323 - 2018 Supplemental Agreement#1 with NYSDOT for the Lake Drive Bridge Replacement

Mayor Harvey said this is really exciting. Moving forward with this particular bridge and then hopefully looking at the Mill Street Bridge is something we have been waiting for. He thanked everyone involved for all of their hard work.

Councilman Grice said that being a resident of the third ward and being actively involved with what happens over at Lake Street, he is very happy about this and he is looking forward to it.

Councilwoman Sofokles moved and Councilman Grice seconded.
Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7
Adopted

Resolution No. 324 - 2018 Orange County tax exemption agreement -- City of Newburgh water supply property

Councilman Grice moved and Councilwoman Sofokles seconded.
Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7
Adopted

Resolution No. 325 - 2018 Surplus bluestone

Councilman Jacobson said that he will be recusing himself from this vote as he explained at the Work Session.

Councilman Grice agrees with Councilwoman Mejia that perhaps we should table this because we do need to have some sort of policy in place. He also agrees with Councilwoman Sofokles that we need to find the responsible party in this situation.

Mayor Harvey agrees that a policy needs to be in place but also acknowledged the compelling argument brought forward at the Work Session. We have all received phone calls about this area with the rubble and the work that has been going on since February of this year. Anything to help with our Historical District he is willing to be flexible about and we all have to think about the compelling argument brought forward in asking for the Bluestone that we have in surplus.

Councilwoman Mejia said she is not against this. She thinks that there are probably more than one individuals who qualify and who would be interested in applying or having access to a surplus we are saying that we have. Do we have a count of the surplus that we have? It does set a precedent when you individualize. If it starts to look like personal, individualized, preferential treatment for an individual then it's exactly that. Again, she is not against this and she lives there. She cannot wait for this construction to be done and she believes that this has yielded more phone calls than the Alembic Project. We talked about this at the Work Session and the end is near. Her comment would be to table it until there is a process that is equal for everyone. Just on her block alone there is a bunch of slate that got broken and people have before and after pictures. The same thing on Grand Street and Liberty Street.

Councilwoman Monteverde agrees to table and put a process in place. She imagines that a lot of tax paying members are going to be coming forward after the construction has been completed as there has probably been a lot of Bluestone damaged. If we have a process in place, we can be ready to vote on it.

Councilwoman Sofokles said she agrees.

Councilwoman Monteverde moved and Councilman Grice seconded to table the resolution.
Ayes: Grice, Mejia, Monteverde, Rayford, Sofokles, Harvey - 6
TABLED

Resolution No. 326 - 2018 Emergency Water Agreement with Town of New Windsor

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 327 - 2018 To Accept FY2019 CDBG Funding

Councilman Grice moved and Councilwoman Monteverde seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Sofokles, Harvey - 6

Adopted

Resolution No. 328 - 2018 Purchase of 260 Liberty Street

Councilman Grice said that this is a wooden structure across from Audrey Carey Park. The owners are taking a great chance and he wishes them success in rebuilding this property.

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 329 - 2018 Purchase of 379 First Street

Councilwoman Sofokles said they are buying this property for \$65,000.00 and she went to take a look at it. It is not for them to live in so they want to flip it. They estimated \$20,000.00 for repairs with plumbing at \$500.00 and she personally doesn't see how they are going to do it for that amount. She doesn't think that property is going to be worth much more than \$110,000.00 to \$120,000.00 so to say you are going to flip a house and be able to fix it she is just not seeing it. If they were going to live in it, it would be different.

Alexandra Church, Planning & Development said that this was one of the properties that was put forth by the realtor. It is not the regular process that we have and we have asked the realtor in the future to have more substantial financials. This property owner does claim that they are a family of contractors so a lot of the costs are for materials only. She agrees that some of the prices are very low but for \$65,000.00 she thinks the City should give them a chance. We are certainly much better at enforcing our reverter clause and we are much better at catching it earlier rather than letting it get to eighteen months and asking what happened.

Mayor Harvey said with the reverter clause what is the timeline?

Ms. Church said it is eighteen months.

Councilwoman Monteverde remembers this property and the person who came before us mentioned that they are contractors. She agrees with Councilwoman Sofokles and she is a little suspicious of the numbers so she asked to have the spreadsheet updated to keep track of the reverter clause and who is coming up for expiration. It would be nice to get that

update at the next Work Session.

Mayor Harvey thanked Councilwoman Sofokles for pointing out these matters because it could have flown under the radar. To Councilwoman Monteverde's comment he said they did mention that they were contractors so a lot of their costs are just for materials.

Councilwoman Sofokles added that they still need a licensed plumber and licensed electrician. You can't just have a contracting business and not be licensed here and that name does not appear under licensed plumbers or electricians.

Councilman Grice moved and Councilwoman Monteverde seconded.

Ayes: Grice, Mejia, Monteverde, Rayford, Harvey - 5

Nays: Jacobson, Sofokles-2

Adopted

Resolution No. 330 - 2018 Purchase of 10 Van Ness Street, 12 Van Ness Street and 34 Carter Street

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution 331 - 2018 Purchase of 60 Hasbrouck Street

Councilwoman Sofokles said this is the same situation but a little better. She drives by these houses especially in her ward to make sure that the work is being done. This historically has been a problem in the City of Newburgh for as long as she can remember because we keep taking properties back. This house is probably doable. It's less money and it doesn't need as much work but we don't want it back again in eighteen months. She is going to vote for this because she thinks he can probably do this property.

Councilman Grice moved and Councilwoman Monteverde seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 332 - 2018 Satisfaction of two Mortgages for 173 First Street

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 333 - 2018 Release of Covenants - 92 Fullerton Avenue

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 334 - 2018 Release of Covenants -- 167 Ann Street

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 335 - 2018 Release of Covenants - 28, 42 and 53 Hasbrouck Street

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 336 - 2018 Release of Covenants - 117 Johnston Street

Councilman Grice moved and Councilwoman Mejia seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 337 - 2018 Release of Covenants - 128 Dubois Street, 197 First Street, and 44 S. Miller Street

Michelle Kelson, Corporation Counsel explained that these properties were all authorized to be conveyed to the Land Bank. The deed covenants technically is a strict legal matter. It should have merged into the City's title when we took title but there is no instrument that reflects that. Title companies like to have an instrument so we are asking to have you authorize the City Manager to actually sign a piece of paper that says these covenants are no longer in force and effect so when we convey to the Land Bank they don't have any title impediments going forward.

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Sofokles, Harvey - 6

Nays: Rayford-1

Adopted

Resolution No. 338 - 2018 Extension to rehabilitate 254 Liberty Street

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 339 - 2018 Amend 2018 Personnel Book to add a Temporary Sergeant in Police Department

Councilwoman Monteverde just wants to be clear that voting to approve this will help us reduce overtime in the Police Department.

Chief Solomon said that there are nine patrol shifts and they have been staffed with eight Sergeants so this position has been filled with overtime on a regular basis. He worked with Mr. Duffy and if we make this move we will be saving for the year \$117,000.00. It is a significant amount and it's an easy fix.

Mayor Harvey thanked Chief Solomon for all of his efforts because any and every little bit helps when we talk about our police and fire overtime. Last we knew the Police

Department was down thirty-two percent with their overtime and this is moving in the same direction. He commended Chief Solomon and said he supports anything we can do to continue these efforts in a safe and responsible way.

Councilwoman Rayford said that being we will be saving \$117,000.00, what will the salary be for this Sergeant and who do they have mind?

Chief Solomon said that several people have been moved into different positions and he doesn't feel it is appropriate for him to get into particular names at a public meeting.

Councilwoman Rayford said that it is public knowledge anyway. When they are saving \$117,000.00 and we were just talking about the Budget and if we had five hundred thousand to balance everything, will this money that we are saving go back in to the Fund Balance? Where will this money go that we are saving?

Mr. Duffy said it helps to reduce the tax levy increase for 2019. For 2018 what we are doing is putting that in place to get the last two months of the year in savings, which would be ten or twenty thousand.

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 340 - 2018 Clean Harbors Agreement for clean up of firefighting foam

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 341 - 2018 Military Leave MOA with IAFF Local 589

Councilwoman Sofokles moved and Councilwoman Monteverde seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 342 - 2018 Appointing Commissioners of Deeds

Michelle Kelson, Corporation Counsel explained that the State Law authorizes Commissioners of Deeds to take certain acknowledgments and certain oaths. It is a little bit similar to Notary Republics but it's a smaller circle of authorizations. The terms are for two years and the previous resolution will be expiring at the end of this year. We typically designate five or six of our City employees to be able to have this authority and the School District has a few employees that they nominate also. If you don't have a Notary Republic, they can take acknowledgments on Deeds and other Instruments and witness signatures in certain circumstances.

Councilman Grice moved and Councilman Jacobson seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Ordinance No. 5 - 2018 Anti-Harassment Policy amendment -- Sexual Harassment Prevention Policy

Councilwoman Sofokles moved and Councilman Jacobson seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Local Law No. 4 - 2018 to override the property tax cap for fiscal year 2019

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Rayford, Sofokles, Harvey - 6

Nays: Jacobson-1

Adopted

Resolution No. 343 - 2018 Public Hearing -- Concerning a Local Law to increase sewer rent

Councilman Grice said they have had many conversations on this so he asked Mr. Duffy to please explain it to the public.

Mr. Duffy said that the Long Term Control Plan, which was recommended to us to to maintain our sewer systems, recommended that we increase rates gradually over time to be able to fund the infrastructure improvements necessary to keep our sewer system up to date. They don't want it to be a large number at some point in the future so they want it to be spread out over time.

Councilwoman Rayford said that right now our sewer rents are at 104%, is that correct?

Mayor Harvey responded with a, "yes".

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 344 - 2018 Declaring Sonya Dixon Day

Councilwoman Monteverde said there has to be a policy for naming days and streets. Maybe we need to put a group together and task them with coming up with a policy but she wants to make sure we come back to this discussion.

Councilman Grice agrees that we need to look at a policy. Sonya Dixon was a dear friend and colleague of his who he misses every day. This will be a celebration on November 17th at the Shelter House to honor her.

Mayor Harvey thinks there should be a Committee put together regarding the naming of streets and honoring people. He doesn't object to naming streets after people and we have honored a number of people in the past that were well warranted. He feels there does need to be a discussion and a policy does have to be put in place but he never was in agreement to not name streets after individuals who have lived in our community that have made

significant contributions to the public good. This is a wonderful thing and it should continue but having a policy in place and a criteria for who shall receive that honor he agrees with.

Councilwoman Monteverde said that the key is how did they contribute? She doesn't even know who this person is and she is expected to vote on it. She would like a list of what they did and how they contributed, which is only fair.

Councilman Grice said that for the past ten years almost every single one of the Grants that the Newburgh Enlarged City School District has received, Sonya Dixon was either the key writer or instrumental in getting and there were hundreds of Grants. She was also a Certified Public Accountant so her expertise in that really helped the district move forward in being fiscally responsible.

Councilwoman Monteverde said that she knows individuals who have worked on numerous committees and who have volunteered so they have contributed as well. She feels we just need to think this through.

Mayor Harvey thinks that Councilwoman Monteverde's point is important and well taken. Moving forward into the New Year we need a policy in place and criteria for these honors as well as contributions in writing for these individuals. He agrees that Sonya Dixon, who he worked very closely with for twenty years, was very instrumental with Grant writing for the Newburgh Enlarged City School District.

Councilwoman Rayford said it was mentioned earlier by Barbara Smith concerning the Skateboard Park. She raised the point that other people were involved from the Housing Authority, HUD and the CDBG Committee but that was after Roxie Royal gave us the idea of developing a Skateboard Park. She agrees with having policy in place and we may not know who some of these people were but they were significant in the lives of people here so we have to respect all of the things that they have contributed to Newburgh. Maybe we can also bring this presentation to the School Board with perhaps a day off or a celebration throughout the School District. To those who want to do a street naming we don't really have a policy in place. It was some of the hearts of people who they saw a lot of African-American people being honored with street names and they seem to be offended but they have to remember that when this City was in the process of being developed, there were no African-American people to be named after. We do have the two historical Black Churches but we have to continue this process and we cannot say no to the street naming.

Councilwoman Mejia said that Corporation Counsel has shared with us multiple times the Ceremonial street naming they have done in New Orleans as an example on how we can model that.

Councilwoman Sofokles said we put in place that we weren't going to name any more streets after people and it was nothing against anyone in particular. It was just becoming too much so we put a moratorium on it. As far as Sonya Dixon Day, we should have discussed this at the Work Session because now it is putting Councilman Grice in an awkward position as the Event is already planned. We can't table it and we can't go to the School Board because it's already planned for this Saturday on the 17th. We all discussed it at the Work Session and nobody said anything so we can't take this day away from this

family. Going forward, however, we do need a Committee or something in place.

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 345 - 2018 Authorizing a Payment of Claim

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

Resolution No. 346 - 2018 Amending Resolution 333-2017

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Jacobson, Mejia, Monteverde, Rayford, Sofokles, Harvey - 7

Adopted

NEW BUSINESS

Mayor Harvey said that he has been meeting with the Church of God of New Windsor and they want to bring fifty individuals here to clean up some of our streets. Some of the target areas identified so far are Johnson Street, Lander Street, City Terrace and Lutheran Street. They want to bring fifty volunteers to pick up trash and clean those streets and he has another meeting to go into the Heights area to identify more streets to clean. They want to establish a Memorandum of Understanding which he will forward to Corporation Counsel and the City Manager. This Church has a track record for doing this and they also involve College students.

Councilwoman Monteverde asked how they engage the neighborhoods. They just had a Heights meeting this past Saturday and this would be good to bring up to the Heights Association. Every year they get together in April to clean up the streets so maybe that could be coordinated.

Mayor Harvey agreed that should be coordinated with our neighborhood associations. They had a target date for November 25th but it doesn't look like that is going to happen. One of the areas they identified on Johnson Street has a little makeshift Park that neighborhood kids created and this Church wants to go in to clean that for the kids. He would like to put this on the Agenda for the next Work Session. He added that he spoke briefly with some people regarding the Department of Defense who is going to be here on Thursday at the Armory at 1:00 p.m. He said he won't be available to attend but there was criticism that no one from the City government signed on to be a part of that.

Michelle Kelson, Corporation Counsel said, *"Let me be perfectly clear. This is not a City sponsored Event. The City did not organize the Event. The City was not invited to attend and the City was not even consulted in scheduling the date, the time, the place or the manner of the Event. The City is not going to be there to provide information to anyone. We were not asked to do that. Anybody from the City who will be attending in official capacity will be there in the capacity to obtain information from those who will be presenting. I really want to*

make this clear to everybody who is listening. Please do not have any expectation of any City Official sitting on the dais prepared to provide information to you. We were not invited to do that. We are not prepared to do that. We will be there in the audience asking questions just like everybody else."

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

OLD BUSINESS

Councilwoman Rayford brought up the Skateboard Park and said she has asked about The Black Parade coming back. She hasn't seen that on the Agenda and she has been asking for a few months now.

Michelle Kelson, Corporation Counsel said she has addressed the Parade in previous discussions. In the beginning of the year when she does the annual resolutions to accept donations and authorize vendor contracts for the City festivals that occur every year, she will be adding the Black Pride Parade to those resolution.

Councilwoman Rayford asked for an update on the Warming Center.

Councilman Harvey said that it is already open.

Councilwoman Rayford said she was told that they have had a lot of Grant money given to them so the Council should be aware of that for expenses that we shouldn't incur.

Mayor Harvey said he thinks the Grant funding was to expand what the Newburgh Ministry is already doing for the homeless. We are looking at an agreement to convey property and land to them or a get a license agreement which is currently in the works.

Councilwoman Rayford said her concern is that corner up there with the Warming Center and a playground. We as a Council have to make sure that the property they will purchase in the near future is a safe environment for everybody.

Councilwoman Mejia said for further clarity that the Grant given to the Newburgh Ministry under the ESPRI Grant is the Fragile Economies Project. It has nothing to do with any of the building acquisitions that they will be undertaking. It is specifically to work with a group of City of Newburgh residents and the effort is to get them to be able to transition out of poverty. It is a poverty reduction project so it is not for any expansion of their building or other services. It is strictly an anti-poverty initiative and this was the one that was being managed by the United Way which Mayor Kennedy was Chairing.

Councilwoman Monteverde commented that she would like to put RECAP on the Agenda for a Work Session in December to address the Council and talk about the ESPRI Grant. They were awarded the Grant as well and will talk about what they plan to do.

Councilman Grice noted that the Grant is ESPRI, which stands for Empire State Poverty Reduction Initiative.

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

FURTHER COMMENTS FROM THE COUNCIL

Councilman Grice thanked Ms. Kelson for bringing to our attention about the Department of Defense visit for this Thursday and it is very important that the public understands what she said. He congratulated Senator Skoufis, Assemblyman Jacobson and Mayor Harvey on winning their individual campaigns. With our street paving he is very upset with what is happening on Liberty Street and he is hoping that the contractors can honor the time that they said they would have these streets paved. He added that this is "No Shave" November so if men don't shave they can donate the money that they save to a Cancer organization or other worthy cause.

Councilman Jacobson thanked everyone for coming out tonight. As Councilwoman Mejia mentioned, we had double the turnout for the Election in the City of Newburgh, which is more than we had four years ago so that is a good sign. We had two shootings recently in Newburgh which means we have to double down on what we have to do to get guns away from people. He is hopeful that once he is in Albany we can push to go after the trafficking of illegal guns. He thinks we can work with the new Attorney General and have her work with others to make sure we do something about these illegal guns. He wished everyone a Happy Thanksgiving.

Councilwoman Mejia said that they received complaints around conflicts of interest and she wanted to ask that the official copy of the outside Counsel advisory opinion be included in the Minutes of today's meeting. *(See copy attached) She added that it is exciting to see Newburgh featured as part of the creative place making on vacant properties in the New York State Conference of Mayors and Municipal Officials. Place making is one of the conversations we have had multiple times at this table and it is really great that the City of Newburgh is getting recognized for the work that has been carried out by all of the agencies like the Newburgh Community Land Bank, Safe Harbors and visiting local artists and highlighting the vacant property issues about how you use creative place making to combat vacancies.

Councilwoman Monteverde thanked everyone for staying late. As a new Council member, getting through the Budget process has been difficult because it is new for her and going through page by page has not been an easy task. She thanked the City staff for putting in long hours and hard work to find savings and reduce the deficit, which they obviously have done. She also thanked Mr. Duffy for all of the work that he has done since he came on board. It has been a collaborative effort and everyone is working hard because we want to make sure that the Budget we approve is sustainable. The first of next year she looks forward to looking at how we can generate revenue. People have mentioned parking and the meters as well as other ideas that have been brought to her attention that she would like to discuss. She would also like to look into the Municipal ID's and knows that Middletown just approved a resolution.

Michelle Kelson, Corporation Counsel said that she has the Local Law from Middletown

and there were two others local municipalities in our Region that also adopted Local Laws for similar programs. She also has New York City's Municipal ID Program which is available. The issue is twofold with time spent drafting it and also funding and enforcing the program. We do a lot of legislating and she has cautioned the Council in the past that once the Local Law or legislation is adopted that's not the end. There has to be a mechanism for funding the administrative program and enforcing it. That very often falls to the department heads and their staff but they are not always given the tools and the resources that they need to administer and enforce these programs. We have to be mindful that there is planning that needs to go into these programs so it's more than just drafting a piece of legislation.

Councilwoman Monteverde said that before we do that hopefully we can sit and think that through. She added that she and Councilman Grice have been talking about an Affordable Housing Resolution. New Paltz passed one recently and she believes that Kingston has also so that is another thing she would like to look at.

Councilwoman Rayford thanked everyone for coming out and staying. A resident spoke of concerns about safety and theft being created at his door and nearby neighbors. With the Holiday season here these things do happen unfortunately so if you see something, say something. These are desperate times for people but stealing is not the answer. She told everyone to hold on to their faith and things will work out in due time. Be blessed during this holiday season and know that the Council does care.

Councilwoman Sofokles thanked the City Manager for his due diligence with the water. It is important for all of us to understand all that is going on. She thanked Mr. Duffy and the whole Comptroller's Department because they came into a mess but she thinks we have a resolution where we aren't going to have a tax increase and we had to vote for the tax cap just in case. She reminded everyone that Local Shopping Day is the day after Black Friday on Saturday. She would like to see as many people as possible at our local shops because our local businesses are what make this community survive. The Gun Buy Back Program is a good idea and it will get some guns off the streets but there is a deeper problem here. She doesn't know what the answer is so we have to look to our Police Department all the time.

Mayor Harvey acknowledged School Board member Philip Howard who is here tonight. He echoed the sentiments of Councilwoman Rayford regarding the life lost and he reached out to the family members of those afflicted by the shooting that happened recently. Antwaun Thomas was his student years ago so it hit him really hard. We had gone an entire year without any homicides until the shooting that happened recently so hopefully at the next Work Session we can get an update on our video surveillance program and ShotSpotter and what we can do to find funding for additional cameras. He offered Prayers and condolences to all of the families afflicted by that atrocity. Lastly he gave a shout out to Ron Figueroa, his Cousin, who was elected the Sheriff of Ulster County in November. He thanked everyone for coming out tonight and added that we really need to look at our ratables and where we can find and enforce our meter funding monies.

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

LEVENTHAL, MULLANEY & BLINKOFF, LLP
ATTORNEYS AT LAW
15 REMSEN AVENUE
ROSLYN, NEW YORK 11576
TELEPHONE: (516) 484-5440
FACSIMILE: (516) 484-2710

October 18, 2018

Via email: MKelson@cityofnewburgh-ny.gov

Michelle Kelson, Esq.
Corporation Counsel
City of Newburgh
83 Broadway
Newburgh, NY 12550

Re: Advisory Opinion – City Council Member

Dear Ms. Kelson:

This is written in response to your request for an advisory opinion,

QUESTION PRESENTED

Whether a prohibited conflict of interest would arise if a City Council member were to participate in the discussions, deliberations and vote in connection with a proposed contract for redevelopment of City owned properties, where the spouse of the City Council member is employed by a not-for-profit funding agency that provided financial support to the redevelopment contractor in connection with an unrelated project.

CONCLUSION

Based on the facts presented, a prohibited conflict of interest would not arise if a City Council member were to participate in the discussions, deliberations and vote in connection with a proposed contract for re development of City owned properties, where the spouse of the City Council member is employed by a not-for-profit funding agency that provided financial support to the redevelopment contractor in connection with an unrelated project.

GOVERNING AUTHORITY

New York General Municipal Law Section 801 (Conflicts of Interest Prohibited) provides, in pertinent part, that:

Except as provided in section eight hundred two of this chapter, ... no municipal officer or employee shall have an interest in any contract with the municipality of which he is an officer or employee, when such officer or employee, individually or as a member of a

board, has the power or duty to (a) negotiate, prepare, authorize or approve the contract or authorize or approve payment thereunder (b) audit bills or claims under the contract, or (c) appoint an officer or employee who has any of the powers or duties set forth above....

The City of Newburgh Code of Ethics provides at Section 34-4.9 (Interests in contracts), in pertinent part, that:

No municipal officer or employee may have an interest in a contract that is prohibited by Section 801 of the General Municipal Law.

The City Code of Ethics further provides at Section 34-4.2 (Recusal and abstention), in pertinent part, that:

No municipal officer or employee may participate in any decision or take any official action with respect to any matter requiring the exercise of discretion, including discussing the matter and voting on it, when he or she knows or has reason to know that the action could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

DISCUSSION

Following the issuance of a request for proposals to redevelop three City owned parcels of real property, the City Council adopted a resolution (the "Resolution") authorizing the City Manager to negotiate the terms of a proposed contract with the successful bidder (the "Developer").

The Developer received funding from an international charitable foundation (the "Foundation") for a development project in another state. The Foundation employs the spouse of a City Council member (the "Spouse") as a Senior Program Officer. As a Senior Program Officer, the Spouse reviews applications for funding and administers grant programs. The Spouse receives no incentive based compensation.

The Spouse is also co-chair of a philanthropic collaborative (the "Collaborative") that provides planning support to low-income communities in the City of New York only. The Collaborative has received funding from the Foundation, and has provided financial support to a community based organization that has been an advocate of the redevelopment project, and to an entity identified in the Resolution as a development partner of the Developer, in connection with unrelated projects in the City of New York.

A three step analysis was used to determine whether, under the circumstance presented, a prohibited conflict of interest would arise if a City Council member were to participate in the discussions, deliberations and vote in connection with a proposed contract for re development of City owned properties, where the spouse of the City Council member is employed by a not-for-profit funding agency that provided financial support to the redevelopment contractor in connection with an unrelated project. The following questions were considered: (i) whether the City Council member's participation in the matter, under the circumstances presented, would violate Article 18 of the New York General Municipal Law (Conflicts of Interest of Municipal Officers and Employees), (ii) whether the City Council member's participation in the matter, under the circumstances presented, would violate the City of Newburgh Code of Ethics, and (iii)

whether the City Council member's participation in the matter, under the circumstances presented, would create a prohibited appearance of impropriety under common law principles.

I. N.Y. Gen. Mun. Law Article 18

Article 18 of the New York General Municipal Law establishes minimum standards of conduct for the officers and employees of all municipalities within the State of New York, other than New York City.¹ All officers and employees must comply, whether paid or unpaid, including members of boards and commissions.²

N.Y. Gen. Mun. Law §801 prohibits a municipality from entering into a contract that will benefit an officer or employee with control over the contract. The statute is violated if three elements are established: (1) the existence of a contract with the municipality, (2) an interest (i.e. a benefit) accruing to an officer or employee of the municipality as a result of the contract, and (3) the power or duty of the officer or employee, either individually or as a member of a board, to negotiate, prepare, authorize or approve the contract, or to appoint an officer or employee that has any of those powers or duties.³ A contract willfully entered into in violation of N.Y. Gen. Mun. Law §801 is null, void and wholly unenforceable pursuant to N.Y. Gen. Mun. Law §804. Recusal will not cure a violation of N.Y. Gen. Mun. Law §801.⁴

For purposes of N.Y. Gen. Mun. Law §801, a municipal officer or employee will be deemed to have an "interest" in a contract if he or she derives a direct or indirect pecuniary or material benefit from the contract.⁵ A municipal officer or employee is deemed to have an interest in a contract of his or her spouse.⁶

Here, neither the City Council member nor the Spouse will derive any personal benefit from the proposed contract with a recipient of funding from the Spouse's employer. Thus, the proposed contract will not confer a direct or indirect pecuniary or material benefit upon the City Council member or on the Spouse, who receives no incentive based compensation from the Foundation.

Accordingly, under the circumstances presented, the City Council member's participation in the discussions, deliberations and vote in connection with the proposed contract for re development of City owned properties, would not violate Article 18 of the New York General Municipal Law.

¹ N.Y. Gen. Mun. Law §800(4).

² Volunteer firefighters and civil defense volunteers, other than fire chiefs and assistant fire chiefs, are not "officers" or "employees" within the meaning of GML Article 18. N.Y. Gen. Mun. Law §800(5).

³ See N.Y. GEN. MUN. LAW §802 for contracts that are permitted as exceptions to §801, notwithstanding that an officer or employee with control over the contract will derive a benefit. In such cases, recusal is required.

⁴ Lexjac, LLC v. Bd. of Trustees of the Inc. Vil. of Muttontown, (2d Cir. 2017) 708 Fed. Appx. 722.

⁵ N.Y. Gen. Mun. Law §800(3).

⁶ N.Y. Gen. Mun. Law §800(3).

2. City of Newburgh Code of Ethics

The City Code of Ethics incorporates N.Y. Gen. Mun. Law §801, and requires a City officer or employee to recuse himself or herself in could confer a direct or indirect financial or material benefit on himself or herself, a relative, or any private organization in which he or she is deemed to have an interest.

Because neither the City Council member nor the Spouse will derive any personal benefit from the proposed contract with a recipient of funding from the Spouse's employer, and that the proposed contract will not confer a direct or indirect pecuniary or material benefit upon the City Council member or on the Spouse, and because the proposed contract will likewise not confer a direct or indirect pecuniary or material benefit upon the Foundation or the Collaborative, the proposed contract would not give rise to prohibited conflict of interest and recusal by the City Council member is not required.⁷

Accordingly, based on the facts presented, the City Council member's participation in the discussions, deliberations and vote in connection with the proposed contract for re development of City owned properties, would not violate the City of Newburgh Code of Ethics.

3. Common Law Principles

Ethics regulations are not only designed to promote high standards of official conduct, they are also designed to foster public confidence in government. An appearance of impropriety undermines public confidence. Therefore, courts have found that government officials have an implied duty to avoid conduct that seriously and substantially violates the spirit and intent of ethics regulations, even where no specific statute is violated.⁸

Where a contemplated action by an official might create an appearance of impropriety, the official should refrain from acting. Officials should be vigilant in avoiding real and apparent conflicts of interest. They should consider not only whether they believe that they can fairly judge a particular application or official matter, but also whether it may appear that they did not do so. Even a good faith and public spirited action by a conflicted public official could tend to undermine public confidence in government by confirming to a skeptical public that government serves to advance the private interests of public officials rather than to advance the public interest.

In considering whether a prohibited appearance of impropriety has arisen, the question is whether an officer or employee has engaged in or influenced decisive official action despite having a disqualifying conflict of interest that is clear and obvious, such as where the action is

⁷ Even if the City were to enter into a contract directly with the Spouse's employer, the contract would not be prohibited by N.Y. Gen. Mun. Law §801 because the statute excludes contracts prohibited solely due to the employment of a municipal officer or employee where the compensation of the officer or employee is unaffected by the contract, and contracts with not-for-profit organizations. See N.Y. Gen. Mun. Law §802(1)(b) and (f).

⁸ See, e.g., Matter of Zagoreos v. Conklin, 109 A.D.2d 281 (2d Dept. 1985); Matter of Tuxedo Conservation & Taxpayer Assn. v. Town. Board of Town of Tuxedo, 69 A.D.2d 320 (2d Dept. 1979).

contrary to public policy, or raises the specter of self-interest or partiality. A prohibited appearance of impropriety should not be found where a conflict is speculative or immaterial.

Here, having determined that neither the City Council member nor the Spouse will derive any personal benefit from the proposed contract, and that the proposed contract will not confer a direct or indirect pecuniary or material benefit upon the City Council member, the Spouse, the Foundation or the Collaborative, there is no reason to conclude that the participation of the City Council member would undermine public confidence in City government or otherwise create an appearance of impropriety.

Very truly yours,

Steven G. Leventhal

Steven G. Leventhal

ADJOURNMENT

**There being no further business to come before the Council the meeting adjourned at 9:53
P. M.**

**LORENE VITEK
CITY CLERK**

RESOLUTION NO.: 321 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL
AND EXECUTE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT
WITH O'BRIEN & GERE ENGINEERS, INC. FOR EVALUATION
AND REHABILITATION INVESTIGATION OF THE BROWN'S POND SPILLWAY
AT A COST OF \$47,000.00

WHEREAS, O'Brien & Gere Engineers, Inc. previously designed improvements to Silver Stream Dam and provided construction phase services for the improvements; and

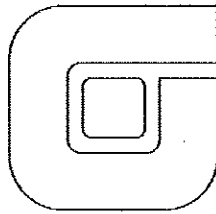
WHEREAS, Brown's Pond spillway discharge channel improvements designed and proposed but not completed during the Silver Stream Dam Improvements Project must be re-evaluated and addressed; and

WHEREAS, O'Brien & Gere Engineers, Inc. has submitted a proposal for professional engineering services for an evaluation and rehabilitation investigation of the Brown's Pond spillway; and

WHEREAS, the cost for such professional engineering services will be \$47,000.00 and funding shall be derived from the 2016 BAN; 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 and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute a professional engineering services agreement with O'Brien & Gere Engineers, Inc. for evaluation and rehabilitation investigation of the Brown's Pond spillway at a cost of \$47,000.00.



OBG | There's a way

October 23, 2018

Mr. Jason Morris
City Engineer
City of Newburgh
City Hall – 83 Broadway.
Newburgh, NY 12550

RE: Silver Stream Reservoir Dam – Spillway Evaluation and Rehabilitation Investigation
FILE:

Dear Mr. Morris:

O'Brien & Gere Engineers, Inc. (OBG) is pleased to present this proposal for engineering services for the structural evaluation of the existing spillway channel and bridge. This proposal has been prepared in response to the May 2, 2017 on-site meeting between OBG and the City of Newburgh. The project background, our proposed scope of services, and price proposal for this work are presented below.

PROJECT BACKGROUND

The City contracted with OBG in 2003 to design improvements to Silver Stream Reservoir Dam, and in 2009 the City contracted with OBG to provide the construction phase services for the improvements. DEC Dam Safety (Dam Safety) accepted the Engineering Design Report (EDR) for that remediation in lieu of the required Engineering Assessment (EA). The dam improvements included the following work:

- Installation of steel bar anchors along the crest of the concrete gravity non-overflow section.
- Grouting the vertical contraction joints of the concrete gravity non-overflow section.
- Installation of approximately 180 linear feet of steel sheet piling along the downstream slope of the earth embankment.
- Installation of a drainage system for the sheet pile wall and regrading of the downstream slope.
- Replacement of 122 linear feet of the training wall near the bottom of the spillway channel.
- Concrete crack and surface repairs of the spillway training walls.
- Concrete overlay installed over the existing spillway slab.

Certain design elements and/or details depicted in the contract drawings for the spillway discharge channel improvements were eliminated or modified at the contractor's discretion, as deemed necessary to suit the project schedule and/or financial constraints. The modifications were reviewed, negotiated, and approved by the City and, in some cases, the City requested office engineering support or field investigation from OBG to assist with the development of supplemental details for expedited implementation of the modifications proposed by the contractor. Some of these modifications were documented for the construction record and captured in the formal record drawings subsequently submitted to the City. However, the full scope of the spillway discharge channel improvements as originally designed was not constructed and some of the construction modifications were not formally documented, including the following:

- Most of the spillway discharge channel slab was demolished and a new reinforced concrete slab on grade (floating slab system) was constructed instead. The concrete overlay details were not installed.
- Significant areas of the designed spillway training wall crack and surface repairs were not completed.
- Full thickness wall cracks were temporarily sealed with flexible polyurethane hydrophilic grout which was not suitable as a structural repair grout.
- The designed reinforcing (vertical shear resistance) and concrete surface faying (for horizontal shear resistance) were not constructed. An isolation joint with bituminous joint material between the channel floor slab and the existing wall was installed at the Contractor's discretion.
- Water stop between the channel floor slab and side walls was eliminated from the construction.

The City is requesting a proposal from OBG to assess the existing condition of the spillway discharge channel and the bridge crossing the channel. OBG will also assess renovation alternatives to address deterioration and cracking in the spillway channel walls that was not addressed in the earlier construction project.

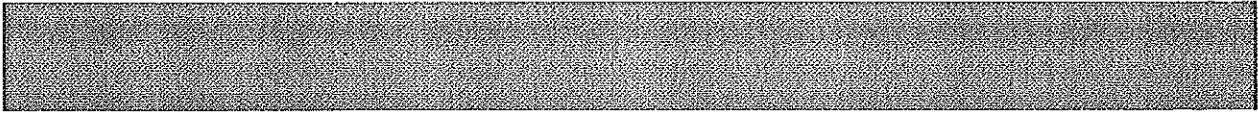
Alternatives for disposition of the spillway channel include repairs to the existing wall, installation of an interior structural veneer/encasement, or complete replacement. However, after reviewing the construction records, photos, and as-built drawings in detail, it is now evident that neither the repair nor overlay alternatives are considered feasible for most sections of the wall. The findings of our review showed that during construction the contractor's ad-hoc changes to the channel floor during construction, which included full floor slab demolition and a new concrete channel floor in some areas, required OBG to perform a preliminary stability analysis of the channel walls for safety considerations during construction. The analysis was conducted with little or no information at that time regarding the exact geometry/construction of the wall; the wall foundation; reinforcement; or the existence of a designed connection between the wall and the channel base slab. The results of this preliminary construction phase stability analysis revealed that significant wall sections did not meet the USACE stability analysis criteria with the channel floor slab removed. Temporary shoring was recommended, if the slab was to be fully removed. Later in the construction process, it was discovered that there was no reinforcement or monolithic concrete connection between the original concrete floor and the channel walls (i.e., no bending capacity) but there was full bearing of the wall against the slab which would provide sliding resistance for the wall. The review was not able to locate any record of temporary shoring used during construction and found that the contractor substituted an isolation joint between the new floor slab and the existing wall instead of providing full concrete-to-concrete bearing at the joints and shear reinforcement in accordance with construction sketches issued by OBG. The end result is that the channel floor slab is not structurally tied to the walls in a manner that would provide sliding resistance or moment support for the walls. Therefore, we have concluded that replacement of the remaining original concrete walls with new concrete walls may be the only viable long-term remediation option.

Finally, the City received a letter from Dam Safety in October 2017 which indicated that another EA is due for the dam in 2018. In lieu of an EA, Dam Safety stated that an update of the 2008 EDR for the 2009 spillway modifications, including supporting computations for the currently proposed spillway improvements, would be an acceptable alternative to an EA. However, the spillway channel repair concept has yet to be selected and the design of the recommended improvements will follow in a later phase. Therefore, since this proposal includes a spillway inspection and a Dam Safety Inspection (DSI) is a required element of an EA, we propose concurrent inspection of the entire facility.

SCOPE OF SERVICES

OBG will perform the following scope of services:

TASK 1 – Field Investigation



Conduct a detailed visual inspection of the spillway channel and the bridge, and document the prevailing conditions thereof. Information gathered during the field investigation will be used to form the basis of analysis for the work in later tasks. A letter report that summarizes the findings of the field investigation will be issued at the end of this task.

The field investigation will be conducted by a team of two (2) structural engineers, and the work will consist of taking detailed measurements and photographs of the spillway training walls and slab, and the spillway bridge deck, steel girders, and concrete abutments/supporting training wall. As indicated above, some of the spillway channel rehabilitation work was either partially completed or has remained incomplete since the 2009 improvements construction. The concrete conditions have likely further deteriorated since that time and the existing condition will be used as a baseline for the evaluation of the spillway stability and rehabilitation. A review of the record drawings; construction photos and records; and an assessment/accounting of original spillway discharge channel rehabilitation measures not completed in the previous construction will also be included as part of this task.

Original design drawings for the spillway bridge are not available, and it is unknown if there is steel reinforcing (rebar) within the bridge deck. The size and spacing of steel reinforcing is essential to calculate the structural capacity of the bridge deck. Therefore, OBG will subcontract a concrete scanning service firm to identify if steel reinforcing is present in the spillway bridge deck, and to provide the size (diameter), depth, and layout of the steel reinforcing bars.

Access to all spillway and bridge features is assumed to be from ground level or on/within the structure by use of a ladder. OBG will prepare a Job Safety Analysis (JSA) prior to the field investigation that outlines potential health and safety risks associated with the field investigation. All work will be performed in accordance with applicable OBG Health and Safety policies and OSHA standards.

TASK 2 – Preliminary Channel Wall Analysis

A preliminary stability analysis of the wall sections will be conducted to evaluate the most practical and economical method of new wall construction. The analysis will be conducted in accordance with the USACE Gravity method in accordance with EM 1110-2-2100 “Stability Analysis of Concrete Structures”, 2005, and EM 1110-2-2400, “Structural Design and Evaluation of Outlet Works”, 2003. The analysis will be based on sections of these guidelines that specifically cover stability and structural design criteria for outlet works/spillway discharge channels and stilling basin walls. OBG will review its project file of 2009 dam improvements for hydraulic and geotechnical information required for the stability analysis. The analysis and design criteria will be based on this data and information gathered from Task 1, and conceptual sketches will be developed to support the preliminary cost estimate (Task 4).

TASK 3 – Spillway Bridge Structural Evaluation

It is understood that the City wishes to maintain access across the spillway; therefore, a load capacity and general evaluation of the spillway bridge and abutment walls will be undertaken based on the dimensional data, construction, and material properties gathered from Task 1. The strength of the concrete deck and abutments will be evaluated per the provisions of AASHTO LRFD Bridge Design Specifications and ACI 318-10. The steel girders will be evaluated in accordance with the AISC Steel Construction Manual 14th Edition and the stability and load capacity of the abutments will be evaluated as outlined above in Task 2. The operational and safety aspects of the bridge will be evaluated based on AASHTO minimum design and safety requirements.

Based on these evaluations, calculations and design of repair/replacement alternatives will be advanced to the level necessary to develop concept sketches that show major structural features of the proposed alternatives and methods of construction.

TASK 4 –Preliminary Cost Estimate

Based on the Task 2 and 3 design concept sketches, a rough order of magnitude (ROM) cost estimate (-25% to +50%) will be developed for spillway wall replacement and bridge repair/replacement alternatives. The ROM cost estimate will include an estimate of design and construction engineering costs.

TASK 5 – Summary Report

OBG will prepare and submit a summary report of the findings from Tasks 1 through 4. The summary report will include descriptions of the type(s) of remedial alternatives recommended for the spillway channel walls and bridge, sketches of the remedial measures and the ROM cost estimate. A draft report will be submitted to the City for review and comment prior to finalizing the report.

TASK 6 – Dam Safety Inspection

A visual inspection of Silver Stream Reservoir Dam will be conducted concurrently with Task 1 to comply with the requirements for a Dam Safety Inspection. DEC Dam Safety guidance recommends that DSI's be conducted once every two years for Class C dams. The observations will be recorded on an inspection checklist acceptable to DEC and we will prepare a captioned photographic log of the inspection. Both the checklist and photolog will be appended to the updated EDR to satisfy the requirement of including a recent DSI with an EA report.

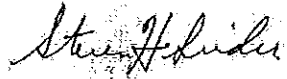
FEE AND TERMS

OBG proposes to perform the services described above for a Lump Sum Fee of **\$47,000.00**. If this proposal is agreeable to you, please prepare a contract for our review. The task fees are as follows:

Task 1 – Field Investigation	\$ 7,000
Task 2 – Preliminary Channel Wall Analysis	\$ 12,200
Task 3 – Spillway Bridge Structural Evaluation	\$ 9,400
Task 4 – Preliminary Cost Estimate	\$ 5,900
Task 5 – Summary Report	\$ 7,900
Task 6 – Dam Safety Inspection	<u>\$ 4,600</u>
TOTAL:	\$ 47,000

Please contact me if you have any questions and/or comments.

Very truly yours,
O'BRIEN & GERE ENGINEERS, INC.



Steven H. Snider, PE
Technical Director – Dams & Water Resources

Cc. Robert Bowers, OBG
Edward Drummond, OBG
I:\Beacon-C.3846\BD\2017 EAP Updates\City of Beacon_2017 EAP Updates prp_20170425.docx



RESOLUTION NO.: 322 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A
WASTEWATER TREATMENT PLANT OPERATION AND MAINTENANCE
AGREEMENT WITH INFRAMARK, LLC
FOR THE OPERATION, MAINTENANCE AND MANAGEMENT OF
THE CITY WASTE WATER TREATMENT PLANT

WHEREAS, the City of Newburgh owns and operates a waste water treatment plant ("WWTP") on behalf of the citizens of the City of Newburgh under and according to the laws, rules and regulations including permit conditions of all federal, state and other agencies and authorities with jurisdiction thereover; and

WHEREAS, under an Agreement dated August 1, 2003, extended in 2005, 2009, and further extended in 2013, the City retained the services of Severn-Trent Environmental Services, Inc. to operate, maintain and manage the WWTP; and

WHEREAS, Severn-Trent has operated the WWTP professionally and effectively and in compliance with all applicable laws, rules, regulations and conditions, and in the best interests of the City of Newburgh; and

WHEREAS, Severn-Trent has undergone a corporate reorganization and is now known in the United States as Inframark, LLC; and

WHEREAS, the City and Inframark, LLC have reached Agreement to continue the operation, maintenance and management of the WWTP; the same being in the best interests of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute on behalf of the City of Newburgh a Wastewater Treatment Plant Operation and Maintenance Agreement by and between the City of Newburgh and Inframark, LLC retaining said firm as operator of the City waste water treatment plant on the terms and in substantially the form attached hereto, with such other terms and conditions as Counsel and the City Comptroller may require same as being in conformity with law and in the best interests of the City of Newburgh.

WASTEWATER TREATMENT PLANT OPERATION AND MAINTENANCE AGREEMENT

This Wastewater Treatment Plant Operation and Maintenance Agreement (the "Agreement") is made this _____ day of _____ 2018, between:

- 1) **City of Newburgh**, a municipal corporation with its principal place of business at 83 Broadway, Newburgh, New York 12550 (hereinafter the "Client"); and
- 2) **INFRAMARK, LLC**, a Texas limited liability company with its principal place of business at 2002 West Grand Parkway North, Suite 100, Katy, Texas 77449 (hereinafter the "Operator")

BACKGROUND

The Client desires to procure operation and maintenance services required for the Client's Wastewater Treatment Plant as set forth in Schedule 5 attached to this Agreement ("Facilities") and the Operator desires to provide said operations and maintenance services to the Client.

In consideration of the mutual promises in this Agreement, the parties agree as follows:

1) TERM

This Agreement shall commence on January 1, 2019 ("Commencement Date") and shall remain in full force and effect for five (5) years from the Commencement Date ("Initial Term") unless terminated earlier under Section 5 below. After the Initial Term, the Agreement shall be automatically renewed for successive three (3) year periods unless terminated in writing by either party at least sixty (60) days prior to the expiration of the then current term.

2) OPERATOR'S SERVICES

- 2.1. Operator shall provide the services as set forth below in regard to the City of Newburgh's wastewater facilities as defined in Schedule 3.
- 2.2. Operator shall be responsible for all Annual Maintenance Expenditures not to exceed the Annual Repair and Maintenance Budget (which Annual Repair and Maintenance Budget shall be included in the Annual Compensation). Operator will track Annual Maintenance Expenditures incurred against the Annual Repair and Maintenance Budget, a quarterly review of the maintenance budget will be conducted with the city engineer and comptroller. If, at any time during an Agreement Year, the actual Annual Maintenance Expenditures incurred to that point reach 80% of the Annual Repair and Maintenance Budget, Operator shall notify the Client. If, at any point during an Agreement Year, the actual Annual Maintenance Expenditures incurred to that point exceed the Annual Repair and Maintenance Budget, the Operator will invoice the Client for the excess cost in accordance with Section 4.5 and will continue to invoice any additional Annual Maintenance Expenditures on a monthly basis thereafter. Operator shall reimburse Client an amount, if any, equal to all unexpended amounts remaining in the Annual Repair and Maintenance Budget with a period of sixty (60) days following each anniversary of the Commencement Date.
- 2.3. Except in the case of an Emergency Event, Operator shall follow the City's procurement policy for all purchases, this policy is to be provided by January 1st of each year, in the event the policy is not provided the prior year's policy will be followed.
- 2.4. Operator may perform additional services or Corrective Maintenance beyond the Services

outlined herein with the mutual consent of both parties. The parties shall separately negotiate the costs of any such additional services.

- 2.5. Operator may recommend Capital Improvements or operational changes to the Client as are necessary or recommended to perform the Services in compliance with the terms of this Agreement and Applicable Law. In the event the Client does not approve and make a Capital Improvement or operational change recommended by Operator, Operator will not be liable for any loss, damage or liability arising from or related to the Client's rejection of or refusal to implement the recommended Capital Improvement or operational changes, including any loss, damage, or liability for (a) failure of the Facilities, (b) failure to comply with Applicable Law, (c) failure to meet the requirements of this Agreement or (d) claims for indemnification.
- 2.6. Operator shall:
 - 2.6.1. Perform the Services in accordance with the provisions of this Agreement, Applicable Law, and Client's existing Permits as defined in Schedule 5 of this Agreement licenses, and specifications applicable to the operation and maintenance of the Facilities; exercising the degree of skill and care ordinarily exercised by members of Operator's profession in the geographic region of the Facilities; this Section 2.6.1 does not apply to Client's pretreatment and long-term care control plan requirements.
 - 2.6.2. Use qualified (and where required, certified) personnel to operate and maintain the Facilities and all its equipment and processes in accordance with relevant operation and, if available, maintenance manuals for the Facilities, Applicable Law, and the Client's Permits and Discharge Permits;
 - 2.6.3. Perform (or contract with a laboratory certified by the appropriate regulatory body to perform) all sampling and laboratory analysis required by Applicable Law, the Client's Permits and Discharge Permits. Laboratory procedures and analysis shall conform to the then current edition of Standard Methods for the Examination of Water and Wastewater, or shall be in accordance with testing requirements of Applicable Law and the Client's Permits and Discharge Permits;
 - 2.6.4. Subject to the limitations in Section 3, below, perform the routine preventive maintenance tasks.
 - 2.6.5. Maintain necessary records of operations, maintenance, repair and improvement activities at the Facilities and shall prepare and submit to the Client a monthly report, delivered to the Client the following month, including a narrative and summary of operations, maintenance, repair and replacement activities (including the draw-down against the Annual Repair and Maintenance Limit) and data required for monthly reporting to local, state and federal agencies;
 - 2.6.6. Provide emergency response services for the Facilities twenty-four hours a day, seven days a week.
 - 2.6.7. Maintain the administration of the existing Industrial Pretreatment Program (IPP) as described by the City sewer use ordinance and EPA approved Industrial Pretreatment Program dated 7-23-84 by:

- reviewing all current permits and permit monthly self-monitoring documents for compliance with the City of Newburgh's IPP program, Sewer use ordinance and include with reporting in the monthly operations report to the City on status of compliance
 - INFRAMARK will report any non-compliances and submit to the City Engineer and Manager for enforcement action.
 - publish any non-compliance events as per regulatory requirements
 - Arranging and conducting annual inspections of all permitted facilities, collect and supply annual permittee surveillance samples to a NYS certified laboratory. Fees for the annual inspection and analytical samples are included in the Annual Permit Administration fee as outlined in Schedule 2.
 - review all permit applications and submit applications to the City Engineer and Manager
 - Conduct an annual Industrial Wastes Survey (IWS) within the city limits to identify any new dischargers in need of permits. This will be based on received water usage reports and business records, received annually from the City, this report will be sent to the City Engineer for further permitting and / or regulatory action by September 1st of each year.
 - INFRAMARK shall manage the reporting industries' laboratory results, compiling the results and submitting reports to the regulatory agencies on the CITY's behalf including but not limited to an "IPP" report as required by the U.S. Environmental Protection Agency and such reports as may be required by the New York State Department of Environmental
 - INFRAMARK will not be responsible for any enforcement proceedings or permitting authorizations other than described in section 2.6.7
 - All cost associated with section 2.6.7 are described in Schedule 2 which provides unit rates as additional SIU are added to the IPP program monitoring.
- 2.6.8 Maintain Client's Combined Sewer Overflows (CSOs) / Regulators and perform required routine preventive maintenance tasks to insure satisfactory operation. INFRAMARK shall monitor the status of the CSO's / Regulators from the existing CSO / Regulator monitoring panel at the Facilities to detect any wet weather overflows. INFRAMARK will inspect the eleven CSO / regulators and two unmonitored diversion manholes at least once per week and after every major wet weather event that causes a bypass. It is understood and agreed that the CITY will provide the necessary special cleaning equipment, with operator (i.e. vac and jetter truck), to assist in CSO/Regulator servicing. Coordination of this effort shall be directed by INFRAMARK site supervisor and designated CITY representative. Documentation of the maintenance for CSO's/Regulators's will be maintained and provided to the City.
- Maintenance of the monitoring system is to be provided by the City with assistance by INFRAMARK with all materials to be provided by the City
 - INFRAMARK will be responsible for confined space entry, labor and equipment necessary
 - The annual CSO report is to be created by INFRAMARK with assistance and approval by the City Engineer
 - INFRAMARK will be responsible for initiating all wet weather CSO bypass notifications per the regulatory requirements including "NY- Alerts" within 2 hours of the event. INFRAMARK will provide reporting of the City's Smart Cover monitoring system notifications. An electronic copy of the notification will be sent to the City designee's as requested by the City Engineer within 24 hours of notification. The CITY is responsible for reporting all Dry Weather overflows.
 - CSO / Regulator locations and types are listed in Schedule 3

- 2.6.9 INFRAMARK shall act as the agent for the administration of the CITY's hauled waste acceptance program with joint permit approval between INFRAMARK and the City of Newburgh Engineer. INFRAMARK will endeavor to ensure all applicable local, state and federal regulations, ordinances and restrictions are followed. INFRAMARK shall perform visual inspection and a pH testing to determine waste matches the waste approved for acceptance and listed on the manifest. If INFRAMARK shall, in its reasonable discretion, suspect that such hauled waste contains abnormal or biologically toxic substances which cannot be treated by the Project's processes or which might adversely impair the ability of the Project to comply with the CITY's SPDES Permit, INFRAMARK shall have the right to reject such hauled waste. INFRAMARK will provide the necessary permit review, record keeping and accounting services pertinent to the program and will recommend hauled waste user rates based on the cost of processing, market conditions and guidelines established in the CITY's Sewer Use Ordinance. In exchange for these services, INFRAMARK will receive twenty percent (20%) of the revenues derived from this program. This compensation will be billed on a monthly basis and will be due within thirty (30) days of invoice receipt.
- 2.6.10 INFRAMARK shall staff the Project adequately with employees capable of the duties required to operate and maintain the facility along with an appropriate number of certified operators who have met appropriate certification requirements of the State of New York. The facility will be staffed a minimum of 8 hours per day Monday – Fridays excluding holidays between the hours of 7:00 am – 3:00 pm. Appropriate staffing will be provided for Holidays, Saturday and Sundays with a minimum of 5 hours typically 6:00 am – 11:00 am
- 2.6.11 INFRAMARK will assist the City to designate and select the sludge disposal facility / contractor to be used for the CITY's biosolids and grit waste materials. Only disposal facilities that are properly permitted and meet all the state and federal regulations for the CITY's waste materials are to be accepted. The City will pay all invoices for waste disposal and transportation directly to the vendor selected. INFRAMARK will administer the waste disposal program, including any required analytical sampling monthly and annual tonnage / quantity reporting and logistics with the City's disposal / transportation vendor.
- Notwithstanding the provisions of sludge transportation and disposal services by INFRAMARK or any of its subcontractors hereunder, title and ownership to the sludge and any and all liability associated therewith shall at all times remain with the CITY.
- 2.6.12 INFRAMARK shall provide reasonable access to Project for CITY's personnel on a twenty-four (24) hour basis. Visits may be made at any time by any of CITY's employees so designated by CITY's representative provisions will be made in the administration building for a desk and telephone for use by the CITY's designee if desired. Keys for the Project shall be provided to CITY by INFRAMARK. All visitors to the Project shall comply with INFRAMARK Health and Safety Program.

3) CLIENT OBLIGATIONS

3.1 Client shall:

- 3.1.1. Obtain and maintain all state, federal, and local permits and licenses required for ownership, operation and maintenance of the Facilities, including without limitation, the Client's Permits and Discharge Permits;
- 3.1.2. Arrange for and pay: i) all costs related to delivery to and consumption of utilities to the Facility, including electricity, water, and gas, , a at the Facilities; ii) all property, value-related, franchise, sales, use, excise, gross receipts, transaction privilege or other taxes associated with the Services and the ownership, operation and maintenance of the Facilities, other than taxes imposed on Operator's net income or payroll; iii) expenses incurred from the treatment of Non-Processible Water, including without limitation, any penalties and fines that may be assessed as a result; iv) expenses resulting from influent or pollutant loads exceeding the Baseline Conditions as set forth in Schedule 6; iv) expenses resulting from hydraulic or organic loads exceeding the Baseline Conditions as set forth in Schedule 6; v) all costs attributable to the transportation and disposal of Process Residue; vi) all Capital Improvements;; and viii) the rates set forth in Schedule 4 for emergency response services.
- 3.1.3. Comply with Applicable Law relating to the management, ownership, operation, maintenance, repair and replacement of the Facilities (to the extent that the responsibility of complying with those laws is not specifically assumed by the Operator under this Agreement). The Operator shall not be responsible for Client's failure to comply with any provision of Applicable Law that is not otherwise specifically assumed by the Operator hereunder;
- 3.1.4. During visits to the Facilities, comply and shall require its agents, licensees of invitees to comply with all reasonable safety rules and regulations adopted by the Operator;
- 3.1.5. Maintain all sewer lines, pipes, force mains, and all other water transportation lines ("Client Lines"), that are not part of the Facilities under Operator's control, in a manner that will prevent, to the extent practicable, any damage to the operation of the Facilities due to leakage of water or infiltration or inflow of storm water from such Client Lines;
- 3.1.6. Perform all duties and discharge all responsibilities and obligations relating to the operation and maintenance of the Facilities not expressly assumed by the Operator pursuant to the terms of this Agreement; and
- 3.1.7. Grant the Operator, free of charge, a license to use the Facilities, including all equipment, structures, facilities and vehicles under Client's ownership and which have been assigned by Client to the Facilities.
- 3.1.8. Pay all fees associated with processing any Abnormal or Biologically Toxic Material, to either:
- 3.1.9. Issue and enforce all IPP Notice of Violations and / or Noncompliance's

4) FEES AND PAYMENT

- 4.1 For the period beginning on the Commencement date Client shall pay Operator the Annual

Compensation as set out in Schedule 2. The Annual Compensation for the first Agreement Year shall be \$_____. Client shall pay the Annual Compensation in equal monthly installments, which for the first Agreement Year shall be \$_____. The Annual Compensation shall be due, in advance, on the first of the month during which the Services will be rendered. All other payments shall be due within thirty (30) days of the date of invoice. Any disputes regarding invoices shall be raised, in writing setting forth sufficient detail regarding the nature of the dispute, within ten (10) of the date of said invoice

- 4.2 Any disputes regarding invoices shall be raised, in writing setting forth sufficient detail regarding the nature of the dispute, within ten (10) business days from the date of said invoice. If Client does not properly raise a dispute with an invoice within ten (10) business days from the date of said invoice, any such disputes will be waived.
- 4.3 On each and every Adjustment Date, the Annual Compensation will be increased as set forth in Schedule 2. In no event will the Annual Compensation be reduced.
- 4.4 Any and all late payments due to either party from the other party shall accrue interest at a rate of one and one-half percent (1½ %) per month from the original due date and until payment is received, unless waived by agreement.
- 4.5 Client shall reimburse or compensate the Operator for the costs that exceed the Annual Repair and Maintenance Budget plus an administrative fee of 15% of the cost thereof. Client shall pay the Operator such amounts within 30 days of issuance of an invoice by Operator. Any portion of the Annual Repair and Maintenance Budget that has not been spent at the end of each Agreement Year will be credited to Client against the Base Fee in the subsequent Agreement Year.
- 4.6 In the event of a change in the Services or Applicable Law or other factor which causes an increase in the Operator's cost of providing the Services, the Operator may provide notice to the Client and the parties shall negotiate in good faith to adjust the Base Fee to account for such change in Operator's costs. If the parties are unable to reach a negotiated agreement within thirty (30) days of the date of notice, then the contract may be terminated immediately by the Operator.
- 4.7 The city will pay INFRMARK for each IPP permit issued at the rates established in Schedule 2. As new IPP permits are issued, they will added to the SIU list and included in the annual inspection and sampling program. A list of the current IPP permit holders in included in Schedule 4.
- 4.8 All compensation and rates provided herein has been derived under the premise and understanding that the Services to be furnished hereunder involve routine monitoring, upkeep and inspections and do not require the Operator to pay its employees prevailing wage rates pursuant to New York Labor Law. If a determination is made by the City or by the NYS Department of Labor, or by any other governmental agency with competent jurisdiction thereof that the nature of the Services is such that the Operator is required to pay any of its employees who are performing the Services prevailing wage rates, then the City shall immediately notify Operator and be responsible for all additional costs incurred by the Contractor as a result thereof.

5) TERMINATION

- 5.1 Either party may terminate this Agreement by immediate written notice if the other has failed to comply with a material term, provided that the non-defaulting party has first given the defaulting party written notice to cure their default within forty-five (45) days, or thirty (30) days for failure to pay an undisputed invoice when due (such applicable period, "Cure Period") and the defaulting party has not done so. If a default cannot be cured within the Cure Period days, the parties may agree to an extension of the time to cure provided the defaulting party provides reasonable evidence within the Cure Period that it has identified a means to cure and is pursuing it diligently. Should Client pay an unpaid, undisputed invoice within the Cure Period, the termination notice under this provision will be deemed automatically withdrawn.
- 5.2 In the event of the termination of this Agreement under Section 5.1 above, Client shall pay Operator for the Services provided and invoiced by Operator up to the effective date of termination, plus the balance of unamortized costs incurred by Operator as reflected on Operator's financial statements, and the effectiveness of such termination by Client will be conditioned upon receipt by Operator of such payment. If Client incurs costs for damages due to a default of the Operator that results in termination of this Agreement, Client may deduct such costs or damages from the final payment due to Operator under this Section 5.2. Such deduction will not exceed the final payment owed to Operator and will constitute a full and final settlement between Client and Operator for any and all claims against Operator by Client and a release by Client of any and all further claims against Operator. Client shall make payment within thirty (30) days of the date of termination.
- 5.3 Client shall notify Operator of any dispute with an invoice within ten (10) business days from receipt of said invoice. In the event that Client has a dispute with any charges, all undisputed charges on said invoice(s) will be due in accordance with the above times and the Parties shall negotiate in good faith to resolve any such dispute in a timely manner.

6) FINES, INDEMNIFICATION AND LIMITATION

- 6.1 In the event that wastewater treatment violations occur following the Commencement Date, subject to Sections 6.2 and 9.7, Operator shall, in respect of violations that may be imposed by environmental regulatory bodies under Applicable Law and to the extent directly attributable to Operator's breach of its contractual obligations hereunder, be responsible for: environmental regulatory fines and penalties. Prior to settlement or payment of any such fines or penalties, Operator reserves the right to contest any actions, suits or proceedings for violations through administrative procedures or otherwise. Operator shall provide Client with prompt notice of any such water or wastewater treatment violations.
- 6.2 If the Facilities loading exceed its design parameters or if influent contains: i) abnormal, toxic or other substances which cannot be removed or treated by the existing Facilities; or ii) discharges which violate applicable ordinances, the Operator will use its best efforts to maximize performance of the Facilities but shall not be responsible for associated effluent characteristics or damages, fines or penalties which result.
- 6.3 During the term of this Agreement, each party (the "Indemnifying Party") shall defend, indemnify and hold harmless the other party and their respective successors and assigns (each is referred to herein as an "Indemnified Party") against any and all liability for damages, costs, losses, and expenses, including reasonable attorney's fees, resulting from any claim asserted by a third party against the Indemnified Party for wrongful death, bodily

injury, and/or property damage, but only to the extent caused by the willful or negligent acts or omissions of the Indemnifying Party.

- 6.4 Operator is not liable for any liabilities resulting from the collection system for the Facilities unless such liabilities are the result of Operator's negligent direct actions.
- 6.5 Notwithstanding any provision to the contrary contained in this Agreement, in no event shall either party be liable, either directly or indirectly, for any special, punitive, indirect and/or consequential damages, including damages attributable to loss of use, loss of income or loss of profit, even if such party has been advised of the possibility of such damages.
- 6.6 In the event that claims(s) raised by Client against the Operator on account of this Agreement, or on account of the Services performed hereunder including claims by Client for indemnification under Section 6.3, is/are covered under Operator's insurance policies required of the Operator hereunder, Operator shall not be responsible to Client for any loss, damage or liability beyond the amounts contractually required hereunder and actually paid pursuant to the limits and conditions of such insurance policies. With respect to any causes of action and/or claims raised against the Operator by Client that are not covered by the insurance policies required hereunder, including claims by Client for indemnification, Operator's liability to Client shall not exceed an aggregate amount equal to the Base Fee in effect during the Agreement Year in which such cause of action and/or claim is raised.

7) INSURANCE

- 7.1 Operator shall provide and maintain the following levels of insurance coverage at all times during the Term.
 - 7.1.1. Commercial General Liability Insurance, including contractual liability, with a limit of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate;
 - 7.1.2. Workers Compensation Insurance in compliance with the statutes of the State that has jurisdiction over Operator's employees engaged in the performance of Services hereunder, to the required statutory amount; and
 - 7.1.3. Automobile Liability Insurance with a combined single limit of one million dollars (\$1,000,000).
- 7.2 Operator shall name Client as an additional insured on the general liability policy and automobile liability policy with respect to the Services during the term of this Agreement, except for any claim against or loss suffered by Client arising as a result of Client's negligence or fault and, in circumstances of joint fault or negligence, except to the extent of the loss attributable to Client's proportionate degree of negligence or fault.
- 7.3 Operator shall provide Client with thirty (30) days' notice prior to cancellation of any policy hereunder.
 - 7.4 Operator shall provide Client with insurance certificates confirming the levels of coverage in Section 7.1 and that Client is named as an additional insured.
 - 7.5 Client warrants that it maintains and will continue to maintain, during the term of this Agreement, appropriate property insurance in relation to the

Facilities.

8) DISPUTES

- 8.1 In the event of any disputes, the parties shall first attempt to resolve the situation by good faith discussions which shall take place in a timely manner. If the dispute cannot be resolved within sixty (60) days, the parties shall mediate their dispute before a mediator acceptable to both parties, if they cannot agree, they shall ask the Director of the Federal Mediation and Conciliation Service to nominate a mediator. The parties shall bear their own costs of the mediation but the parties shall share equally the costs of the mediator and the mediation facilities.
- 8.2 If the parties are unable to resolve any disputes in accordance with 8.1 above, either party may request that such dispute be submitted for binding arbitration, which shall be governed by the rules of the American Arbitration Association or such other rules as the parties may agree. The parties agree that any judgment issued as a result of arbitration may be entered in the court having jurisdiction thereof. The parties agree that arbitration shall be the exclusive means to settle any dispute, controversy or claim arising out of this Agreement.

9) MISCELLANEOUS

- 9.1 The relationship of Operator to Client is that of independent contractor for all purposes under this Agreement. This Agreement is not intended to create, and shall not be construed as creating, between Operator and Client, the relationship of principal and agent, joint ventures, co-partners or any other similar relationship, the existence of which is hereby expressly denied.
- 9.2 This Agreement contains the entire agreement between Client and Operator and supersedes all prior or contemporaneous communications, representations, understandings or agreements that are not consistent with any material provision of this Agreement.
- 9.3 The parties may only modify this Agreement by a written amendment signed by both parties.
- 9.4 The failure on the part of either party to enforce its rights as to any provision of this Agreement shall not be construed as a waiver of its rights to enforce such provisions in the future.
- 9.5 Neither party may actively solicit, for hire, the employees of the other party during the term of this Agreement or for one year following the termination of this Agreement.
- 9.6 Neither party shall assign this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld.
- 9.7 A party's performance of any obligation under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of any event of Force Majeure, as defined in Schedule 1. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause that excused performance hereunder.

- 9.8 The Agreement shall be governed by and construed in accordance with the laws of the State of New York.
- 9.9 In the event that Client receives notice of or undertakes the defense or prosecution of any legal or administrative action or proceeding in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, Client shall give Operator prompt notice of such proceedings and shall inform Operator in advance of all hearings. In the event Operator receives notice of any action, claim, suit, administrative or arbitration proceeding or investigation in connection with the ownership, operation and/or maintenance of the Facilities and/or this Agreement, Operator shall give Client prompt notice of such proceedings.
- 9.10 All notices will be in writing and shall be deemed given when mailed by first class mail or delivered in person. Notices required to be given to the parties by each other will be addressed to:

Inframark, LLC

[CLIENT]

ATTN: _____

ATTN: _____

- 9.11 All records compiled by Operator with information and material gathered when performing this Agreement are the property of Client.
- 9.12 Defined terms in this Agreement are set out in Schedule 1 or within the main body of this Agreement, capitalized or within quotation marks.
- 9.13 Should any part of this Agreement for any reason be declared invalid or void, such declaration will not affect the remaining parts of this Agreement, which will remain in full force and effect as if the Agreement had been executed with the invalid portion eliminated.
- 9.14 This Agreement may be executed in more than one counterpart, each of which shall be deemed an original.
- 9.15 Both parties warrant and represent to the other that they have full power and authority to enter into and perform this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement effective as of the date at the top of this Agreement.

[CLIENT]

INFRAMARK, LLC

By: _____
Title:
Date:

By: Stephane Bouvier
Title: CEO
Date:

Schedule 1: Definitions

"Abnormal or Biologically Toxic Materials" may include, but are not limited to, concentrations of heavy metals, phenols, cyanides, pesticides, herbicides, priority pollutants as listed by USEPA, or any substance that violates the local or USEPA standards for finished water after the routine processing of the raw water.

"Adjustment Date" means each anniversary of the Commencement Date.

"Agreement Year" means the consecutive twelve (12) month period that begins on the Commencement Date, and each subsequent consecutive twelve (12) month period that begins on each anniversary of the Commencement Date.

"Annual Compensation" is defined as Operator's Base Fee rendered under this Agreement and as set forth in Schedule 4 and the Annual Repair and Maintenance Budget as defined herein and set forth in Schedule 4.

"Annual Maintenance Expenditures" is defined as the total of all expenses incurred annually by the Operator in connection with the discharge of its maintenance responsibilities as provided by Section 2.1 of this Agreement; provided however that the Annual Maintenance Expenditures shall exclude Operator's direct labor expenses and related benefits for those individuals exclusively assigned by the Operator to the operations and maintenance of the Facilities and whose cost is included in the Base Fee hereunder. The Annual Maintenance Expenditures shall specifically include, but shall not be limited to, all materials, supplies, parts, tools, outside subcontractors, specialized services, rental equipment and all of the Operator's costs (excluding overtime costs) and related benefits, as well as the cost of Operator's personnel not exclusively assigned to the operation and maintenance of the Facilities at an agreed hourly billing rate. As stated hereunder, any individual expenditure for the repair and/or replacement of Facilities' equipment or structure, other than a Capital Improvement, whose unit cost (as to any single event or function) exceeds Five Thousand dollars (\$5,000.00) shall be subject to the Owner's prior approval. The cost of such approved expenditures shall be included in the Annual Maintenance Expenditures.

"Annual Repair and Maintenance Budget" is defined as the total of all Annual Maintenance Expenditures in an amount up to a maximum of the amount in Schedule 2 for the first Agreement Year. For each Agreement Year thereafter, the Annual Repair and Maintenance Limit shall be increased on each Adjustment Date by the Price Index Increase.

"Applicable Law" means laws, rules, regulations, codes, administrative and judicial orders, directives, guidelines, judgments, rulings, interpretations or similar requirements or actions of any federal, state, local government, agency or executive or administrative body of any of the above, in each case that relate to the (a) parties' respective responsibilities under this Agreement; (b) operation or maintenance of the Facilities; (c) health and welfare of individuals working at or visiting the Facilities; and (d) the collection, delivery and treatment of the Client's raw and finished water.

"Base Fee" is defined as Operator's base compensation for its performance of the Services. The Base Fee does not include the Annual Repair and Maintenance Budget.

"Baseline Conditions" means the amount of raw water received and/or processed at the Facilities and the maximum pollutant limits contained in such raw water. The Baseline Conditions as set forth in Schedule 6 shall be reset and adjusted on each and every Adjustment Date to reflect the actual raw water amount and pollutants processed at the Facilities during the Agreement Year just ended.

"Capital Improvements" means any modifications, additions or upgrades to the Facilities made by or on behalf of the Client or with its prior approval and funded from Client's capital proceeds.

"Client's Permit(s)" and/or *"Permit(s)"* means all permits and licenses issued to Client and required for the treatment of potable water from the Facilities. Copies of all Permits are attached as Schedule 5 of this

Agreement.

"Commencement Date" is defined in Section 1.

"Corrective Maintenance" is defined as maintenance work which involves the repair or replacement of components which are failing or have failed. These are tasks that required a trained maintenance technician using a variety of tools including specialized tools.

"Emergency Event" means an event which threatens the immediate shutdown of, or the substantial reduction in the operational capacity of, any of the Facilities, or the life, health or property of Client and/or Operator, their employees and/or agents or others.

"Facilities" means the water treatment plant, water distribution system, and all associated facilities as described in Schedule 5 to this Agreement.

"Force Majeure" means an event which is beyond the reasonable control of a party, including without limitation: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees;] (i) shortage of adequate power or transportation facilities.

"Non-Processible Water" is defined as influent raw water (i) which contains Abnormal or Biologically Toxic Materials; or (ii) which is otherwise detrimental to the operation and performance of the Facilities; or (iii) which exceeds the design capabilities of the Facilities as defined by the Operations and Maintenance Manual for the Facilities or as provided in submissions made to regulatory agencies in connection with the construction and/or the permitting of the Facilities.

"Price Index" means the Consumer Price Index for all Urban Consumers – Water and Sewerage Maintenance (CPI-U) for the U.S. City Average, 1982-84=100 as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics, or any replacement to that index from time to time.

"Price Index Increase" means the percentage increase between the Price Index in effect as of the month of each and every Adjustment Date over the Price Index in effect as of the month of the Commencement Date. The Price Index Increase shall be calculated as of each and every Adjustment Date for the purpose of adjusting the Base Compensation.

"Process Residue" means grit, screenings and sludge generated by or through the operation of the Facilities.

"Routine Preventative Maintenance" is defined as inspections and adjustments performed on equipment at regular intervals. Included are daily, weekly, monthly, quarterly, semi-annual, etc. inspections during which minor maintenance tasks such as lubrication, adjustments, filter replacement, calibrations, and cleaning are carried out.

Schedule 2: Annual Base Fee and Compensation Formula

1) Annual Compensation:

For the period beginning on the commencement of this contract, the CITY shall pay the OPERATOR an Annual Compensation in the amounts of \$ 1,430,000.00 as per the fee schedule provided below.

Base O&M Fee	\$ <u>1,303,109.60</u>
Annual Repair and Maintenance Budget	\$ <u>120,000.00</u>
Annual IPP Base Fee	\$ <u>6,890.40</u>
Annual Compensation in the first year	\$ <u>1,430,000.00</u>

Annual IPP SIU Permit Administration Fee per permitted industrial user.	
Categorical Permits	\$ <u>1,450.00</u> per year per permit
Non-Categorical permits	\$ <u>1,150.00</u> per year per permit

Annual Compensation and IPP Permit Administration fee will be invoiced in equal monthly amounts of
\$ 119,116.66 per month

2) Price Index

On each and every Adjustment Date, the Annual Compensation will be increased by the Consumer Price Index for all Urban Consumers – Water and Sewerage Maintenance (CPI-U) for the U.S. City Average, 1982-84=100 as published monthly by the U.S. Department of Commerce, Bureau of Labor Statistics, or any replacement to that index from time to time.

The following formula will be used to determine the increase in Annual Compensation on each Adjustment Date:

$$AAF = AF_0 \times [P_1 / P_0]$$

where:

AAF	=	Annual Adjusted Fee (new Annual Compensation) for the upcoming Agreement Year
AF ₀	=	Annual Fee (Annual Compensation) for the Agreement Year just ended
P ₁	=	Price Index in effect as of the month of the current Adjustment
P ₀	=	Price Index in effect as of the month of the prior Adjustment Date

With respect to the first Adjustment Date, P₀ shall be the Price Index in effect as of the Commencement Date of the Agreement.

3) Additional Charges:

Afterhours / Emergency Call outs

Additional charges for requested afterhours services or emergency call outs will be charged at the below labor rates with a minimum of 4 hours portal to portal.

Position	Rate (per hour)
Operator	\$135.00
Maintenance Technician	\$135.00

Additional Services during Normal Work Hours (Monday- Friday 7am -3pm)

Additional labor requested of the Client during normal weekday working hours will be charged in accordance with the below labor rate table

Position	Rate (per hour)
Operator / Maintenance Technician	\$90.00
Materials	Cost + 15%

Prevailing rate work

Any prevailing rate work will be done at the rate at the time of work at the rate indicated by the Department of Labor + 20%

Schedule 3: Client's Facilities

Plant is located at 2 Renwick Street Newburgh NY and consists of the following

1. Headwork's building
 - a. with no current rag removal expected rag removal system to be installed in 2019 with two (2) channels
 - b. grit removal system with two (2) channels
2. Primary treatment
 - a. Four (4) primary treatment tanks with collectors
 - b. Primary gallery pump chamber
 - c. Maintenance storage area
3. Fine bubble aeration for activated sludge process
 - a. two (2) trains and six(6) tanks
 - b. blower building with four (4) blowers
4. Secondary Clarification
 - a. Three (3) clarifiers
 - b. Activated building with MCC panel and pump chamber
5. Final contact tanks
 - a. Two (2) chlorine contact tanks
6. Administration building
 - a. Facility Laboratory
 - b. Main control SCADA room
 - c. Offices
 - d. Chlorine storage and pump room
7. Sludge processing area
 - a. Sludge thickener
 - b. Sludge storage tank
 - c. Dewatering building
 - i. Two (2) Belt Filter Presses
 - ii. Pump chamber
 - d. Sludge trailer building
 - e. Backup generator (diesel)
8. Maintenance garage / storage area
 - a. Second floor not in use, not currently acceptable for occupancy
 - b. Old incinerator building not in use and condemned due to asbestos presence not acceptable for occupancy

9. CSO / Regulators locations

001	41°29'41.7"	74°00'17.4"	Hudson River	WWTP	Secondary Treatment Bypass Gate
002	41°29'18"	74°00'34"	Quassaick Creek	Regulators#1 & #2	Float/Dynamic
003	41°29'37.2"	74°00'21.6"	Hudson River	Regulator#3	Float/Dynamic
004	41°29'44.4"	74°00'20.8"	Hudson River	Regulator#4 & DMH-F	Float/Dynamic & Fixed Dam
005	41°29'52.7"	74°00'19.2"	Hudson River	DMH-A	Fixed Dam
006	41°30'06.3"	74°00'17.6"	Hudson River	Regulator#5 & DMH-B	Float/Dynamic & Fixed Dam
007	41°30'10.9"	74°00'18.2"	Hudson River	Regulator#6 & DMH-G	Float/Dynamic & Fixed Dam
008	41°30'16.4"	74°00'16.3"	Hudson River	DMH-C	Fixed Dam
009	41°30'19.6"	74°00'17"	Hudson River	Regulator#9	Float/Dynamic
010	41°30'23.2"	74°00'17.5"	Hudson River	Regulator#7	Float/Dynamic
011	41°30'32.3"	74°00'19.2"	Hudson River	Regulator#8	Float/Dynamic
012	41°30'50.2"	74°00'22.1"	Hudson River	Regulator#10	Float/Dynamic
013	41°31'00.2"	74°00'22.5"	Hudson River	Regulator#11 & DMH-E	Float/Dynamic & Fixed Dam

**Schedule 4:
City of Newburgh IPP Permits
7/10/2018**

Facility Name	Permit Number	Type
Newburgh Metals	15-001	Categorical SIU
Miller Environmental	18-001	Categorical SIU
Unitex	11-005	Categorical SIU
Newburgh City Water Plant	16-001	Categorical SIU

Schedule 5: Baseline Conditions

INFLUENT

1. Monthly rolling average flow	9.0 MGD
2. BOD	175 mg/l
3. TSS	200 mg/l

Schedule 5: Client's Permits



NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
**State Pollutant Discharge Elimination System (SPDES)
DISCHARGE PERMIT**

Industrial Code: 4952
Discharge Class (CL): 05
Toxic Class (TX): T
Major Drainage Basin: 13
Sub Drainage Basin: 01
Water Index Number: IIR
Compact Area:

SPDES Number: NY0026310
DEC Number: 3-3311-00063/00003
Effective Date (EDP): 7/1/2008
Expiration Date (ExDP): 6/30/2013
Modification Dates (EDPM): 05/01/2010

This SPDES permit is issued in compliance with Title 8 of Article 17 of the Environmental Conservation Law of New York State and in compliance with the Clean Water Act, as amended, (33 U.S.C. §1251 et seq.) (hereinafter referred to as "the Act").

PERMITTEE NAME AND ADDRESS

Name: City of Newburgh
Street: 83 Broadway
City: Newburgh

Attention: City Manager

State: NY Zip Code: 12550

is authorized to discharge from the facility described below:

FACILITY NAME AND ADDRESS

Name: City of Newburgh Wastewater Treatment Plant
Location (C,T,V): Newburgh (C)
Facility Address: 2 Renwick Street
City: Newburgh

County: Orange

State: NY Zip Code: 12550

NYTM - E: 582.869
From Outfall No.: 001

NYTM - N: 4594.117

into receiving waters known as:

Hudson River

at Latitude: 41° 29' 38" & Longitude: 74° 00' 36"

Class: B

and; (list other Outfalls, Receiving Waters & Water Classifications)

in accordance with: effluent limitations; monitoring and reporting requirements; other provisions and conditions set forth in this permit; and 6 NYCRR Part 750-1.2(a) and 750-2.

DISCHARGE MONITORING REPORT (DMR) MAILING ADDRESS

Mailing Name: City of Newburgh Wastewater Treatment Plant
Street: 2 Renwick Street
City: Newburgh
Responsible Official or Agent: Joseph Sagnis - Severn Trent

State: NY Zip Code: 12550
Phone: (845) 565-6182

This permit and the authorization to discharge shall expire on midnight of the expiration date shown above and the permittee shall not discharge after the expiration date unless this permit has been renewed, or extended pursuant to law. To be authorized to discharge beyond the expiration date, the permittee shall apply for permit renewal not less than 180 days prior to the expiration date shown above.

DISTRIBUTION:

CO BWP - Permit Coordinator
RWE
RPA
EPA Region II - Michelle Josilo
NYSEFC

Permit Administrator: William R. Adriance, Chief Permit Administrator	
Address: 625 Broadway, 4 th Fl Albany, NY 12233-1750	
Signature: <i>William R. Adriance</i>	Date: 4/28/10

PERMIT LIMITS, LEVELS AND MONITORING DEFINITIONS

OUTFALL	WASTEWATER TYPE	RECEIVING WATER	EFFECTIVE	EXPIRING	
	This cell describes the type of wastewater authorized for discharge. Examples include process or sanitary wastewater, storm water, non-contact cooling water.	This cell lists classified waters of the state to which the listed outfall discharges.	The date this page starts in effect. (e.g. EDP or EDPM)	The date this page is no longer in effect. (e.g. ExDP)	
PARAMETER	MINIMUM	MAXIMUM	UNITS	SAMPLE FREQ.	SAMPLE TYPE
e.g. pH, TRC, Temperature, D.O.	The minimum level that must be maintained at all instants in time.	The maximum level that may not be exceeded at any instant in time.	SU, °F, mg/l, etc.		

PARAMETER	EFFLUENT LIMIT	PRACTICAL QUANTIFICATION LIMIT (ML)	ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE
	Limit types are defined below in Note 1. The effluent limit is developed based on the more stringent of technology-based standards, required under the Clean Water Act, or New York State water quality standards. The limit has been derived based on existing assumptions and rules. These assumptions include receiving water hardness, pH and temperature rates of this and other discharges to the receiving stream, etc. If assumptions or rules change the limit may, after due process and modification of this permit, change.	For the purposes of compliance assessment, the analytical method specified in the permit shall be used to monitor the amount of the pollutant in the outfall to this level, provided that the laboratory analyst has complied with the specified quality assurance/quality control procedures in the relevant method. Monitoring results that are lower than this level must be reported, but shall not be used to determine compliance with the calculated limit. This ML can be neither lowered nor raised without a modification of this permit.	Action Levels are monitoring requirements, as defined below in Note 2, that trigger additional monitoring and permit review when exceeded.	This can include units of flow, pH, mass, Temperature, concentration. Examples include µg/l, lbs/d, etc.	Examples include Daily, 3/week, weekly, 2/month, monthly, quarterly, 2/yr and yearly.	Examples include grab, 24 hour composite and 3 grab samples collected over a 6-hour period.

Note 1: DAILY DISCHARGE: The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for the purposes of sampling. For pollutants expressed in units of mass, the 'daily discharge' is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the 'daily discharge' is calculated as the average measurement of the pollutant over the day. **DAILY MAX:** The highest allowable daily discharge. **DAILY MIN:** The lowest allowable daily discharge. **MONTHLY AVG (daily avg):** The highest allowable average of daily discharges over a calendar month, calculated as the sum of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. **RANGE:** The minimum and maximum instantaneous measurements for the reporting period must remain between the two values shown. **7 DAY ARITHMETIC MEAN (7 day average):** The highest allowable average of daily discharges over a calendar week. **12 MRA (twelve month rolling avg):** The average of the most recent twelve month's monthly averages. **30 DAY GEOMETRIC MEAN (30 d geo mean):** The highest allowable geometric mean of daily discharges over a calendar month, calculated as the antilog of: the sum of the log of each of the daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. **7 DAY GEOMETRIC MEAN (7 d geo mean):** The highest allowable geometric mean of daily discharges over a calendar week.

Note 2: ACTION LEVELS: Routine Action Level monitoring results, if not provided for on the Discharge Monitoring Report (DMR) form, shall be appended to the DMR for the period during which the sampling was conducted. If the additional monitoring requirement is triggered as noted below, the permittee shall undertake a short-term, high-intensity monitoring program for the parameter(s). Samples identical to those required for routine monitoring purposes shall be taken on each of at least three consecutive operating and discharging days and analyzed. Results shall be expressed in terms of both concentration and mass, and shall be submitted no later than the end of the third month following the month when the additional monitoring requirement was triggered. Results may be appended to the DMR or transmitted under separate cover to the same address. If levels higher than the Action Levels are confirmed, the permit may be reopened by the Department for consideration of revised Action Levels or effluent limits. The permittee is not authorized to discharge any of the listed parameters at levels which may cause or contribute to a violation of water quality standards. The additional monitoring requirement is triggered upon receipt by the permittee of any monitoring results in excess of the stated Action Level.

ACTION LEVELS AND MONITORING

OUTFALL No.	LEVELS APPLY:	RECEIVING WATER	EFFECTIVE	EXPIRING
001	All year unless otherwise noted	Hudson River	05/01/2010	06/30/2013

PARAMETER	EFFLUENT LIMIT		ACTION LEVEL	UNITS	SAMPLE FREQUENCY	SAMPLE TYPE	FN
	Monthly Avg	Daily Max					
Cadmium, Total			0.5	lbs/d	1/quarter	24-hr. comp.	
Lead, Total			0.6	lbs/d	1/quarter	24-hr. comp.	
Phenols, Total			3.4	lbs/d	1/quarter	24-hr. comp.	
WET - Acute Invertebrate			32.25	TUa	Quarterly	See footnote	(2)
WET - Acute Vertebrate			32.25	TUa	Quarterly	See footnote	(2)
WET - Chronic Invertebrate			215	TUc	Quarterly	See footnote	(2)
WET - Chronic Vertebrate			215	TUc	Quarterly	See footnote	(2)

FOOTNOTES:

(1) and effluent shall not exceed 15 % and 15 % of influent concentration values for BOD₅ & TSS respectively.

(2) Whole Effluent Toxicity (WET) Testing:

Testing Requirements - WET testing shall consist of Acute and, if necessary, Chronic. WET testing shall be performed in accordance with 40 CFR Part 136 and TOGS 1.3.2 unless prior written approval has been obtained from the Department. The test species shall be *Ceriodaphnia dubia* (water flea - invertebrate) and *Pimephales promelas* (fathead minnow - vertebrate). Receiving water collected upstream from the discharge should be used for dilution. All tests conducted should be static-renewal (two 24 hr composite samples with one renewal for Acute tests and three 24 hr composite samples with two renewals for Chronic tests). The appropriate dilution series bracketing the IWC and including one exposure group of 100% effluent should be used to generate a definitive test endpoint, otherwise an immediate rerun of the test is required. WET testing shall be coordinated with the monitoring of chemical and physical parameters limited by this permit so that the resulting analyses are also representative of the sample used for WET testing. The ratio of critical receiving water flow to discharge flow (i.e. dilution ratio) is 107.5 :1 for acute, and 215 :1 for chronic. Discharges which are disinfected using chlorine should be dechlorinated prior to WET testing or samples shall be taken immediately prior to the chlorination system.

Monitoring Period - WET testing shall be performed at the specified sample frequency during calendar years ending in 1 and 6, beginning in January and lasting for a period of one full year.

Reporting - Toxicity Units shall be calculated and reported on the DMR as follows: TUa = (100)/(48 hr LC50) or (100)/(48 hr EC50) (note that Acute data is generated by both Acute and Chronic testing) and TUc = (100)/(NOEC) when Chronic testing has been performed or TUe = (TUa) x (20) when only Acute testing has been performed and is used to predict Chronic test results, where the 48 hr LC50 or 48 hr EC50 and NOEC are expressed in % effluent. This must be done for both species and using the Most Sensitive Endpoint (MSE) or the lowest NOEC and corresponding highest TUc. Report a TUa of 0.3 if there is no statistically significant toxicity in 100% effluent as compared to control.

The complete test report including all corresponding results, statistical analyses, reference toxicity data, daily average flow at the time of sampling and other appropriate supporting documentation, shall be submitted within 60 days following the end of each test period to the Toxicity Testing Unit. A summary page of the test results for the invertebrate and vertebrate species indicating TUa, 48 hr LC50 or 48 hr EC50 for Acute tests and/or TUc, NOEC, IC25, and most sensitive endpoints for Chronic tests, should also be included at the beginning of the test report.

WET Testing Action Level Exceedances - If an action level is exceeded then the Department may require the permittee to conduct additional WET testing including Acute and/or Chronic tests. Additionally, the permittee may be required to perform a Toxicity Reduction Evaluation (TRE) in accordance with Department guidance. If such additional testing or performance of a TRE is necessary, the permittee shall be notified in writing by the Regional Water Engineer. The written notification shall include the reason(s) why such testing or a TRE is required.

5. Wet Weather Operating Plan - The permittee shall maximize treatment during wet weather events. This shall be accomplished by having a wet weather operating plan containing procedures so as to operate unit processes to treat maximum flows while not appreciably diminishing effluent quality or destabilizing treatment upon return to dry weather operation. The wet weather operations plan shall be submitted to the Regional Office and the Bureau of Water Permits, 625 Broadway, Albany, NY 12233-3505 for review and approval within 12 months after the effective date of this permit.

The submission of a wet weather operating plan is a one time requirement that shall be done to the Department's satisfaction once. However, a revised wet weather operating plan must be submitted whenever the POTW and/or sewer collection system is replaced or modified. When this permit is administratively renewed by NYSDEC letter entitled "SPDES NOTICE/RENEWAL APPLICATION/PERMIT", the permittee is not required to repeat the submission. The above due dates are independent from the effective date of the permit stated in the letter of "SPDES NOTICE/RENEWAL APPLICATION/PERMIT".

6. Prohibition of Dry Weather Overflow - Dry weather overflows from the combined sewer system are prohibited. The occurrence of any dry weather overflow shall be promptly abated and reported to the NYSDEC Regional Office in accordance with 6 NYCRR Part 750.2.7.

7. Control of Floatable and Settlicable Solids - The discharge of floating solids, oil and grease, or solids of sewage origin which cause deposition in the receiving waters, is a violation of the NYS Narrative Water Quality Standards contained in Part 703. As such, the permittee shall implement best management practices in order to eliminate or minimize the discharge of these substances. All of the measures cited in Items 1, 2, 4 & 5 above shall constitute approvable "BMPs" for mitigation of this problem. If aesthetic problems persist, the permittee should consider additional BMP's including but not limited to: street sweeping, litter control laws, installation of floatables traps in catch basins (such as floods), booming and skimming of CSOs, and disposable netting on CSO outfalls. In cases of severe or excessive floatables generation, booming and skimming should be considered an interim measure prior to implementation of final control measures. Public education on harmful disposal practices of personal hygiene devices may also be necessary including but not limited to: public broadcast television, printed information inserts in sewer bills, or public health curricula in local schools.

8. Combined Sewer System Replacement - Replacement of combined sewers shall not be designed or constructed unless approved by NYSDEC. When replacement of a combined sewer is necessary it shall be replaced by separate sanitary and storm sewers to the greatest extent possible. These separate sanitary and storm sewers shall be designed and constructed simultaneously but without interconnections to maximum extent practicable. When combined sewers are replaced, the design should contain cross sections which provide sewage velocities which prevent deposition of organic solids during low flow conditions.

9. Combined Sewer/Extension - Combined sewer/extension, when allowed should be accomplished using separate sewers. These sanitary and storm sewer extensions shall be designed and constructed simultaneously but without interconnections. No new source of storm water shall be connected to any separate sanitary sewer in the collection system.

If separate sewers are to be extended from combined sewers, the permittee shall demonstrate the ability of the sewerage system to convey, and the treatment plant to adequately treat, the increased dry-weather flows. Upon a determination by the Regional Water Engineer an assessment shall be made by the permittee of the effects of the increased flow of sanitary sewage or industrial waste on the strength of CSOs and their frequency of occurrence including the impacts upon best usage of the receiving water. This assessment should use techniques such as collection system and water quality modeling contained in the 1999 Water Environment Federation Manual of Practice FD-17 entitled, Prevention and Control of Sewer System Overflows, 2nd edition.

10. Sewage Backups - If there are documented, recurrent instances of sewage backing up into house(s) or discharges of raw sewage onto the ground surface from surcharging manholes, the permittee shall, upon letter notification from DEC, prohibit further connections that would make the surcharging/back-up problems worse.

11. Seepage and Hauled Waste - The discharge or release of seepage or hauled waste upstream of a CSO is prohibited.

LONG TERM CONTROL PLAN

The permittee shall develop a Long-Term Control Plan in accordance with the 1994 National CSO Control Policy and the Guidance For Long-Term Control Plan, EPA, September, 1995, which will address the elements contained in Sections A through D below:

I. Phase I

A. Public Participation

The permittee shall prepare and implement a public participation plan that outlines how the permittee will ensure participation of the public throughout the LTCP development process.

B. CSS Characterization

The permittee shall develop and implement a plan that will result in a comprehensive characterization of the Combined Sewer System (CSS), including the interceptor sewer system, developed through records review, monitoring, modeling, and other means as appropriate to establish the existing baseline conditions, evaluate the effectiveness of the CSO technology-based controls (BMPs), and determine the baseline conditions upon which the LTCP will be based. The characterization shall adequately address the response of the CSS to various precipitation events; identify the number, location, frequency, and characteristics of CSOs; and identify water quality impacts that result from CSOs.

To complete the characterization, the permittee shall employ the following methods:

1. Rainfall Records Review - The permittee shall examine the complete rainfall records for the geographic areas of the CSS and evaluate the flow variations in the receiving water body to correlate between the CSOs and receiving water conditions.

2. CSS Records Review - The permittee shall review and evaluate all available CSS records and undertake field inspections and other necessary activities to identify the number, location, and frequency of CSOs and their location relative to sensitive areas and to pollution sources, such as significant industrial users, in the collection system.

3. CSO and Water Quality Monitoring - The permittee shall develop a monitoring program that measures the frequency, duration, flow rate, volume, and pollutant concentration of CSOs and assesses the impact of the CSOs on receiving waters. Monitoring shall be performed at a representative number of CSOs for a representative number of events. The monitoring program shall include CSOs and ambient receiving waterbody monitoring and, where appropriate, other monitoring protocols, such as biological assessments, toxicity testing, and sediment sampling.

4. Identification of Sensitive Areas - The permittee shall identify sensitive areas to which its CSOs occur. These areas shall include waters with threatened or endangered species and their designated critical habitat, waters with primary contact recreation, public drinking water intakes or their designated protection areas and any other areas identified by the permittee or permitting authority, in coordination with appropriate State or Federal agencies.

5. CSS and Receiving Water Modeling - The permittee may employ models, which include appropriate calibration and verification with field measurements, to aid in the characterization. If models are used, they shall be identified by the permittee along with an explanation of why the model was selected and used in the characterization.

C. CSO Control Alternatives

1. a. Demonstrative Approach - The permittee shall develop a range of CSO control alternatives that would meet EPA's requirements for the demonstrative approach. The alternatives should demonstrate each of the following: (1) the planned control program is adequate to meet WQS and protect designated uses, and (2) the CSO discharges remaining after implementation of planned control programs will not preclude the attainment of WQS or the receiving waters designated uses or contribute to impairment, and (3) the planned control program will provide the maximum pollution reduction benefits reasonably attainable, and (4) the planned control program is designed to allow cost effective expansion or retrofitting if additional controls are subsequently determined to be necessary to meet WQS or designated uses.

b. Presumptive Approach - Alternatively, the permittee shall develop a range of CSO control alternatives that would meet one of EPA's criteria for the presumptive approach. These criteria consist of: (1) no more than 4-6 overflow events per year that do not receive minimum treatment; or (2) the elimination or capture for minimum treatment of no less than 85% by volume of the combined sewage collected during precipitation events on a system-wide annual average basis; or (3) the elimination or removal of no less than the mass of the pollutants, identified as causing water quality impairment.

STORM WATER POLLUTANT PREVENTION PLAN

1. **General** - The Department has determined that stormwater discharges from POTWs with design flows at or above 1 mgd shall be covered under the SPDES permit. If the permittee has already submitted a Notice of Intent to the Department for coverage under the General Storm Water permit, the permittee shall submit a Notice of Termination to the Department upon receipt of this final SPDES permit containing the requirement to develop a SWPPP.

The permittee is required to develop, maintain, and implement a Storm Water Pollutant Prevention Plan (SWPPP) to prevent releases of significant amounts of pollutants to the waters of the State through plant site runoff; spillage and leaks; sludge or waste disposal; and other stormwater discharges including, but not limited to, drainage from raw material storage.

The SWPPP shall be documented in narrative form and shall include the 13 minimum elements below and any necessary plot plans, drawings, or maps. Other documents already prepared for the facility such as a Safety Manual or a Spill Prevention, Control and Countermeasure (SPCC) plan may be used as part of the SWPPP and may be incorporated by reference. A copy of the current SWPPP shall be submitted to the Department as required in item (2.) below and a copy must be maintained at the facility and shall be available to authorized Department representatives upon request.

2. **Compliance Deadlines** - The initial completed SWPPP was submitted to the Regional Water Engineer on November 20, 2006. The SWPPP shall be implemented within 6 months of submission, unless a different time frame is approved by the Department. The SWPPP shall be reviewed annually and shall be modified whenever (a) changes at the facility materially increase the potential for releases of pollutants, (b) actual releases indicate the SWPPP is inadequate, or (c) a letter from the Department identifies inadequacies in the SWPPP. The permittee shall certify in writing, as an attachment to the December Discharge Monitoring Report (DMR), that the annual review has been completed. All SWPPP revisions (with the exception of minimum elements - see item (4.B.) below) must be submitted to the Regional Water Engineer within 30 days. Note that the permittee is not required to obtain Department approval of the SWPPP (or of any minimum elements) unless notified otherwise. Subsequent modifications to or renewal of this permit does not reset or revise these deadlines unless a new deadline is set explicitly by such permit modification or renewal.

3. **Facility Review** - The permittee shall review all facility components or systems (including but not limited to material storage areas; in-plant transfer, process, and material handling areas; loading and unloading operations; storm water, erosion, and sediment control measures; process-emergency control systems; and sludge and waste disposal areas) where materials or pollutants are used, manufactured, stored or handled to evaluate the potential for the release of pollutants to the waters of the State. In performing such an evaluation, the permittee shall consider such factors as the probability of equipment failure or improper operation, cross-contamination of storm water by process materials, settlement of facility air emissions, the effects of natural phenomena such as freezing temperatures and precipitation, fires, and the facility's history of spills and leaks. The relative toxicity of the pollutant shall be considered in determining the significance of potential releases.

The review shall address all substances present at the facility that are identified in Tables 6-10 of SPDES application Form NY-2C (available at <http://www.dec.state.ny.us/website/dcs/permits/olpermits/form2c.pdf>) as well as those that are required to be monitored by the SPDES permit.

4. **A. 13 Minimum elements** - Whenever the potential for a release of pollutants to State waters is determined to be present, the permittee shall identify Best Management Practices (BMPs) that have been established to prevent or minimize such potential releases. Where BMPs are inadequate or absent, appropriate BMPs shall be established. In selecting appropriate BMPs, the permittee shall consider good industry practices and, where appropriate, structural measures such as secondary containment and erosion/sediment control devices and practices. USEPA guidance for development of minimum elements of the SWPPP and BMPs is available in the September 1992 manual *Storm Water Management for Industrial Activities*, EPA 832-R-92-006 (available on-line at <http://nepis.epa.gov/pub/titles/OW.htm>). At a minimum, the plan shall include the following elements:

- | | | |
|-------------------------------|---------------------------|---------------------------------|
| 1. Pollution Prevention Team | 6. Security | 10. Spill Prevention & Response |
| 2. Reporting of BMP Incidents | 7. Preventive Maintenance | 11. Erosion & Sediment Control |

PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS

A. **DEFINITIONS.** Generally, terms used in this Section shall be defined as in the General Pretreatment Regulations (40 CFR Part 403). Specifically, the following definitions apply to terms used in this Section (PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS):

1. **Categorical Industrial User (CIU):** an industrial user of the POTW that is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;
2. **Local Limits:** General Prohibitions, specific prohibitions and specific limits as set forth in 40 CFR 403.5;
3. **The Publicly Owned Treatment Works (the POTW):** as defined by 40 CFR 403.3(q) and that discharges in accordance with this permit.
4. **Program Submission(s):** requests for approval or modification of the POTW Pretreatment Program submitted in accordance with 40 CFR 403.11 or 403.18 and approved by letter dated August 17, 1984.
5. **Significant Industrial User (SIU):**
 - a. CIUs;
 - b. Except as provided in 40 CFR 403.3(v)(3), any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater) to the POTW;
 - c. Except as provided in 40 CFR 403.3(v)(3), any other industrial user that contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant;
 - d. Any other industrial user that the permittee designates as having a reasonable potential for adversely affecting the POTW's operation or for violating a pretreatment standard or requirement.
6. **Substances of Concern:** Substances identified by the New York State Department of Environmental Conservation's Industrial Chemical Survey as substances of concern.

B. **IMPLEMENTATION.** The permittee shall implement a POTW Pretreatment Program in accordance 40 CFR Part 403 and as set forth in the permittee's approved Program Submission(s). Modifications to this program shall be made in accordance with 40 CFR 403.18. Specific program requirements are as follows:

1. **Industrial Survey:** To maintain an updated inventory of industrial dischargers to the POTW the permittee shall:
 - a. Identify, locate and list all industrial users who might be subject to the industrial pretreatment program from the pretreatment program submission and any other necessary, appropriate and available sources. This identification and location list will be updated, at a minimum, every five years. As part of this update the permittee shall collect a current and complete New York State Industrial Chemical Survey form (or equivalent) from each SIU.
 - b. Identify the character and volume of pollutants contributed to the POTW by each industrial user identified in B.1.a above that is classified as a SIU.
 - c. Identify, locate and list, from the pretreatment program submission and any other necessary, appropriate and available sources, all significant industrial users of the POTW.
2. **Control Mechanisms:** To provide adequate notice to and control of industrial users of the POTW the permittee shall:
 - a. Inform by certified letter, hand delivery courier, overnight mail, or other means which will provide written acknowledgment of delivery, all industrial users identified in B.1.a. above of applicable pretreatment standards and requirements including the requirement to comply with the local sewer use law, regulation or ordinance and any applicable requirements under section 204(b) and 405 of the Federal Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act.

- D. **REPORTING.** The permittee shall provide to the offices listed on the Monitoring, Reporting and Recording page of this permit and to the Chief Water Permits and Compliance Branch, USEPA Region II, 290 Broadway, New York, NY 10007; a periodic report, prepared and submitted in accordance with the consistent periodic reporting format established by the Department in the document entitled NYSDEC POTW Periodic Pretreatment Report - 1994, that briefly describes the permittee's program activities over the previous year. This report shall be submitted to the above noted offices within 60 days of the end of the reporting period. The reporting period shall be annual, with reporting period(s) ending on August 31st.

The periodic report shall include:

1. **Industrial Survey.** Updated industrial survey information in accordance with 40 CFR 403.12(i)(1) (including any NYS Industrial Chemical Survey forms updated during the reporting period).
2. **Implementation Status.** Status of Program Implementation, to include:
 - a. Any interference, upset or permit violations experienced at the POTW directly attributable to industrial users.
 - b. Listing of significant industrial users issued permits.
 - c. Listing of significant industrial users inspected and/or monitored during the previous reporting period and summary of results.
 - d. Listing of significant industrial users notified of promulgated pretreatment standards or applicable local standards who are on compliance schedules. The listing should include for each facility the final date of compliance.
 - e. Summary of POTW monitoring results not already submitted on Discharge Monitoring Reports and toxic loadings from SIUs organized by parameter.
 - f. A summary of additions or deletions to the list of SIUs, with a brief explanation for each deletion.
3. **Enforcement Status.** Status of enforcement activities to include:
 - a. Listing of significant industrial users in Significant Non-Compliance (as defined by 40 CFR 403.8(f)(2)(vii)) with federal or local pretreatment standards at end of the reporting period.
 - b. Summary of enforcement activities taken against non-complying significant industrial users. The permittee shall provide a copy of the public notice of significant violators as specified in 40 CFR Part 403.8(f)(2)(viii).

RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS

- a) The permittee shall also refer to 6 NYCRR Part 750-1.2(a) and 750-2 for additional information concerning monitoring and reporting requirements and conditions.
- b) The monitoring information required by this permit shall be summarized, signed and retained for a period of five years from the date of the sampling for subsequent inspection by the Department or its designated agent. Also, monitoring information required by this permit shall be summarized and reported by submitting:

☒ (if box is checked) completed and signed Discharge Monitoring Report (DMR) forms for each 1 month reporting period to the locations specified below. Blank forms are available at the Department's Albany office listed below. The first reporting period begins on the effective date of this permit and the reports will be due no later than the 28th day of the month following the end of each reporting period.

☐ (if box is checked) an annual report to the Regional Water Engineer at the address specified below. The annual report is due by February 1 and must summarize information for January to December of the previous year in a format acceptable to the Department.

☒ (if box is checked) a monthly "Wastewater Facility Operation Report..." (form 92-15-7) to the:

☒ Regional Water Engineer and/or ☐ County Health Department or Environmental Control Agency specified below

Send the DMRs with original signatures to:

Department of Environmental Conservation
Division of Water
Bureau of Water Compliance Programs
625 Broadway
Albany, New York 12233-3506

Phone: (518) 402-8177

Send a copy of each DMR page to:

Department of Environmental Conservation
Regional Water Engineer, Region 3
100 Hillside Ave, Suite 1W
White Plains, NY 10603-2860

Phone: (914) 428-2505

Send an additional copy of each DMR page to:

- c) Noncompliance with the provisions of this permit shall be reported to the Department as prescribed in 6 NYCRR Part 750-1.2(a) and 750-2.
- d) Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit.
- e) If the permittee monitors any pollutant more frequently than required by the permit, using test procedures approved under 40 CFR Part 136 or as specified in this permit, the results of this monitoring shall be included in the calculations and recording of the data on the Discharge Monitoring Reports.
- f) Calculation for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.
- g) Unless otherwise specified, all information recorded on the Discharge Monitoring Report shall be based upon measurements and sampling carried out during the most recently completed reporting period.
- h) Any laboratory test or sample analysis required by this permit for which the State Commissioner of Health issues certificates of approval pursuant to section five hundred two of the Public Health Law shall be conducted by a laboratory which has been issued a certificate of approval. Inquiries regarding laboratory certification should be sent to the Environmental Laboratory Accreditation Program, New York State Health Department Center for Laboratories and Research, Division of Environmental Sciences, The Nelson A. Rockefeller Empire State Plaza, Albany, New York 12201.

DISCHARGE NOTIFICATION REQUIREMENTS

a) The permittee shall maintain the existing identification signs at all outfalls to surface waters, which not been waived by the Department in accordance with 17-0815-a of the Environmental Conservation Law. sign(s) shall be conspicuous, legible and in as close proximity to the point of discharge as is reasonably possible while ensuring the maximum visibility from the surface water and shore. The signs shall be installed in a manner to pose minimal hazard to navigation, bathing or other water related activities. If the public has access to the water from the land in the vicinity of the outfall, an identical sign shall be posted to be visible from direction approaching the surface water.

The signs shall have minimum dimensions of eighteen inches by twenty four inches (18" x 24") and shall have white letters on a green background and contain the following information:

N.Y.S. PERMITTED DISCHARGE POINT	
SPDES PERMIT No.: NY _____	
OUTFALL No.: _____	
For information about this permitted discharge contact:	
Permittee Name:	_____
Permittee Contact:	_____
Permittee Phone: () - ### - ####	_____
OR:	
NYSDEC Division of Water Regional Office Address:	_____
NYSDEC Division of Water Regional Phone: () - ### - ####	_____

b) For each discharge required to have a sign in accordance with a), the permittee shall provide for public review at a repository accessible to the public, copies of the Discharge Monitoring Reports (DMRs) as required by the RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS page of this permit. This repository shall be open to the public, at a minimum, during normal daytime business hours. The repository may be at the business office repository of the permittee or at an off-premises location of choice (such location shall be the village, town, city or county clerk's office, the local library or other location as approved by the Department). In accordance with the RECORDING, REPORTING AND ADDITIONAL MONITORING REQUIREMENTS page of your permit, each DMR shall be maintained on record for a period of five years.

c) The permittee shall periodically inspect the outfall identification signs in order to ensure that they are maintained, are still visible and contain information that is current and factually correct.

- 2497

- | | | |
|---------------------------------------|---|--------------------------|
| 3. Risk Identification and Assessment | 8. Good Housekeeping | 12. Management of Runoff |
| 4. Employee Training | 9. Materials/Waste Handling, Storage, & Compatibility | 13. Street Sweeping |
| 5. Inspections and Records | | |

Note that for some facilities, especially those with few employees, some of the above may not be applicable. acceptable in these cases to indicate "Not Applicable" for the portion(s) of the SWPPP that do not apply to your fa along with an explanation, for instance if street sweeping did not apply because no streets exist at the facility.

B. Stormwater Pollution Prevention Plans (SWPPPs) Required for Discharges of Stormwater From Constr Activity to Surface Waters - As part of the erosion and sediment control element, a SWPPP shall be developed to the initiation of any site disturbance of one acre or more of uncontaminated area. Uncontaminated area means a groundwater which are free of contamination by any toxic or non-conventional pollutants identified in Tables 6- SPDES application Form NY-2C. Disturbance of any size contaminated area(s) and the resulting dischar contaminated stormwater is not authorized by this permit unless the discharge is under State or Federal oversight a of a remedial program or after review by the Regional Water Engineer; nor is such discharge authorized by any S. general permit for stormwater discharges. SWPPPs are not required for discharges of stormwater from constr activity to groundwaters.

The SWPPP shall conform to the *New York Standards and Specifications for Erosion and Sediment Control* and *New State Stormwater Management Design Manual*, unless a variance has been obtained from the Regional Water Eng and to any local requirements. The permittee shall submit a copy of the SWPPP and any amendments thereto to the governing body and any other authorized agency having jurisdiction or regulatory control over the construction activ least 30 days prior to soil disturbance. The SWPPP shall also be submitted to the Regional Water Engin contamination, as defined above, is involved and the permittee must obtain a determination of any SPDES i modifications and/or additional treatment which may be required prior to soil disturbance. Otherwise, the SWPPP st submitted to the Department only upon request. When a SWPPP is required, a properly completed *Notice of Intent* form shall be submitted (available at www.dec.state.ny.us/website/download/swforms.html) prior to soil disturl Note that submission of a NOI is required for informational purposes; the permittee is not eligible for and will not coverage under any SPDES general permit for stormwater discharges, nor are any additional permit fees inc SWPPPs must be developed and submitted for subsequent site disturbances in accordance with the above require The permittee is responsible for ensuring that the provisions of each SWPPP is properly implemented.

during the characterization, monitoring, and modeling effort. Minimum treatment for (1) and (2) above is define primary clarification to remove floatables and settleable solids, solids and floatables disposal, and disinfection of effluent if necessary, to meet water quality standards (WQS) according to 6NYCRR Part 703.

2. Evaluation of CSO Control Alternatives - The permittee shall evaluate each of the alternatives develop accordance with C.1 a. or b. to select the CSO controls that will ensure compliance with CWA requirements. The permittee shall consider expansion of the POTW treatment plant(s) secondary and primary capacity as one alternative.

3. Cost/Performance Considerations - The permittee shall develop and submit cost/performance curves demonstrating the relationship among the set of CSO control alternatives that correspond to the ranges identified in C.1 b. above.

4. Identification of the Selected CSO Control Alternatives - The permittee shall submit a description of alternatives that were considered, the chosen alternative(s) that will be implemented and the reasoning behind selection.

5. Schedule - The permittee shall submit a schedule for design and construction of the selected CSO control facilities and/or implementation of other measures. The schedule may be phased based on the relative importance of adverse impacts on water quality standards and on the permittee's financial capability.

D. Subsequent Requirements

1. Operational Plan - The wet weather operating plan that is required in the treatment plant's CSO Management Practices shall be required to be updated as a result of modifications to the CSS made during implementation of the LTCP.

2. Post-Construction Compliance Monitoring Program - The permittee shall develop and submit a construction monitoring program that (a) is adequate to ascertain the effectiveness of the CSO controls and (b) is used to verify attainment of water quality standards. The program shall include a plan that details the monitoring protocol to be followed, including CSO and ambient monitoring and, where appropriate, other monitoring protocols, such as biological assessments, whole effluent toxicity testing, and sediment sampling.

II. LTCP Compliance Dates

All submittals shall be delivered to the Regional Water Engineer and the Bureau of Water Permits, 625 Broad Albany, NY 12233-3505.

A. The permittee shall submit a semi-annual report describing the progress/status of the LTCP development, beginning December 15th and continuing every 6 months until Phase II of the LTCP is completed and approved by DEC.

B. The Public Participation Plan was approved on December 28, 2006.

C. The CSS Characterization, Monitoring, and Modeling Plan was approved on October 3, 2007.

D. By 10/1/10, the permittee shall submit a completed Phase I LTCP for review and approval, which shall be developed in accordance with the requirements specified in Sections I, B, & C. above and contain:

1. CSS Characterization Monitoring and Modeling Results
2. CSO Controls Evaluation and Cost Performance Curves, for all alternatives
3. CSO Control Alternatives Identification
4. Proposed Construction and Implementation Schedules, including any supporting analyses
5. Proposed deadlines for submission of a wet weather operating plan and post-construction monitoring.

III. Phase II

Upon DEC approval of the Phase I LTCP, the construction and implementation schedule shall become part of and enforceable under this SPDES permit.

12. Control of Run-off - It is recommended that the impacts of run-off from development and re-development in a served by combined sewers be reduced by requiring compliance with the New York Standards for Erosion and Sediment Control (<http://www.dec.state.ny.us/website/dow/toolbox/escstandards/index.html>) and the quantity control requirements included in the New York State Stormwater Management Design Manual (<http://www.dec.state.ny.us/website/dow/toolbox/swmanual/>).

13. Public Notification - The permittee shall maintain identification signs, which are required to be installed at CSO outfalls owned and operated by the permittee. The permittee shall have placed the signs at or near the CSO out and ensure that the signs are easily readable by the public. The signs shall have minimum dimensions of eighteen in by twenty four inches (18" x 24") and shall have white letters on a green background and contain the following information:

N.Y.S. PERMITTED DISCHARGE POINT (wet weather discharge) SPDES PERMIT No.: NY _____	
OUTFALL No.: _____	
For information about this permitted discharge contact:	
Permittee Name: _____	
Permittee Contact: _____	
Permittee Phone: () • ### - ####	
OR:	
NYSDEC Division of Water Regional Office Address: _____	
NYSDEC Division of Water Regional Phone: () • ### - ####	

The permittee shall implement a public notification program to inform citizens of the location and occurrence of events. This program shall include a mechanism (public media broadcast, standing beach advisories, newspaper notices, etc.) to alert potential users of the receiving waters affected by CSOs. The program shall include a system to determine the nature and duration of conditions that are potentially harmful to users of these receiving waters due to CSOs.

14. Characterization and Monitoring - The permittee shall characterize the combined sewer system, determine frequency of overflows, and identify CSO impacts in accordance with Combined Sewer Overflows, Guidance for Minimum Controls, EPA, 1995, Chapter 10. These are minimum requirements, more extensive characterization and monitoring efforts which may be required as part of the Long Term Control Plan.

15. Annual report - The permittee shall submit an annual report summarizing implementation of the above best management practices (BMPs). The report shall list existing documentation of implementation of the BMPs and shall be submitted by January 31st of each year to the Regional office listed on the Recording, Reporting and Additional Monitoring page of this permit and to the Bureau of Water Permits, 625 Broadway, Albany, NY 12233-3505. Examples of recommended documentation of the BMPs are found in Combined Sewer Overflows, Guidance for Nine Minimum Controls (NMC), EPA, 1995. You may obtain an electronic copy of the NMC guidance at <http://www.epa.gov/npdes/pubs/own0030.pdf>. For guidance, a BMP checklist is available online at <http://www.dec.state.ny.us/website/dow/esobmp.pdf>. You must submit a completed copy of this checklist along with your annual report.

BEST MANAGEMENT PRACTICES FOR COMBINED SEWER OVERFLOWS

The permittee shall implement the following Best Management Practices (BMPs). These BMPs are designed to implement operation & maintenance procedures, utilize the existing treatment facility and collection system to the maximum extent practicable, and implement sewer design, replacement and drainage planning, to maximize pollutant capture and minimize water quality impacts from combined sewer overflows. The BMPs are equivalent to the "Nine Minimum Control Measures" required under the USEPA National Combined Sewer Overflow policy. The EPA's policy is available at http://cfpub.epa.gov/npdcs/cso/cpolicy.cfm?program_id=5.

1. **CSO Maintenance/Inspection** - The permittee shall develop a written maintenance and inspection program for all CSOs listed on page 2 of this permit. This program shall include all regulators tributary to these CSOs, and shall be conducted during periods of both dry and wet weather. This is to insure that no discharges occur during dry weather and that the maximum amount of wet weather flow is conveyed to the City of Newburgh POTW for treatment. This program shall consist of inspections with required repair, cleaning and maintenance done as needed. This program shall consist of weekly inspections.

Inspection reports shall be completed indicating visual inspection, any observed flow, incidence of rain or snowmelt, condition of equipment and work required. These reports shall be in a format approved by the Regional Office and submitted to the Region with the monthly operating report (Form 92-15-7).

2. **Maximum Use of Collection System for Storage** - The permittee shall optimize the collection system by operating and maintaining it to minimize the discharge of pollutants from CSOs. It is intended that the maximum amount of in-system storage capacity be used (without causing service backups) to minimize CSOs and convey the maximum amount of combined sewage to the treatment plant in accordance with Item 4 below.

This shall be accomplished by an evaluation of the hydraulic capacity of the system but should also include a continuous program of flushing or cleaning to prevent deposition of solids and the adjustment of regulators and weirs to maximize storage.

3. **Industrial Pretreatment** - The approved Industrial Pretreatment Program shall consider CSOs in the calculation of local limits for indirect discharges. Discharge of persistent toxics upstream of CSOs will be in accordance with guidance under (NYSDEC Division of Water Technical and Operational Guidance Series (TOGS) 1.3.8 New Discharges to POTWs. (<http://www.dec.state.ny.us/website/dow/togs/togs138.pdf>) For industrial operations characterized by use of batch discharge, consideration shall be given to the feasibility of a schedule of discharge during conditions of no CSO. For industrial discharges characterized by continuous discharge, consideration must be given to the collection system capacity to maximize delivery of waste to the treatment plant. Non-contact cooling water should be excluded from the combined system to the maximum extent practicable. Direct discharges of cooling water must apply for a SPDES permit.

To the maximum extent practicable, consideration shall be given to maximize the capture of industrial waste containing toxic pollutants and this wastewater should be given priority over residential/commercial service areas for capture and treatment by the POTW. For new industry, these factors shall be considered in siting with preference to service by areas not tributary to CSOs or having sufficient capacity to deliver all industrial wastewater during all conditions to the POTW.

4. **Maximize Flow to POTW** - Factors cited in Item 2, above shall also be considered in maximizing flow to the POTW. Maximum delivery to the POTW is particularly critical in treatment of "first-flush" flows. The treatment plant shall be capable of receiving and treating the peak design hydraulic loading rates for all process units; i.e., a minimum of 18.0 MGD through the plant headworks; a minimum of 18.0 MGD through the primary treatment works and disinfection works if applicable; and a minimum of 13.5 MGD through the secondary treatment works during wet weather. The collection system and headworks must be capable of delivering these flows during wet weather. In order to determine whether the aeration system can handle peak flows of 13.5 mgd, the permittee may gradually increase the flow through the aeration system during the period of February 1, 2006 - October 1, 2006. If the permittee cannot deliver 13.5 mgd through the aeration system for treatment, the permittee shall submit a plan and schedule for accomplishing this requirement by 4/01/2007.

(a)

SPDES PERMIT NUMBER NY0026310

Page 4 of 17

PERMIT LIMITS, LEVELS AND MONITORING

OUTFALL No.	LIMITATIONS APPLY:	RECEIVING WATER	EFFECTIVE	EXPIRING
001	All Year unless otherwise noted	Hudson River	05/01/2010	06/30/2013

PARAMETER	EFFLUENT LIMIT						MONITORING REQUIREMENTS				FN
	Type	Limit	Units	Limit	Units	Sample Frequency	Sample Type	Location			
								Inf.	Eff.		
Flow	Monthly average			Monitor	mgd	Continuous	Recorder	X			
Flow	12-month rolling average			9.0	mgd	1/month	Calculated	X			
BOD ₅	Monthly average	30	mg/l	2300	lbs/d	2/week	24-hr. comp.	X	X	(1)	
BOD ₅	7 day average	45	mg/l	3400	lbs/d	2/week	24-hr. comp.		X		
Solids, Suspended	Monthly average	30	mg/l	2300	lbs/d	2/week	24-hr. comp.	X	X	(1)	
Solids, Suspended	7 day average	45	mg/l	3400	lbs/d	2/week	24-hr. comp.		X		
Solids, Setttable	Daily Max.	0.3	ml/l			3/day	Grab		X		
Nitrogen, TKN (as N)	Daily Max.	Monitor	mg/l			1/month	24-hr. comp.		X		
Nitrogen, Ammonia (as N)	Daily Max.	Monitor	mg/l			1/month	24-hr. comp.		X		
Copper, Total	Daily Max.			3.6	lbs/d	1/month	24-hr. comp.		X		
Silver, Total	Daily Max.	Monitor	mg/l			1/quarter	24-hr. comp.		X		
Chromium, Total	Daily Max.	Monitor	mg/l			1/quarter	24-hr. comp.		X		
Zinc, Total	Daily Max.	Monitor	mg/l			1/quarter	24-hr. comp.		X		
Temperature	Daily Max.	Monitor	Deg F			3/day	Grab		X		
pH	Range	6.0-9.0	SU			3/day	Grab		X		
Effluent Disinfection required: [] All Year [X] Seasonal from <u>May 1</u> to <u>Oct 31</u>											
Coliform, Fecal	30 day geometric mean	200	No./100 ml			2/week	Grab		X		
Coliform, Fecal	7 day geometric mean	400	No./100 ml			2/week	Grab		X		
Chlorine, Total Residual	Daily Max.	2.0	mg/l			3/day	Grab		X		

FOOTNOTES on next page

ADDITIONAL CSO OUTFALLS

Outfall No.	Description	Latitude / Longitude	Receiving Stream/Class
002	Mouth of Quassaick Creek	41° 29' 17" / 74° 00' 36"	Hudson River
003	Foot of Renwick Street	41° 29' 38" / 74° 00' 23"	Hudson River
004	Foot of William Street	41° 20' 44" / 74° 00' 22"	Hudson River
005	Foot of Washington Street	41° 00' 00" / 74° 00' 00"	Hudson River
006	Foot of First Street	41° 30' 06" / 74° 00' 18"	Hudson River
007	Second Street	41° 30' 10" / 74° 00' 18"	Hudson River
008	Foot of Fourth Street	41° 30' 00" / 74° 00' 18"	Hudson River
009	Foot of Fifth Street	41° 30' 23" / 74° 00' 18"	Hudson River
010	Foot of South Street	41° 30' 32" / 74° 00' 20"	Hudson River
011	Clinton Street	41° 30' 19" / 74° 00' 17"	Hudson River
012	Foot of Nicoll Street	41° 30' 49" / 74° 00' 23"	Hudson River
013	Foot of Park Place	41° 31' 01" / 74° 00' 26"	Hudson River

RESOLUTION NO.: 323 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE SUPPLEMENTAL AGREEMENT NO. 1
WITH THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION
TO FUND IN THE FIRST INSTANCE 100% OF THE FEDERAL AID AND NON-FEDERAL
AID ELIGIBLE COSTS FOR THE RIGHT-OF-WAY ACQUISITION WORK
FOR THE REPLACEMENT OF THE LAKE DRIVE BRIDGE

WHEREAS, a Project for the Bridge Replacement of Lake Drive over Quassaick Creek (BIN 2223630) in the City of Newburgh, Orange County, PIN 8761.39 (the "Project") is eligible for funding under Title 23 U.S. Code, as amended, that calls for the apportionment of the costs such program to be borne at the ratio of 80% federal funds and 20% non-federal funds; and

WHEREAS, the City of Newburgh desires to advance the Project by making a commitment of 100% of the non-federal share of the costs of right-of-way acquisition;

NOW, THEREFORE, the Newburgh City Council duly convened does hereby

RESOLVE, that the Newburgh City Council hereby approves the above-subject project; and it is hereby further

RESOLVED, that the Newburgh City Council hereby authorizes the City of Newburgh to pay in the first instance 100% of the federal and non-federal share of the cost of right-of-way acquisition work for the Project or portions thereof; and it is further

RESOLVED, that the sum of \$68,545.00 is hereby appropriated from the 2016 BAN and made available to cover the cost of participation in the above phase of the Project; and it is further

RESOLVED, that in the event the full federal and non-federal share costs of the project exceeds the amount appropriated above, the Newburgh City Council shall convene as soon as possible to appropriate said excess amount immediately upon notification by the City Manager thereof; and it is further

RESOLVED, that the Newburgh City Manager be and he is hereby authorized to execute all necessary Agreements, certifications or reimbursement requests for Federal Aid and/or applicable Marchiselli Aid on behalf of the City of Newburgh with the New York State Department of Transportation in connection with the advancement or approval of the Project and providing for the administration of the Project and the municipality's first instance funding of project costs and

permanent funding of the local share of federal-aid and state-aid eligible Project costs and all Project costs within appropriations therefore that are not so eligible; and it is further

RESOLVED, that in addition to the City Manager the following municipal titles: Mayor, Deputy Mayor, Superintendent of Public Works, City Engineer, City Comptroller are also hereby authorized to execute any necessary Agreements or certifications on behalf of the Municipality/Sponsor, with NYSDOT in connection with the advancement or approval of the project identified in the State/Local Agreement;

RESOLVED, that a certified copy of this resolution be filed with the New York State Commissioner of Transportation by attaching it to any necessary Agreement in connection with the Project; and it is further

RESOLVED, this Resolution shall take effect immediately.

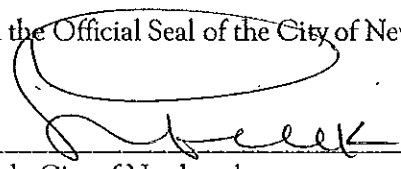
STATE OF NEW YORK)

) ss:

COUNTY OF ORANGE)

I, Lorene Vitek, Clerk of the City of Newburgh, New York, do hereby certify that I have compared the foregoing copy of this Resolution with the original on file in my office, and that the same is a true and correct transcript of said original Resolution and of the whole thereof, as duly adopted by said City Council at a meeting duly called and held at City Hall on Nov. 13, 2018 by the required and necessary vote of the members to approve the Resolution.

WITNESS My Hand and the Official Seal of the City of Newburgh, New York, this 14th day of November, 2018.


Clerk, City of Newburgh

SCHEDULE A – Description of Project Phase, Funding and Deposit Requirements
NYSDOT/ State-Local Agreement - Schedule A for PIN 8761.39

OSC Municipal Contract #: D035371		Contract Start Date: 2/15/2017 (mm/dd/yyyy)		Contract End Date: 12/30/2019 (mm/dd/yyyy)	
☐ Check, if date changed from the last Schedule A					
Purpose:		☐ Original Standard Agreement		☒ Supplemental Schedule A No. 1	
Agreement Type:		☒ Locally Administered Municipality/Sponsor (Contract Payee): City of Newburgh Other Municipality/Sponsor (if applicable): _____ ☐ State Administered List participating Municipality(ies) and the % of cost share for each and indicate by checkbox which Municipality this Schedule A applies. ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share ☐ Municipality: _____ % of Cost share			
Authorized Project Phase(s) to which this Schedule applies: ☒ PE/Design ☒ ROW Incidentals ☒ ROW Acquisition ☐ Construction/CI/CS					
Work Type: BR REPLACE		County (If different from Municipality): Orange County			
Marchiselli Eligible ☐ Yes ☒ No (Check, if Project Description has changed from last Schedule A): ☐					
Project Description: BIN 2223630 Lake Drive Over Quassaick Creek, City of Newburgh, Orange County					
Marchiselli Allocations Approved FOR ALL PHASES All totals will calculate automatically.					
Check box to indicate change from last Schedule A	State Fiscal Year(s)	Project Phase			TOTAL
		PE/Design	ROW (RI & RA)	Construction/CI/CS	
☐	Cumulative total for all prior SFYs	\$	\$	\$0.00	\$ 0.00
☐	Current SFY	\$0.00	\$	\$0.00	\$ 0.00
Authorized Allocations to Date:		\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

A. Summary of allocated MARCHISELLI Program Costs FOR ALL PHASES For each PIN Fiscal Share below, show current costs on the rows indicated as "Current." Show the old costs from the previous Schedule A on the row indicated as "Old." All totals will calculate automatically.							
PIN Fiscal Share	"Current" or "Old" entry Indicator	Federal Funding	Total Costs	FEDERAL Participating Share	STATE MARCHISELLI Match	LOCAL Matching Share	LOCAL DEPOSIT AMOUNT (Required only if State Administered)
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00

NYSDOT/State-Local Agreement -- Schedule A

B. Summary of Other (including Non-allocated MARCHISELLI) Participating Costs FOR ALL PHASES For each PIN Fiscal Share, show current costs on the rows indicated as 'Current'. Show the old costs from the previous Schedule A on the row indicated as 'Old'. All totals will calculate automatically.

Other PIN Fiscal Shares	'Current' or 'Old' entry indicator	Funding Source	TOTAL	Other FEDERAL	Other STATE	Other LOCAL
8761.39.121	Current	STP	\$365,000.00	\$292,000.00	\$73,000.00	\$0.00
	Old	STP	\$365,000.00	\$292,000.00	\$73,000.00	\$0.00
8761.39.221	Current	STP	\$88,545.00	\$70,836.00	\$17,709.00	\$0.00
	Old	STP	\$24,000.00	\$16,000.00	\$4,000.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
	Current		\$ 0.00	\$0.00	\$0.00	\$0.00
	Old		\$ 0.00	\$0.00	\$0.00	\$0.00
TOTAL CURRENT COSTS:			\$453,545.00	\$362,836.00	\$90,709.00	\$ 0.00

C. Local Deposits from Section A:	\$ 0.00
Additional Local Deposits:	\$
Total Local Deposits:	\$ 0.00

D. Total Project Costs All totals will calculate automatically				
Total FEDERAL Cost	Total STATE MARCHISELLI Cost	Total OTHER STATE Cost	Total LOCAL Cost	Total ALL SOURCES Cost
\$362,836.00	\$ 0.00	\$90,709.00	\$ 0.00	\$453,545.00

E. Point of Contact for Questions Regarding this Schedule A (Must be completed)	Name: <u>Doreen Holsopple</u> Phone No: <u>845-431-5977</u>
---	--

See Agreement (or Supplemental Agreement Cover) for required contract signatures.

- Description cont'd: This project will replace the existing structure that carries Lake Drive over the Quassaick Creek in the City of Newburgh, Orange County.
- The non-federal share of these phases are being provided by "other" State Funds.
- This Schedule A includes the right-of-way acquisition phase and funds.

RESOLUTION NO.: 324 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION REQUESTING AN EXEMPTION FROM COUNTY
TAXES FOR THE CITY'S RESERVOIR AND FILTER PLANT
PROPERTIES FOR THE YEAR 2020

BE IT RESOLVED, by the Council of The City of Newburgh, New York, that the City Manager be and he is hereby authorized and directed to request a real property tax exemption from real property taxes to be levied by the County of Orange on all of the City's reservoir and filter plant properties, and the buildings and improvements thereon, and to be constructed thereon in the Town of Newburgh and the Town of New Windsor, pursuant to the provisions of Section 406, subdivision 3, of the Real Property Tax Law of the State of New York.

The requested exemption would include exemption from all taxation, special ad valorem levies and special assessments through December 31, 2020, so long as the subject premises are used for the aforesaid purposes.

The specific properties involved are as follows:

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
	TOWN OF NEWBURGH	75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to execute an Agreement, a copy of which is annexed hereto, with the County of Orange to effectuate such exemption.

AGREEMENT, made this ____ day of _____, 201____ by and between

THE CITY OF NEWBURGH, a municipal corporation duly organized and existing under the laws of the State of New York and having its principal place of business at City Hall, 83 Broadway, in the City of Newburgh, County of Orange, State of New York; and

THE COUNTY OF ORANGE, a municipal corporation duly organized and existing under the laws of the State of New York and having its principal place of business at the Orange County Government Center, Main Street in the Village of Goshen, County of Orange and State of New York,

WHEREAS, the City of Newburgh is the owner of several parcels of real property located in the Towns of Newburgh and New Windsor, Orange County, New York and designated on the official tax map of said towns as set forth in Schedule "A" annexed hereto and made a part hereof; and

WHEREAS, The City of Newburgh uses said property for the operation of a water filtration plant and reservoirs exclusively; and

WHEREAS, The County of Orange has in the past, imposed taxes against said parcels of real property; and

WHEREAS, Section 406(3) of the Real Property Tax Law of the State of New York in essence, inter alia, provides that real property owned by a municipality with a population of less than 100,000 people, which property is located without its corporate limits and is used as a reservoir or water filtration plant may be wholly or partially exempt from taxation, special ad valorem levies, and special assessments, provided that the governing board of the taxing authorities so agree in writing; and

WHEREAS, the aforesaid relief from County taxes was requested by said municipality by Resolution Number _____-2018 of November 13, 2018 of The City of Newburgh, New York; and

WHEREAS, the County of Orange was authorized to enter into this agreement by Resolution Number _____ of _____, dated _____, 201____, of the Orange County Legislature, it appearing that such agreement would be in the best interests of the citizens of Orange County,

NOW, THEREFORE, in consideration of the premises and pursuant to Real Property Tax Law, Section 406 (3), it is agreed as follows:

1. The County of Orange, by action of the Legislature thereof, shall wholly exempt the parcels of real property, listed in Schedule "A" annexed hereto, together with the buildings and improvements now existing thereon or hereinafter installed, owned by The City of Newburgh and exclusively used as a water filtration plant and reservoir properties, which properties are located in the Town of Newburgh and Town of New Windsor, County of Orange, State of New York, and which properties are designated by section, block and lot in Schedule "A", annexed hereto on the official tax map of said towns, from all taxation, special ad valorem levies, and special assessments levied by Orange County for the County tax year, January 1, 2020 to December 31, 2020 so long as the subject premises are used for the aforesaid purposes.

2. This agreement shall not be self-renewing and shall not be extended to any County tax year after December 31, 2020, unless the Orange County Legislature specifically renews or extends the same before the applicable taxable status date for any such year.

3. The County of Orange expressly reserves its right to impose, levy and collect with respect to the subject premises, any financial obligation not specifically excluded by the provisions of Real Property Tax Law, Section 406 (3).

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

[SEAL]

THE CITY OF NEWBURGH

By: _____
Michael G. Ciaravino,
City Manager
Pursuant to Res. No.: _____-2018

[SEAL]

THE COUNTY OF ORANGE

By: _____
Stefan ("Steven") M. Neuhaus,
County Executive

APPROVED AS TO FORM:

MICHELLE KELSON
Corporation Counsel

City Comptroller

SCHEDULE "A"

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
	TOWN OF NEWBURGH	75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44



County Legislature

L. Stephen Brescia, Chairman
Jean M. Ramppen, Clerk

255 Main Street – 2nd Fl
Goshen, NY 10924

Tel: (845) 291-4800 ☎ Fax: (845) 378-2375

October 1, 2018

Hon. Torrance Harvey
City of Newburgh
83 Broadway, City Hall
Newburgh, New York 12550

Dear Mayor Harvey:

Your agreement with the County of Orange providing for the exemption from county taxation on certain real property located in the Towns of New Windsor and Newburgh for use of your city water system will expire on December 31, 2019.

If you wish the County Legislature to exempt these properties for the year 2020, please notify this office with a copy of a resolution (which states the exemption year) adopted by your city council by December 18, 2018.

A schedule of the properties that were exempt for 2019 is enclosed for your information. Please compare it to the resolution you will be adopting this year.

Very truly yours,

Jean M. Ramppen, Clerk
Orange County Legislature

cc: City Clerk

TABLED

RESOLUTION NO.: 325 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION DECLARING BLUESTONE SLATE
AS SURPLUS AND AUTHORIZING DISPOSITION TO
THE OWNER OF PROPERTY LOCATED AT 55 BROAD STREET

WHEREAS, the City of Newburgh Department of Public Works has reported that it is in possession of bluestone slate which is of no use by the City of Newburgh; and

WHEREAS, the owner of property located at 55 Broad Street has requested a 4' x 4' bluestone slab to replace a damaged sidewalk at this location; and

WHEREAS, this Council has determined that disposing of a 4' x 4' slab of surplus bluestone to the owner of property located at 55 Broad Street for sidewalk replacement 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 bluestone slab, approximately 4' x 4' be and is hereby declared to be surplus and of no further use to the City of Newburgh; and

BE IT FURTHER RESOLVED, that said 4' x 4' slab of surplus bluestone shall be provided to the owner of property located at 55 Broad Street for sidewalk replacement.

RESOLUTION NO. 326-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
AN INTER-MUNICIPAL EMERGENCY WATER SUPPLY AGREEMENT
WITH THE TOWN OF NEW WINDSOR

WHEREAS, the City of Newburgh believes that Washington Lake, the City's former primary public water source has been contaminated with per- and polyfluoroalkyl substances ("PFAS") originating from New York Stewart International Airport and Stewart Air National Guard Base; and

WHEREAS, from May 2016, to October 28, 2018, the City has been relying on the New York City Catskill Aqueduct ("Aqueduct") as the City's sole source of public water supply and intends to continue such use of the Aqueduct until such time as Washington Lake and the City watershed have been fully remediated and restored; and

WHEREAS, since October 28, 2018, City has been relying on Brown's Pond, also known as Silver Stream Dam Reservoir, a reservoir located in the Town of New Windsor but owned by the City, as the City's sole source of public water supply due to the temporary shutdown of the Aqueduct; and

WHEREAS, the New York City Department of Environmental Protection has announced its intention to shut down the Aqueduct for maintenance operations for ten-week periods annually over the next four or five years, commencing with the first of such shutdowns on October 28, 2018 ("Shutdowns"); and

WHEREAS, the City has historically used Brown's Pond as a backup water supply and is doing so again during the Shutdowns, but the City is concerned that Brown's Pond may not be able to fully satisfy the City's requirement for public water supply; and

WHEREAS, the Town of New Windsor wishes to cooperate with the City under the terms and conditions set forth in an inter-municipal agreement to make available to the City such supply of water under such circumstances as described in the inter-municipal emergency water agreement attached hereto; and

WHEREAS, the City Council of the City of Newburgh finds that entering into said inter-municipal emergency water agreement with the Town of New Windsor is in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached inter-municipal emergency water supply agreement, in substantially the same form as attached hereto with other terms and conditions as Counsel may require, on behalf of the City of Newburgh with the Town of New Windsor.

INTER-MUNICIPAL EMERGENCY
WATER SUPPLY AGREEMENT

Between the City of Newburgh and the Town of New Windsor

Dated _____, 2018

INTER-MUNICIPAL EMERGENCY WATER SUPPLY AGREEMENT

AGREEMENT, made this _____ day of _____, 2018, by and between:

THE CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550, (hereinafter referred to as "CITY"), and THE TOWN OF NEW WINDSOR, a municipal corporation organized and existing under the laws of the State of New York with offices at 555 Union Avenue, New Windsor, New York 12553, (hereinafter referred to as "TOWN").

WITNESSETH:

WHEREAS, CITY believes that Washington Lake, the CITY's former primary public water source has been contaminated with per- and polyfluoroalkyl substances ("PFAS") originating from New York Stewart International Airport and Stewart Air National Guard Base; and

WHEREAS, from May 2016, to October 28, 2018, CITY has been relying on the New York City Catskill Aqueduct ("Aqueduct") as CITY's sole source of public water supply and intends to continue such use of the Aquifer until such time as Washington Lake and the CITY watershed have been fully remediated and restored; and

WHEREAS, since October 28, 2018, CITY has been relying on Brown's Pond, also known as Silver Stream Dam Reservoir, a reservoir located in TOWN but owned by CITY, as CITY's sole source of public water supply due to the temporary shutdown of the Aqueduct; and

WHEREAS, the New York City Department of Environmental Protection ("NYCDEP") has announced its intention to shut down the Aqueduct for maintenance operations for ten-week

periods annually over the next four or five years, commencing with the first of such shutdowns on October 28, 2018 ("Shutdowns"); and

WHEREAS, CITY has historically used Brown's Pond as a backup water supply and is doing so again during the Shutdowns, but CITY is concerned that Brown's Pond may not be able to fully satisfy CITY's requirement for public water supply; and

WHEREAS, TOWN wishes to cooperate with CITY under the terms and conditions set forth herein to make available to CITY such supply of water under such circumstances as described herein; and

WHEREAS, CITY and TOWN, being lawfully incorporated municipalities located in the County of Orange in the State of New York, each have the power and authority to enter into this Agreement to accomplish said purposes;

NOW, THEREFORE, in consideration of the mutual promises herein set forth and other good and valuable consideration and pursuant to the authority vested in CITY and in the TOWN by the General Municipal Law and other statutes of the State of New York, it is agreed by and between the parties as follows:

SECTION 1. PURPOSE OF AGREEMENT

A. The primary purpose of this Agreement is to provide to CITY a backup supply of finished water from available TOWN water resources during the aforementioned Shutdowns. It is also intended to provide both TOWN and CITY with a backup supply of finished water during times other than the Shutdowns.

This Agreement shall not be construed as an agreement by either TOWN or CITY to supply the other with a primary source of water on other than an emergency basis, nor for

TOWN or CITY to provide water to any other parties except residents of TOWN or CITY. For purposes of this agreement a resident shall be construed as a person or persons residing in CITY or TOWN or an entity conducting business within CITY or TOWN.

B. With regard to the anticipated Shutdowns, CITY agrees that it shall only seek to withdraw water from available TOWN supply when CITY cannot access or use the Catskill Aqueduct and does not have enough capacity to service its residents from the Brown's Pond backup water supply discussed above.

C. With regard to the anticipated Shutdowns, CITY may withdraw water from TOWN only to the extent that it will not unduly impair TOWN's ability to provide a sufficient supply of water to its residents.

With regard to any time other than the anticipated Shutdowns, neither party may withdraw water from the other's finished supply in an amount that is deemed by the other party to impair their ability to provide a sufficient supply of water to its residents, which can and will be determined solely by the Town Supervisor, City Manager, and/or Water Superintendent for party whose finished supply is being utilized.

In the event of a shortage or shortfall in the amount of water supply available, each municipality's needs for their own water supply shall take priority over the needs of the other.

SECTION 2. ACCESS AND CONNECTION; CONSTRUCTION RIGHTS AND OBLIGATIONS.

A. Two connections for the supply of water between TOWN and CITY are proposed. The first shall be at the intersection of Moores Hill Road and Riley Road in the TOWN, where a 12 inch finished water main owned by TOWN lies within ten feet of CITY's raw water transmission main that carries raw water from Brown's Pond to CITY's water treatment plant.

This connection shall be in one direction only, to allow TOWN to supply finished water to CITY'S raw water connection. Time is of the essence in construction of this connection, as it may be necessary to use it during the current Shutdown should Brown's Pond not provide adequate water supply for CITY's needs.

The second will be on Lake Street, at or near the former Myron Lumber, 250 Lake Street, Section 9, Block 1, Lot 34. This connection shall be bidirectional, to allow CITY or TOWN to supply finished water to the other.

MOORES HILL ROAD & RILEY ROAD CONNECTION

1. Engineering design and specifications for the Moores Hill Road and Riley Road Connection shall be prepared by McGoe, Hauser & Edsall, Engineers for the TOWN, at TOWN'S expense. Such design and specifications shall be subject to reasonable review and approval by both TOWN and CITY prior to construction.

2. It is anticipated that this connection will be used exclusively for TOWN to supply CITY with finished water and connect to CITY'S raw water supply. CITY will take all necessary steps to prevent back-flow of raw water into TOWN'S finished water supply and assume all cost and responsibility, including but not limited to the cost of remedial measures and/or legal action regarding same, with regard to construction and operation of this connection. CITY will hold harmless and indemnify TOWN for any claim relating to water quality brought against TOWN that pertains to this Connection.

3. CITY shall be responsible for performing and funding the construction of this Connection in accordance with said design and specifications and for obtaining all necessary permits, licenses and approvals of all regulatory, governmental, or other lawful authorities.

TOWN shall cooperate with CITY in seeking all such permits, licenses and approvals, including execution of any necessary applications.

4. CITY shall have all rights and permission hereby granted by TOWN to undertake any and all excavation, construction and other work necessary to establish this Connection. All work performed by CITY shall, however, be done under the direction and supervision, and with the approval, of TOWN'S Engineers, in cooperation with and approval of CITY'S engineers.

5. Except in emergency situations in which prior approval is impractical, any subsequent repairs or maintenance of or related to this Connection shall not be performed without the approval of the TOWN, and any costs associated therewith shall be the sole responsibility of the CITY.

6. The TOWN may contract for or undertake any repairs or maintenance required so there is no interruption or interference with the supply of fresh water to the TOWN'S residents without the consent or approval of the CITY. In such case, the TOWN will, to the extent practical, give CITY at least two (2) days' notice before any such repairs or maintenance are undertaken, but regardless of any notice, CITY shall be remain responsible and pay for all costs associated with said repairs or maintenance.

LAKE ROAD CONNECTION.

1. It is anticipated that the Lake Road Connection will allow either party to supply the other with finished water during an emergency situation only, including but not limited to those brought about by the Shutdowns during the next 4 to 5 years. An emergency situation, other than those anticipated with the Shutdowns, shall be one where CITY or TOWN is unable to otherwise supply its residents with the necessary gallons per day as determined by the average

gallons per day used during the sixty (60) days prior to said emergency, as calculated by the head of that party's water department.

2. In recognition of the fact that either party may use this Connection during an emergency situation to access and utilize the other's finished water supply, TOWN and CITY agree to share equally in the associated costs for engineering, design and construction of same. Engineering, design and specifications shall be prepared by TOWN engineers McGoe, Hauser & Edsall, subject to reasonable review and approval by both TOWN and CITY. Construction shall be performed by a mutually agreed upon company and be done in accordance with the aforementioned design and specifications after all necessary permits, licenses and approvals are obtained from all necessary regulatory, governmental and/or other lawful authorities. Both CITY and TOWN shall have the right to supervise and approve this work, and shall cooperate in obtaining all such necessary permits, licenses and approvals, including execution of necessary applications.

3. The amount of finished water supplied by either party to the other by way of this Connection will be allocated or limited at the exclusive discretion of the Town Supervisor, City Manager and/or Water Superintendent of the party supplying water such that TOWN'S or CITY'S ability to provide water to their respective residents will not be impaired.

4. To the extent it is known that either TOWN or CITY will require use of this Connection to draw fresh water from the other's fresh water supply through this Connection, a request for same must be made in writing with at least two (2) days' notice. TOWN or CITY can then refuse or delay the drawing of fresh water from their respective fresh water supply if they are unable to accommodate said request due to an unreasonable interruption or draw down on the supply that would be available to its residents if permitted.

5. Any subsequent repairs or maintenance of or related to this Connection cannot be contracted for or performed without the approval of the both parties to this Agreement, unless required on an emergency basis and it is not feasible to wait to obtain the other party's consent and approval of such repairs or maintenance. All costs associated with subsequent repairs or maintenance to this Connection will be shared equally, unless required due to the negligence of the CITY or TOWN, in which case the responsible party will be required to pay in full.

6. If any subsequent repair or maintenance of this Connection is required so there is no interruption or interference with the supply of fresh water to the TOWN'S residents or the CITY'S residents, whichever party is affected may contract for or perform said repairs or maintenance without the consent or approval of the other party. In such case, the party requiring the repairs or maintenance will, to the extent practical, give the other party at least two (2) days' notice before any such repairs or maintenance is undertaken, but regardless of any notice, the other party shall be remain responsible and pay for its share of the costs associated with said repairs or maintenance, unless the repairs or maintenance are required due to the negligence of the party undertaking the repairs or maintenance.

SECTION 3. INSTALLATION

A. Any work or installation of Connection facilities discussed in this Agreement shall be reviewed and approved by then Engineer for the Town. The TOWN may inspect the work in progress as it deems appropriate or necessary. The entire cost and expense of McGoey, Hauser & Edsall's work for the Moore's Hill Road and Riley Road Connection shall be borne by TOWN. The cost and expense of McGoey, Hauser & Edsall's work for the Lake Road Connection, shall be shared equally by TOWN and CITY. "Connection Facilities" shall mean the connections or

interconnections and their appurtenances, structures, equipment, metering equipment and any other facilities that are constructed, erected or installed for the benefit of the Connections contemplated under this Agreement.

B. No work or installation of the Connection Facilities nor any alteration, removal or relocation thereof, shall commence until and unless the CITY and TOWN have approved plans and specifications therefor.

SECTION 4. TOWN AND CITY ACCESS RIGHTS

A. CITY and its contractors shall have all rights necessary to construct the MOORES HILL/RILEY RD. Connection, including but not limited to, the right to construct required facilities and lines upon TOWN property and within TOWN'S right-of-way of TOWN roads and thoroughfares without payment of additional fees or consideration to TOWN. CITY agrees that it shall, at its sole cost and expense and within thirty (30) days completion of the Connection's construction, restore all roads, sidewalks, berms, curbs, culverts and all other physical assets to the same or better condition as existed prior to CITY undertaking work under this Agreement. Said restoration must be done to the satisfaction of TOWN'S engineers and Superintendent of Highways.

SECTION 5. METERING EQUIPMENT

A. CITY shall install, maintain and repair, at its sole cost and expense, any metering equipment necessary to measure accurately the amounts of water withdrawn from the Moores Hill Road/Riley Road Connection. Such Metering Equipment shall be of the same type and manufacture as the metering equipment used by TOWN for billing purposes and shall be subject

to TOWN'S approval prior to installation. Installation and testing for proper operation must be completed and approved by the TOWN before use of the Connection begins.

B. This Metering Equipment at the Moores Hill Road/Riley Road Connection shall, when installed and whenever tested subsequent to its installation, conform to standards established by the TOWN and the State of New York Department of Health, as well as any other applicable standards, including but not limited to AWWA and ANSI.

C. Either party to this agreement may make, at any time, a reasonable request for a test of the Metering Equipment at the Moores Hill Road/Riley Road Connection, but in any event, the Metering Equipment shall be tested at least once a year. Such tests shall be conducted by a person or entity approved by the TOWN, and subject to the approval of and as may be required by the NYCDEP, at the sole cost and expense of the CITY. A request for a test after the repair and/or replacement of this Metering Equipment is deemed a reasonable request for the purposes of this section.

D. TOWN shall have, at all times and for any reason, unrestricted access to the Metering Equipment at the Moores Hill Road/Riley Road Connection and the structure housing same. Two (2) sets of duplicate keys to all locks on and in such structure shall be delivered by CITY to TOWN immediately upon completion of installation of the Connection. The lock and door on such structure, including any replacement locks, shall be subject to the approval of TOWN.

E. In the event the Metering Equipment at the Moores Hill Road/Riley Road Connection becomes inoperable or fails to measure accurately and correctly the amounts of water withdrawn from the Connection, it shall be repaired or replaced by CITY, at its sole cost and expense, to the satisfaction of TOWN within a reasonable time frame, not to exceed thirty (30)

days after the discovery of same by or notice of same to CITY, unless such failure is due to the negligence of TOWN.

F. TOWN may request CITY, at CITY's sole cost and expense, to replace or improve the Metering Equipment at the Moores Hill Road/Riley Road Connection or any part of the structure housing this Metering Equipment (including replacement of locks) when TOWN reasonably deems such replacement or improvement necessary for the proper functioning of the system.

G. CITY shall be responsible for providing and installing, at CITY's expense, such new Metering Equipment as shall satisfy current regulatory requirements, or replacing existing out-of-date metering equipment within six (6) months of the execution of this Agreement, as necessary to measure accurately the amounts of water withdrawn from the Connection.

H. Metering Equipment shall also be installed, maintained and repaired at the Lake Road Connection, but the cost associated with same shall be shared equally between CITY and TOWN. This Metering Equipment shall be of the same type and manufacture as the metering equipment used by TOWN for billing purposes and shall be subject to both CITY and TOWN'S approval prior to installation. Installation and testing for proper operation must be completed and approved by both CITY and TOWN before use of the Connection begins.

I. The Metering Equipment at the Lake Road Connection shall, when installed and whenever tested subsequent to its installation, conform to standards established by the TOWN and the State of New York Department of Health, as well as any other applicable standards, including but not limited to AWWA and ANSI.

J. Either party to this agreement may make, at any time, a reasonable request for a test of the Metering Equipment at the Lake Road Connection, but in any event, the Metering

Equipment shall be tested at least once a year. Such tests shall be conducted by a person or entity approved by both CITY and TOWN, and subject to the approval of and as may be required by the NYCDEP, at an expense to be shared equally by CITY and TOWN. A request for a test after the repair and/or replacement of this Metering Equipment is deemed a reasonable request for the purposes of this section.

K. TOWN and CITY shall have, at all times and for any reason, unrestricted access to the Metering Equipment at the Lake Road Connection and the structure housing same. Two (2) sets of duplicate keys to all locks on and in such structure shall be provided to and maintained by CITY and TOWN as soon as installation of the Connection is complete. The lock and door on such structure, including any replacement locks, shall be subject to the approval of both CITY and TOWN.

L. In the event the Metering Equipment at the Lake Road Connection becomes inoperable or fails to measure accurately and correctly the amounts of water withdrawn from the Connection, it shall be repaired or replaced within a reasonable time frame, not to exceed thirty (30) days after discovery of same by or notice of same to TOWN or CITY. The cost and expense of the repair or replacement will be shared equally by CITY and TOWN, unless required due to the negligence of CITY or TOWN, in which case the responsible party will pay the full amount of the repair or replacement.

M. Either party may request the other share equally in the cost and expense to replace or improve the Metering Equipment at the Lake Road Connection, or any part of the structure housing this Metering Equipment (including replacement of locks), when either party reasonably deems such replacement or improvement necessary for the proper functioning of the system.

N. Both parties shall be responsible for providing and installing, at equal expense, such new Metering Equipment as shall satisfy current regulatory requirements, or replacing existing out-of-date Metering Equipment within six (6) months of the execution of this Agreement, as necessary to measure accurately the amounts of water withdrawn from the Connection.

SECTION 6. METERING RECORDS

A. For Moores Hill Road / Riley Road Connection:

1. The Metering Equipment to be used by TOWN for billing purposes shall be read by a representative of TOWN'S Water Department at such intervals as TOWN'S Water Department deems advisable. Said readings shall be promptly shared with the CITY, which shall have the right to be present when such readings are taken.

2. For any period during which the Metering Equipment fails to register accurately and correctly, or ceases to record the flow of water withdrawn from the Connection, or is removed for any purpose whatsoever, TOWN shall bill for the period based upon an average of the quantity of water withdrawn from the Connection based on the most recent previous month's flow data for the period for which the Metering Equipment was out of service, or such other measure as to which the parties can reasonably agree may accurately reflect actual water consumption during such emergency circumstances, and as additional data as to such consumption becomes available.

3. Within thirty (30) days after the end of a Shutdown, CITY shall furnish to TOWN a tabulation for the daily readings recorded by the Metering Equipment that measures the quantities of water taken and received from the TOWN hereunder.

4. TOWN shall have the right to audit all meter readings supplied by CITY and shall have access, at reasonable times and on reasonable advance notice, to inspect the books and records of CITY relating to such readings for the purposes of conducting such audit.

5. CITY shall be responsible for any leakage that may occur between a Connection and the meter and such water shall be paid for as if it had flowed through such meter. TOWN may make a reasonable estimate of such leakage.

B. For Lake Road Connection:

1. The Metering Equipment to be used at this Connection for billing purposes shall be read by a representatives from both parties' Water Department at intervals to be reasonably agreed upon. Both parties shall have the right to be present when such readings are taken and the results of these readings will be shared immediately after being taken.

2. For any period during which the Metering Equipment fails to register accurately and correctly, or ceases to record the flow of water withdrawn from the Connection, or is removed for any purpose whatsoever, the party whose water is being drawn shall bill for the period based upon an average of the quantity of water withdrawn from the Connection based on the most recent previous month's flow data for the period for which the Metering Equipment was out of service, or such other measure as to which the parties can reasonably agree may accurately reflect actual water consumption during such emergency circumstances, and as additional data as to such consumption becomes available.

3. Within thirty (30) days after the end of an emergency situation requiring use of the Connection, the party utilizing the Connection shall furnish to the other party a

tabulation for the daily readings recorded by the Metering Equipment that measures the quantities of water taken and received.

4. The party from whom water is being drawn shall have the right to audit all meter readings supplied by the other party and shall have access, at reasonable times and on reasonable advance notice, to inspect the books and records of the other party as they relate to such readings for the purposes of conducting such audit.

SECTION 7. BILLING

A. For any and all withdrawals of water by CITY from TOWN'S supply hereunder, TOWN shall charge CITY a price for same which CITY shall promptly pay to TOWN within thirty (30) days presentation of the bill. TOWN shall charge CITY at the same rate as the TOWN charges retail water customers in TOWN'S Consolidated Water District, plus a 15% administrative surcharge. The rate for FY 2018 is currently \$8.89/1000 gal. This rate is subject to annual revision by the TOWN BOARD.

B. For any and all withdrawals of water by TOWN from CITY'S supply hereunder, CITY shall charge TOWN a price for same which TOWN shall promptly pay to CITY within thirty (30) days presentation of the bill. CITY shall charge TOWN at the same rate as the CITY charges its retail water customers, plus a 15% administrative surcharge. The rate for FY 2018 is currently \$8.89/1000 gal., and is subject to annual revision.

SECTION 8. TIME OF PAYMENT FOR WATER WITHDRAWN

A. In addition to any other remedies available to either party for nonpayment, a failure to make timely payment in accordance with this section will subject the other party to the penalties provided in the TOWN OR CITY Code for late payment, which may include, but not be limited to, the collection of interest on overdue water bills.

B. If any question shall arise as to the accuracy of any bill rendered, the payment for the amount called for shall not be thereby delayed. Payment for the amount called for shall be made, with the payer maintaining the right to verify or question the same through a test of the Metering Equipment. If any error is found in any measurement or billing, the same shall be corrected by adjusting such error in the next bill after the amount of error is determined; or by other agreed upon adjustment between the parties.

SECTION 9. RESTRICTIONS ON CONSUMPTION

A. Whenever, for conservation purposes, restrictions are imposed by CITY or TOWN supplying water upon the consumption of water by residents within same, those same restrictions shall be imposed and enforced by CITY or TOWN on the consumption of water by residents receiving water through either of the Connections discussed in this Agreement. If the party utilizing the Connection(s) fails to impose and/or enforce such restrictions, the other party may, in its sole discretion (i) institute reasonable and appropriate measures to restrict the flow of water through the Connection so as to reasonably approximate the water conservation impacts of such restrictions; or (ii) may shut down the flow of water through the Connection(s) until the restrictions are lifted.

B. The party utilizing the Connection(s) discussed in this Agreement shall take all necessary precautions to avoid waste of water and shall comply with all regulations concerning water usage which are imposed by the party from whom water is being taken and/or the NYCDEP. If significant leaks are discovered at either Connection discussed in this Agreement, they shall be repaired as discussed above.

SECTION 10. REMOVAL AND/OR RELOCATION OF THE CONNECTION FACILITIES

A. AT MOORES HILL ROAD / RILEY ROAD

These Connection Facilities shall be removed or relocated upon the occurrence of any of the following conditions:

1. If the Agreement is terminated, CITY shall remove, at CITY'S sole cost and expense, all of the Connection Facilities at this location within one hundred eighty (180) days after said termination; or
2. If in the sole opinion of the TOWN, the operation and maintenance of TOWN'S water supply system requires removal or relocation of this Connection facility, CITY shall remove or relocate same, at CITY'S sole cost and expense, within ninety (90) days after written demand for same is made by TOWN; or
3. If required by the NYCDEP in accordance with the terms and conditions of the CITY Catskill Aqueduct Agreement or the TOWN Catskill Aqueduct Agreement, CITY shall, in a timely fashion and its sole cost and expense, do whatever is necessary to remove or relocate these connection facilities in a timely fashion so as to remain in compliance with the aforementioned Agreements.

Within sixty (60) days after the removal or relocation of these Connection Facilities, CITY, to TOWN'S reasonable satisfaction, shall restore TOWN'S land to the condition it was in before installation.

If CITY fails to remove or relocate these Connection Facilities and/or restore TOWN'S land as required by this section, TOWN may, upon thirty (30) days written notice to CITY, remove or relocate the Connection Facilities and/or restore TOWN'S land and charge to CITY the entire cost and expense of such removal, relocation and/or restoration. CITY shall then issue payment for said costs and expenses within thirty (30) days receipt of demand for same. If payment is late, interest of 9% per annum will accrue thereafter and judgment for same shall be entered without objection.

B. AT LAKE ROAD

These Connection Facilities shall be removed or relocated upon the occurrence of any of the following conditions:

1. If this Agreement is terminated, TOWN and/or CITY agree not to utilize this Connection until a new agreement is reached regarding same.
2. If in the sole opinion of TOWN or CITY, the operation and maintenance of either party's water supply system requires removal or relocation of this Connection facility, utilization of same shall immediately cease upon written notice to the other and shall not recommence until a new agreement is reached regarding same.

In general, actual removal or relocation shall not commence until a subsequent agreement concerning cost and expense for same is reached between the parties.

If one party should unilaterally remove or relocate the Lake Street Connection, that party shall employ engineering services from TOWN'S engineers in exactly the same manner as this Agreement set forth for the Lake Street Connection discussed in this initial Agreement and all requirements for construction of the new Connection shall also be governed by this Agreement. In addition, all costs and expenses associated with engineering and construction of the new Connection shall be borne by the party unilaterally moving forward with same.

3. If required by the NYCDEP in accordance with the terms and conditions of the CITY Catskill Aqueduct Agreement or the TOWN Catskill Aqueduct Agreement, both parties agree to remove or relocate these connection facilities at shared equal expense.

Regardless of which scenario discussed above plays out, CITY shall, within sixty (60) days after the removal or relocation of the Lake Street Connection Facilities, restore TOWN'S land to the condition it was in before installation to TOWN'S reasonable satisfaction.

If CITY fails to remove or relocate the Lake Street Connection Facilities and/or restore TOWN'S land as required by this section, TOWN may, upon thirty (30) days written notice to CITY, remove or relocate the Connection Facilities and/or restore TOWN'S land and charge to CITY the entire cost and expense of such removal, relocation and/or restoration. CITY shall then issue payment for said costs and expenses within thirty (30) days receipt of demand for same. If payment is late, interest of 9% per annum will accrue thereafter and judgment for same shall be entered without objection.

SECTION 11. WATERSHED PROTECTION

CITY further agrees that it will take all prudent and necessary precautions, as required by law and regulations, where there are possible adverse impacts to the Brown's Pond or Washington

Lake watershed and will diligently apply TOWN's watershed protection rules to its use of these areas, including such reasonable rules as may be promulgated in the future during the term of this Agreement.

SECTION 12. LAWS, REGULATION, PERMITS

A. CITY shall obtain all necessary permits and approvals for and shall conform to all laws, ordinances, rules, regulations and requirements affecting the work and installation of the Connection Facilities or the alteration, removal or relocation thereof. TOWN shall cooperate in those efforts, including executing any necessary applications.

B. CITY agrees that the work and installation of the Connection Facilities or the alteration, removal or relocation thereof and the maintenance and use of the Connection Facilities, shall be done in strict compliance with any and all Federal and State and County agencies and with the NYCDEP and the TOWN's rules, regulations, requirements and directions for the prevention of contamination of the TOWN's water supply system.

SECTION 13. LIABILITY FOR INJURY TO THE TOWN'S PROPERTY

A. Any injury or damage sustained by the TOWN'S lands, the TOWN'S water supply system or any structure, building, fixture, appurtenance, facility, equipment, meter, Metering Equipment, devices of any kind and other property, real and/or personal, belonging to the TOWN and/or related to the various Connection or Connection Facilities described herein, which is caused or occasioned, directly or indirectly, by any act or omission, whether or not negligent, on the part of the CITY or their agents, servants or employees or any other acting on

behalf of the CITY, shall be repaired by the CITY as required by the TOWN to its reasonable satisfaction and the CITY shall bear the entire cost and expense of such repairs.

B. If any delay by the CITY in making the repairs required by Subsection A would, in the opinion of the TOWN, jeopardize or endanger the TOWN's water supply system, the TOWN may make such repairs and/or take such other reasonable and appropriate measures as are deemed necessary to safeguard the TOWN'S water supply system, and the TOWN may charge to the CITY the entire reasonable cost and expense of such repairs or measures.

SECTION 14. HOLD HARMLESS CLAUSE

CITY shall save and hold TOWN harmless from and indemnify TOWN for all judgments and awards of every kind, for damages, costs and expenses rendered against TOWN in all suits, actions, claims and proceedings instituted against TOWN because of any injury, including death, to any person or any damage to any property caused or occasioned directly or indirectly by reason of any act or omission, whether or not negligent, on the part of CITY, or its agents, servants or employees engaged in any activity or work pursuant to the provisions of this Agreement, including the installation of the Connection Facilities, the alteration, repair, removal or relocation thereof and the operation, maintenance and use of the Connection Facilities. Further, TOWN, with CITY'S consent, shall have the power to settle any such suit, action, claim or proceeding and CITY shall indemnify the TOWN for any such settlement.

SECTION 15. DISCLAIMER OF TOWN'S LIABILITY

A. TOWN shall not be responsible for the discontinuation or inadequacy of the supply of water in CITY'S water supply system or for the discontinuation or inconsistency of rates

of flow of water through the Connection if same be caused by factors outside of TOWN'S control. TOWN shall not be liable to CITY or its agents, servants or employees or any other person for injury or damage that is or might be suffered or sustained because of the interruption, diminution or cessation of or any other change that might occur in the rate of flow of water through the Connection if same be caused by factors outside of TOWN'S control. TOWN shall not be required to provide any chemical treatment or purification of the water with respect to the subject Connection at Moores Hill Road / Riley Road. TOWN shall not be liable to CITY, its agents, servants, employees, residents, or any other person for any injury or damage which is in any way sought to be attributed to the quality of water withdrawn to utilized from the Connection at Moores Hill Road / Riley Road, whether treated or untreated by TOWN. CITY shall be required to install, maintain and operate at its sole cost and expense and subject to the provisions of this Agreement, any plant or equipment for the chemical treatment or purification, sedimentation or filtration of the water withdrawn from the Connection that it may desire or that may be required by any Federal, State or local agency having jurisdiction.

SECTION 16. TERM OF THE AGREEMENT AND TERMINATION

A. This Agreement shall remain in effect for a term of ten (10) years commencing on the date on which the Agreement is executed by the parties; provided, however, that either party may terminate this Agreement at any time during such term on six (6) months advance written notice for any reason.

B. Any withdrawal of water, if permitted after the expiration of this Agreement or any renewal thereof, shall be subject to the terms and conditions herein, except as otherwise agreed thereafter.

C. Either party may terminate this Agreement on thirty (30) days written notice if the other party has committed a material breach of the Agreement and this breach is not cured within thirty (30) days receipt of such notice specifying the breach.

SECTION 17. ALTERATION OR MODIFICATION OF TERMS

This Agreement may not be altered or modified, except by a writing subscribed to by both parties.

SECTION 18. REMEDIES

Any remedy herein conferred upon TOWN or CITY is intended to be exclusive of any other available remedy, but each shall be in addition to every other remedy given under this Agreement or otherwise available to TOWN or CITY. No delay or omission to exercise any right or power occurring upon any event of default shall empower any such right or power or shall be construed to be a waiver thereof, and any such right or power may be exercised as often as may be deemed expedient.

SECTION 19. DISPUTE RESOLUTION

Any controversy or claim arising out of or relating to this Agreement shall be settled by referral to the senior sitting Supreme Court Judge in Orange County, New York, who shall designate an impartial referee to arbitrate the claim or controversy and render a decision. The decision of the referee shall be final and binding upon all parties and not subject to appeal. Judgment upon any award may be entered in any court having jurisdiction thereof.

SECTION 20. EFFECTIVE DATE

The provisions of this Agreement shall take effect upon the date of execution below.

SECTION 21. NOTICE

Unless otherwise expressly provided herein, all correspondence, notice, reports or other communication required or permitted under this Agreement shall be in writing and shall be transmitted by hand or by U.S. Postal Service or an overnight express service, addressed as follows:

If to the CITY:	City of Newburgh Office of the City Manager 83 Broadway, City Hall P.O. Box 1030 Newburgh, New York 12550
With a copy to:	City of Newburgh Office of the Corporation Counsel 83 Broadway, City Hall P.O. Box 1030 Newburgh, New York 12550
If to the TOWN	Town of New Windsor Office of the Supervisor 555 Union Avenue New Windsor, New York 12553
With a copy to:	Town of New Windsor Office of the Town Attorney 555 Union Avenue New Windsor, New York 12553

SECTION 22. ASSIGNMENT

CITY shall not assign or transfer this Agreement, in whole or in part, to any person, corporation, agency, or instrumentality without the express written consent of TOWN. This Agreement may be assigned by TOWN to any corporation, agency or instrumentality having

authority to accept such assignment, but in such case water supplied by CITY to the assignee may only be supplied to TOWN residents.

SECTION 23. CONSTRUCTION

The captions of sections of this Agreement are for descriptive purposes only and shall in no way control or limit the interpretation of any section, subsection, subdivision, paragraph or clause.

SECTION 24. SEVERABILITY

If any section, subsection, subdivision, paragraph or clause of this Agreement shall hereafter be determined to be invalid or ineffective, in whole or in part, such section, subsection, subdivision, paragraph or clause, to the extent that it is not determined to be invalid and ineffective and every other section, subsection, subdivision, paragraph and clause shall continue in full force and binding effect.

IN WITNESS WHEREOF, the City of Newburgh (CITY) and the Town of New Windsor (TOWN) acting for and on behalf of the Town and the New Windsor Consolidated Water District (hereinafter, "DISTRICT") hereby subscribe to the aforementioned terms and conditions. The individuals requiring this Agreement on behalf of the TOWN and the CITY agree and certify that they are doing so in accordance with the authorizations of the governing bodies and on behalf of the CITY, the TOWN and the DISTRICT.

(SEAL)

THE CITY OF NEWBURGH

BY: _____
MICHAEL G. CIARAVINO, City Manager

Authorized by City Council Resolution
Dated _____, 2018

(SEAL)

THE TOWN OF NEW WINDSOR for and
on behalf of the TOWN and the DISTRICT

BY: _____
GEORGE GREEN, Supervisor
Authorized by Town Board Resolution
Dated _____, 2018

RESOLUTION NO.: 327 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION ADOPTING THE CITY OF NEWBURGH'S CONSOLIDATED
HOUSING AND COMMUNITY DEVELOPMENT STRATEGY AND ACTION PLAN FOR
FISCAL YEAR 2019

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

WHEREAS, this Consolidated Plan was prepared in accordance with all statutory requirements, including those related to citizen participation; and

WHEREAS, this plan was submitted to and approved by the U.S. Department of Housing and Urban Development; and

WHEREAS, the City has now prepared a one-year Action Plan in order to implement various elements of the strategies identified in its Consolidated Plan during the second year it is in effect; and

WHEREAS, this one-year Action Plan contains the following proposed activities and budget for the City's 2019 Community Development Block Grant Entitlement Program;

Expenditures 2019	
In-Rem Property Project	\$215,000
Complete Streets Program	\$225,000
Park Improvements	\$200,000
Community Policing & Neighborhood Services	\$18,000
Homeowner Resources Assistance Program	\$60,000
Administration	\$130,000
TOTAL BUDGET	\$848,000

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York does hereby approve and adopt the attached one-year Action Plan, subject to further revisions as may be necessary to meet federal requirements; and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh, New York does hereby accept a grant allocation under the Community Development Block Grant Program in the amount of \$848,000.00, and in the event that award funding is greater than \$848,000.00, as presented in the FY 2019 CDBG Annual Action Plan, the additional funding will be applied in the established, corresponding projects of the existing FY 2019 CDBG Annual Action Plan; and

BE IT FURTHER RESOLVED, that the City Manager be and is hereby designated the official representative of the City of Newburgh and he is hereby authorized to submit the one-year Action Plan and execute the appropriate forms and certifications; that the City Manager he is further directed and authorized to act in connection with the submission of a one-year Action Plan and to provide such additional information as may be required; and that the City Manager be and is hereby authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby; and

BE IT FURTHER RESOLVED, that the Secretary of Housing and Urban Development be and hereby is assured full compliance by the City of Newburgh with said certifications.

FY 2019 Community Development Block Grant (CDBG) Projects

Department of Planning &
Development

September, 2018

“CDBG” - Brief Primer

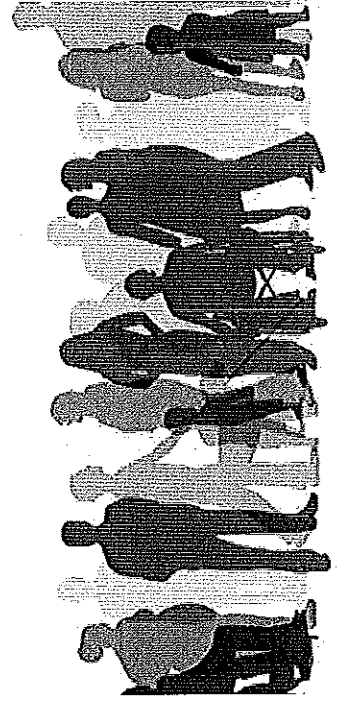
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is required to prepare and submit a Consolidated Plan that establishes goals for the use of CDBG funds. The most recent City of Newburgh Consolidated Plan: FY2015-FY2019
- Projects MUST be consistent with national priorities for CDBG:
 - Activities that benefit low- and moderate-income people;
 - The prevention or elimination of slums or blight; or
 - Community development activities to address an urgent threat to health or safety.

City of Newburgh Community Development Goals

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

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



City of Newburgh CDBG Projects Overview:

- Manage city-owned properties, through the in rem program.
- Provide access to parkland, trails, and healthy activities in nature
- Positively reinvest in our community and our infrastructure

FY2019: Proposed Annual Action Plan Projects

Year 5 of the 5 Year Plan 2015 - 2019

FY2019 Proposed CDBG Projects/Funding

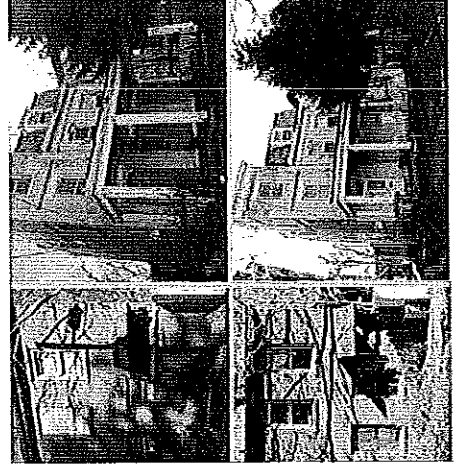
Project Name	Description	Projected Funding
Projects Funded through Entitlement Grant		
In Rem Property Program	Salaries for 3 fulltime employees, In Rem Property Supplies, In Rem Training	\$215,000.00
Complete Streets Program	Sidewalks, Business Façade Improvements, Infrastructure	\$225,000.00
Park Improvements	Park Improvements	\$200,000.00
Community Policing/Neighborhood Services	2018 National Night Out, 2019 Children's Summer Film Festival	\$18,000.00
Homeowner Resource Assistance Program	Program to provide resource assistance to homeowners	\$60,000.00
Administration	Program Administration, Staff Salaries and Benefits, Program Operating Costs (including mailings), Training/Conference	\$130,000.00
Total FY2019 Allocation		\$848,000.00
Note: In the event that award funding is greater than what is presented here in the FY 2019 CDBG Annual Action Plan, the additional funding will be applied in the established, corresponding projects of the existing FY 2019 CDBG Annual Action Plan.		

Project: In Rem Property Program
Budget: \$215,000.00

Summary: Continued funding for the In Rem program, including the salaries for 3 fulltime employees (2 DPW employees and the Economic Development Specialist), In Rem property program supplies, such as paint, plywood, In Rem Training.

In Rem Property Program Highlights

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



Project: Complete Streets Project
Budget: \$225,000.00

Summary: Funding to support the following Complete Streets projects:

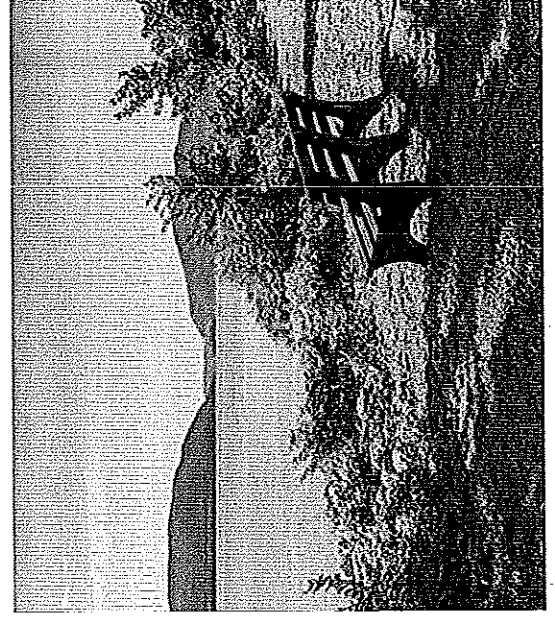
- Sidewalks
- Façade Improvements (including business signs)
- Infrastructure

Project:
Budget:

Park Improvements
\$200,000.00

Summary: Funding to support park improvements in the City of Newburgh. Projects to include support to the new South Street Park.

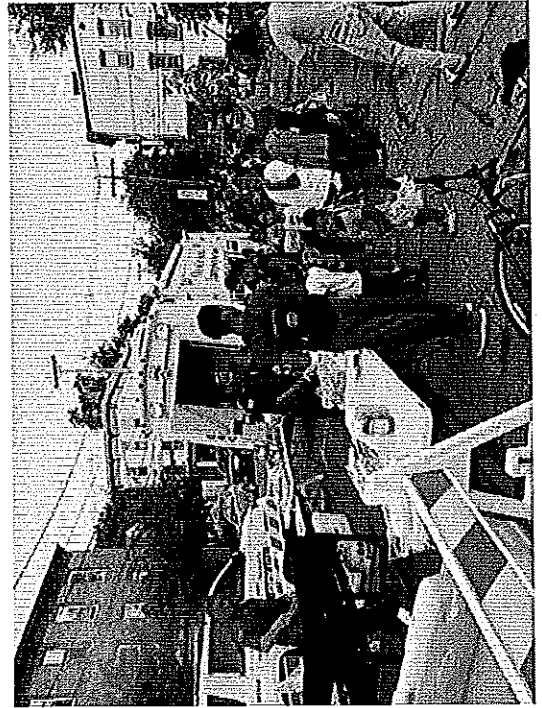
2554



Project: Community Policing/Neighborhood Services
Budget: \$18,000.00

Summary: Funding to support:

- 2019 National Night Out
- 2019 Children's Summer Film Festival



Project: Homeowner Resource Assistance
Budget: \$60,000.00

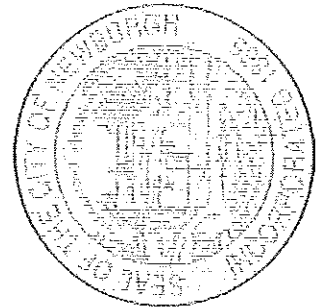
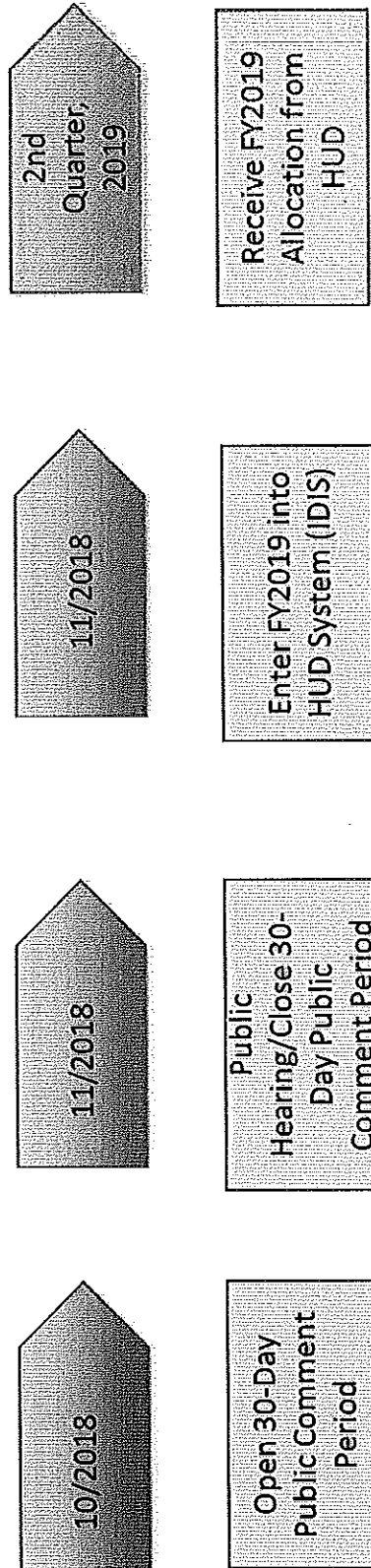
Summary: Funding to support a low-income homeowner resource assistance program. Includes repairs as well as other assistance such as financial/budget counseling.

Project: Administration

Project Funding: \$130,000.00

Summary: Funding to include salary and benefits for Director of Community Development, Business Mailings, Supplies and Program Administration/Training/Conference.

FY2019 CDBG Projects Timeline



FY 2019 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS TIMELINE



RESOLUTION NO.: 328-2018

OF

NOVEMBER 13, 2018

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 260 LIBERTY STREET (SECTION 18, BLOCK 6, LOT 30)
AT PRIVATE SALE TO JEREMY MOORE AND HEATHER MOORE
FOR THE AMOUNT OF \$1,090.00

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 260 Liberty Street, being more accurately described as Section 18, Block 6, Lot 30 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 February 15, 2019, 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>
260 Liberty Street	18 - 6 - 30	Jeremy Moore and Heather Moore	\$1,090.00

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

260 Liberty Street, City of Newburgh (SBL: 18-6-30)

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 2018-2019, 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 2018-2019, 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. 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 City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
7. 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.
8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. 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.

10. The entire purchase price and all closing costs/fees must be paid **by Purchaser** by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.** At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. If purchaser takes title as an entity, purchaser must provide an affidavit listing all of the members or shareholders of said entity, their addresses, their phone numbers, and their percentage ownership stake in the entity. Purchaser must have at least a fifty-one (51%) ownership stake in said entity in order for said entity to take title.
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
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, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
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. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. 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 Closing Deadline date. If such conveyance occurs, 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.

18. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.
19. Notice is given that the property lies within either the East End Historic District or the Colonial Terraces Architectural Design District as designated in the City of Newburgh's current zoning map. This parcel is sold subject to all provision of law applicable thereto. It is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance any additional laws, rules or regulations applicable to those districts.
20. At closing, Purchaser shall provide Seller a bond, in substantially the same form as the one annexed hereto in **Exhibit A**, that indemnifies the City of Newburgh in the event that the building on the Premises is required to be demolished and the Purchaser is unwilling or unable to execute the demolition on her own.

ACKNOWLEDGED AND AGREED

Date: _____

(Purchaser Name)

SURETY BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,
_____, as Principal, and
_____, as Surety, are hereby
held and firmly bound unto City of Newburgh, New York in the sum of One Hundred Thousand and 00/100
Dollars (\$100,000.00), for the payment of which well and truly to be made we hereby bind ourselves, our
heirs, executors, administrators, legal representatives, successors and assigns, jointly and severally, by
these presents.

Whereas, the above-named Principal on the _____ day of _____,
_____ entered into an agreement with the City of Newburgh, New York, which agreement is
attached hereto and made a part of this bond the same as if fully set forth herein.

Now therefore, the condition of this obligation is such that, if Principal shall well and truly perform all its
duties and obligations under the Agreement, then this obligation shall be void. Otherwise, this obligation
shall remain in full force and effect and shall run continuously for a period of twelve (12) months, or until
and unless the bond is terminated, canceled, or renewed as provided hereunder. The bond is further
subject to the following conditions:

1. This bond will cover costs not to exceed \$100,000 if the property is required to be demolished during
the period of the rehabilitation and the Principal for any reason does not pay for the demolition.
2. This bond shall become effective on the _____ day of _____,
_____ and shall continue in force until terminated with written notice from Surety not less than thirty
(30) days subsequent to the date of notice. No such termination shall release Principal or Surety from
any liability or obligation hereunder, which may arise prior to the specified date of termination.
3. This bond may be cancelled by the City of Newburgh at any time without notice.
4. This bond may be renewed

In Witness Whereof, the Principal and Surety have executed this instrument this _____ day of
_____, 20____

By: _____
(Principal)

By: _____
(Surety)

RESOLUTION NO.: 329-2018

OF

NOVEMBER 13, 2018

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 379 FIRST STREET (SECTION 28, BLOCK 1, LOT 16)
AT PRIVATE SALE TO WALDINA ALMAZAN FOR THE AMOUNT OF \$65,000.00

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 379 First Street, being more accurately described as Section 28, Block 1, Lot 16 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 February 15, 2019, 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>
379 First Street	28 - 1 - 16	Waldina Almazan	\$65,000.00

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

379 First Street, City of Newburgh (SBL: 28-1-16)

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 2018-2019, 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 2018-2019, 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 City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
7. 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.

8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. 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.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. If purchaser takes title as an entity, purchaser must provide an affidavit listing all of the members or shareholders of said entity, their addresses, their phone numbers, and their percentage ownership stake in the entity. Purchaser must have at least a fifty-one (51%) ownership stake in said entity in order for said entity to take title.
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
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, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
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. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. 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 Closing Deadline date. If such conveyance occurs, 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.
18. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.
19. Within ten (10) business days of approval of sale by the City of Newburgh, the purchaser shall tender a non-refundable downpayment in the amount of \$10,000.00 payable to "City of Newburgh" by money order or guaranteed funds to the City of Newburgh Comptroller's Office. At closing, the downpayment amount shall be credited against the purchase price.

RESOLUTION NO.: 330-2018

OF

NOVEMBER 13, 2018

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 10 VAN NESS STREET (SECTION 29, BLOCK 5, LOT 25),
12 VAN NESS STREET (SECTION 29, BLOCK 5, LOT 26) AND
34 CARTER STREET (SECTION 22, BLOCK 2, LOT 26)
AT PRIVATE SALE TO EULOGIO AND FELDERI SANTIAGO
FOR THE TOTAL AMOUNT OF \$10,000.00

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 10 Van Ness Street, 12 Van Ness Street, and 34 Carter Street, being more accurately described as Section 29, Block 5, Lot 25, Section 29, Block 5, Lot 26 and Section 22, Block 2, Lot 26, respectively, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have offered to purchase these properties at private sale; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to sell said properties to the prospective 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 are 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 February 15, 2019, being approximately ninety (90) days from the date of this resolution; and

<u>Property address</u>	<u>Section, Block, Lot</u>	<u>Purchase Price</u>
10 Van Ness Street	29 - 5 - 25	\$6,000.00
12 Van Ness Street	29 - 5 - 26	\$1,500.00
34 Carter Street	22 - 2 - 26	\$2,500.00

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

Terms and Conditions Sale

10 Van Ness Street, City of Newburgh (SBL: 29-5-25)

12 Van Ness Street, City of Newburgh (SBL: 29-5-26)

34 Carter Street, City of Newburgh (SBL: 22-2-26)

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 2018-2019, 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 2018-2019, 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 City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
7. 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.

8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. 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.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. If purchaser takes title as an entity, purchaser must provide an affidavit listing all of the members or shareholders of said entity, their addresses, their phone numbers, and their percentage ownership stake in the entity. Purchaser must have at least a fifty-one (51%) ownership stake in said entity in order for said entity to take title.
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
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, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
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. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. 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 Closing Deadline date. If such conveyance occurs, 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.
18. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.
19. Notice is given that the property known as 10 Van Ness Street and 12 Van Ness Street lies within either the East End Historic District or the Colonial Terraces Architectural Design District as designated in the City of Newburgh's current zoning map. This parcel is sold subject to all provisions of law applicable thereto. It is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance any additional laws, rules or regulations applicable to those districts.

RESOLUTION NO.: 331-2018

OF

NOVEMBER 13, 2018

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY
KNOWN AS 60 HASBROUCK STREET (SECTION 38, BLOCK 3, LOT 56)
AT PRIVATE SALE TO MICHAEL LAVAN FOR THE AMOUNT OF \$50,000.00

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 60 Hasbrouck Street, being more accurately described as Section 38, Block 3, Lot 56 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 February 15, 2019, 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>
60 Hasbrouck Street	38 - 3 - 56	Michael Lavan	\$50,000.00

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
60 Hasbrouck Street, City of Newburgh
(SBL: 38-3-56)

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 2018-2019, 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 2018-2019, 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 City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
7. 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.

8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. 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.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh Comptroller's Office by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept credit card payments for the purchase price and closing costs/fees. The City is not required to send notice of acceptance or any other notice to a purchaser.* At closing, purchaser, as grantee, may take title as a natural person or as an entity wherein purchaser is an officer or managing member of said entity. If purchaser takes title as an entity, purchaser must provide an affidavit listing all of the members or shareholders of said entity, their addresses, their phone numbers, and their percentage ownership stake in the entity. Purchaser must have at least a fifty-one (51%) ownership stake in said entity in order for said entity to take title.
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
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, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
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. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
17. 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 Closing Deadline date. If such conveyance occurs, 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.
18. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.
19. Within ten (10) business days of approval of sale by the City of Newburgh, the purchaser shall tender a non-refundable downpayment in the amount of \$3,000.00 payable to "City of Newburgh" by money order or guaranteed funds to the City of Newburgh Comptroller's Office. At closing, the downpayment amount shall be credited against the purchase price.

RESOLUTION NO.: 332 - 2018

OF

NOVEMBER 13, 2018

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
SATISFACTIONS IN CONNECTION WITH MORTGAGES ISSUED TO
173 FIRST STREET ASSOCIATES, L.P. FOR PREMISES LOCATED AT
173 FIRST STREET (SECTION 30, BLOCK 2, LOT 6)**

WHEREAS, the Newburgh Community Development Agency issued a mortgage to 173 First Street Associates, L.P. in the principal sum of \$16,250.00, dated June 5, 1992, and recorded in the Orange County Clerk's Office on June 25, 1992, in Liber 4333 of Deeds at Page 331 and a mortgage to 173 First Street Associates, L.P. in the principal sum of \$7,500.00, dated June 5, 1992, and recorded in the Orange County Clerk's Office on June 25, 1992, in Liber 4333 of Deeds at Page 337, both for premises located at 173 First Street (Section 30, Block 2, Lot 6); and

WHEREAS, both mortgages were fully paid and the mortgagor is entitled to a discharges of record; and

WHEREAS, this Council has determined that issuing and executing Satisfactions of Mortgage, a copies of which are annexed hereto, as successor in interest to the Newburgh Community Development Agency, is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute the attached Satisfactions in connection with mortgages issued to 173 First Street Associates, L.P. for premises located at 173 First Street (Section 30, Block 2, Lot 6).

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

Does hereby certify that the following mortgage is paid, and does hereby consent that the same be discharged of record:

MORTGAGE bearing the date of June 5, 1992, made by 173 Liberty Street Associates, L.P. to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$16,250.00, and duly recorded in the office of the Orange County Clerk's Office on June 25, 1992, in Liber 4333 of Deeds at Page 331; and

which mortgage has not been further assigned of record.

Dated: November _____, 2018

CITY OF NEWBURGH

By: _____
Michael Ciaravino, City Manager
Pursuant to Resolution No.:

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

On the _____ day of November, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL 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 person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD & RETURN TO:

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

Does hereby certify that the following mortgage is paid, and does hereby consent that the same be discharged of record:

MORTGAGE bearing the date of June 5, 1992, made by 173 Liberty Street Associates, L.P. to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$7,500.00, and duly recorded in the office of the Orange County Clerk's Office on June 25, 1992, in Liber 4333 of Deeds at Page 337; and

which mortgage has not been further assigned of record.

Dated: November _____, 2018

CITY OF NEWBURGH

By: Michael Ciaravino, City Manager
Pursuant to Resolution No.:

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

On the _____ day of November, 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared MICHAEL 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 person upon behalf of which the individual acted, executed the instrument.

Notary Public

RECORD & RETURN TO:

CITY OF NEWBURGH, NY
83 BROADWAY
NEWBURGH, NY 12550
PHONE # (845) 569-7320 FAX # (845) 569-7490

Invoice Number: 2018/43/0000001
Invoice Date: 01/02/2018
Due Date: 01/31/2018
Page: 1 of 1

Invoice

Customer Code: 000000000000159

Remit To:

Bill To:

173 FIRST STREET ASSOC LP
C/O DWELLING GROUP INC
555 BLOOMING GROVE TPK
NEW WINDSOR, NY 12553

CITY OF NEWBURGH
Attn: FINANCE DEPARTMENT 4TH FLOOR
83 BROADWAY
NEWBURGH, NY 12550
(845) 569-7320

Description: CDBG LOAN AMOUNT DUE: BALANCE AS OF 12/31/2017
FOR 173 LIBERTY ST

PO Number:

Service Description	Quantity	Unit	Unit Price	Amount
RENTAL REHAB LOANS	1.0000		200.000000	200.00
Total Amount Due:				200.00

Dear NCDA - PLANNY F. Davelant
I believe this is the last payment on this loan. Please contact me to deal w/ the mortgage satisfaction & similar issues. Thank you - [Signature]

RECEIVED
SEP 14 2018
DEPT. P. & D.

Make Check Payable To: CITY OF NEWBURGH

THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

WHY OR TYPE: BLACK INK ONLY

173 FIRST STREET ASSOCIATES, L.P.

TO

NEWBURGH COMMUNITY DEVELOPMENT AGENCY

173 First Street

SECTION 30 BLOCK 2 LOT 6

RECORD AND RETURN TO:
(Name and Address)

NEWBURGH COMMUNITY DEVELOPMENT AGENCY
CITY HALL, 83 BROADWAY
NEWBURGH, NEW YORK 12550

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 7328 DATE 6/5/92 AFFIDAVIT FILED 19

INSTRUMENT TYPE: DEED MORTGAGE ☒ SATISFACTION ASSIGNMENT OTHER

JG20 Blooming Grove SERIAL NO. CJ3141
JH22 Chester Mortgage Amount \$16,250.00 CHECK CASH CHARGE ☒
JO24 Cornwall Exempt Yes No MORTGAGE TAX \$10 Tax
JR26 Crawford 3-6 Cooking Units Yes No TRANSFER TAX \$1
JP28 Deepark Received Tax on above Mortgage
JO30 Goshen Basic \$
JH32 Greenville MTA \$
JA34 Hamplonburgh Spec. Add. \$
JH36 Highlands TOTAL \$
JK38 Minisink RECORD. FEE \$5.00
JE40 Monroe REPORT FORMS \$
JY42 Montgomery CERT. COPIES \$
JH44 Mount Hope
JT46 Newburgh (T)
JW48 New Windsor
JU50 Tuxedo
JL52 Walkkill
JK54 Warwlok
JA56 Wawayanda
JO58 Woodbury
MN09 Middletown
NC11 Newburgh
PJ13 Port Jervis
9999 Hold

MARION S. MURPHY
Orange County Clerk

by: MRP

ORANGE COUNTY CLERK'S OFFICE S.S.

Recorded on JUN 25 1992
at 12:52 O'Clock P. M.
In Liber/Film 4333 M.L.
at page 336 and examined.

Marion S. Murphy
County Clerk

RECEIVED

\$
REAL ESTATE
TRANSFER TAX
ORANGE COUNTY

LIBER 4333 PAGE 331

ORG 06/25/92 12:52:40 89745 20.00

***** EDUCATION FUND: 5.00 *****

MORTGAGE CNTL NO: 7328 .00 *

***** SERIAL NUMBER: CJD03141 *****

THIS BOND AND MORTGAGE, made the 5th day of June, nineteen hundred and ninety-two
BETWEEN 173 FIRST STREET ASSOC. L.P., C/O DWELLING GROUP INC., GENERAL PARTNER,
555 Blooming Grove Tpk., New Windsor, N.Y.

herein referred to as the mortgagor,

and NEWBURGH COMMUNITY DEVELOPMENT AGENCY, an urban renewal agency
organized and existing under the laws of the State of New York
with its principal office for the transaction of business at
83 Broadway, City of Newburgh, County of Orange and State of
New York.

herein referred to as the mortgagee,

WITNESSETH, that the mortgagor, does hereby acknowledge himself to be indebted to the mortgagee in the sum of
SIXTEEN THOUSAND TWO HUNDRED FIFTY & 00/100----- (\$ 16,250.00) Dollars
lawful money of the United States, which the mortgagor does hereby agree and bind himself to repay to the mortgagee

and to pay on this instrument from the date hereof, at the rate of 0% percentum
per annum, until paid. Both the principal and interest on this instrument are
payable on the 1st day of each month in 240 monthly installments, commencing
with a payment of \$67.70 on July 1, 1992 and \$67.70 on the 1st of each month
for the remaining 239 months, at which time the entire balance of principal and
interest shall become due and payable.

Subordination of first mortgage to CPC upon financing approval.

to secure the payment of which the mortgagor hereby mortgages to the mortgagee ALL

that certain, plot, piece or parcel of land, with the buildings and improvements
thereon erected, situate, lying and being in the State of New York, County of
Orange and City of Newburgh, known as 173 First Street in the City of Newburgh
and being more accurately described as Section 30, Block 2, Lot 6, on the
official tax map of the City of Newburgh.

SUBJECT to all easements, covenants and restrictions of record and not of record
existing in favor of the City of Newburgh prior to the vesting of title to the
described premises in the City of Newburgh.

BEING the same premises described in a certain Deed dated June 1, 1992 from
Dwelling Group, Inc. to 173 First Street Associates, L.P., and recorded in the
Orange County Clerk's Office on June 2, 1992 in Liber 3610 of Deeds at Page 202.

(See SCHEDULE A attached for further description).

LIBER 4333 PAGE 332

TOGETHER with all right, title and interest, if any, of the mortgagor of, in and to any streets and roads abutting the above-described premises to the center lines thereof.

TOGETHER with all fixtures and articles of personal property now or hereafter attached to, or contained in and used in connection with, said premises, including but not limited to all apparatus, machinery, plumbing, heating, lighting and cooking fixtures, fittings, gas ranges, bathroom and kitchen cabinets, ice boxes, refrigerators, food freezers, air-conditioning fixtures and units, pumps, awnings, shades, screens, storm sashes, arials, plants and shrubbery.

TOGETHER with any and all awards heretofore and hereafter made to the present and all subsequent owners of the mortgaged premises by any governmental or other lawful authorities for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for any changes of grade of streets, which said awards are hereby assigned to the holder of this bond and mortgage, who is hereby authorized to collect and receive the proceeds of any such awards from such authorities and to give proper receipts and acquittances therefor, and to apply the same toward the payment of the amount owing on account of this bond and mortgage, notwithstanding the fact that the amount owing hereon may not then be due and payable; and the said mortgagor hereby covenants and agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid awards to the holder of this bond and mortgage, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever.

AND the mortgagor covenants with the mortgagee as follows:

1. That the mortgagor will pay the indebtedness as hereinbefore provided.
2. That the mortgagor will keep the buildings on the premises insured against loss by fire for the benefit of the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.
3. That no building on the premises shall be removed or demolished without the consent of the mortgagee.
4. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any instalment of principal or of interest for twenty days; or after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbefore provided; or after default upon request in furnishing a statement of the amount due on the bond and mortgage and whether any offsets or defenses exist against the mortgage debt, as hereinafter provided.
5. That the holder of this bond and mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.
6. That the mortgagor will pay all taxes, assessments, sewer rents or water rates, and in default thereof, the mortgagee may pay the same.
7. That the mortgagor within six days upon request in person or within fifteen days upon request by mail will furnish a written statement duly acknowledged of the amount due on this bond and mortgage and whether any offsets or defenses exist against the mortgage debt.
8. That notice and demand or request may be in writing and may be served in person or by mail.
9. That the mortgagor warrants the title to the premises.
10. That the mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
11. That fire insurance policies which are required by paragraph No. 2 above shall contain the usual extended coverage endorsement; in addition thereto the mortgagor, within thirty days after notice and demand will keep the buildings on the premises insured against loss by other insurable hazards for the benefit of the mortgagee, as may reasonably be required by the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring or in so assigning and delivering the policies. The provisions of subdivision 4, of Section 254 of the Real Property Law, with reference to the construction of the fire insurance clause, shall govern the construction of this clause so far as applicable.
12. That in case of a sale, said premises, or so much thereof as may be affected by this bond and mortgage, may be sold in one parcel.
13. That in the event of any default in the performance of any of the terms, covenants or agreements herein contained, it is agreed that the then owner of the mortgaged premises, if he is the occupant of said premises or any part thereof, shall immediately surrender possession of the premises so occupied to the holder of this bond and mortgage, and if such occupant is permitted to remain in possession, the possession shall be as tenant of the holder of this bond and mortgage and such occupant shall, on demand, pay monthly in advance to the holder of this bond and mortgage a reasonable rental for the space so occupied and in default thereof, such occupant may be dispossessed by the usual summary proceedings. In case of foreclosure and the appointment of a receiver of rents, the covenants herein contained may be enforced by such receiver.

1111 4333 PAGE 333

173 First Street
City of Newburgh, Orange County, New York

All that certain piece or parcel of land situate, lying and being in the City of Newburgh, Orange County, New York, being more particularly described as follows:

BEGINNING at a point in the southerly line of First Street, said point being 25.00' as measured along said line from its intersection with the westerly line of Johnston Street, running thence the following courses:

1. Along lands now or formerly of Tapp, S 17° 46' 00" W, 116.06' to a point;
2. Along lands now or formerly of C.A.C. Business Ventures, Inc., N 72° 24' 30" W, 25.67' to a point;
3. Along lands now or formerly of Carlwright, N 17° 46' 00" E, 116.14' to a point in the southerly line of First Street;
4. Along said line, S 72° 14' 00" E, 25.67' to the point or place of BEGINNING.

CONTAINING 2,980 square feet or 0.07 acres of land more or less.

SCHEDULE A

LIBER 4333 PAGE 334

14. That the whole of said principal sum shall become due at the option of the mortgagee after default for thirty days after notice and demand, in the payment of any installment of any assessment for local improvements heretofore or hereafter laid, which is or may become payable in annual installments and which has affected, now affects or hereafter may affect the said premises, notwithstanding that such installment be not due and payable at the time of such notice and demand, or upon the failure to exhibit to the mortgagee, within thirty days after demand, receipts showing payment of all taxes, assessments, water rates, sewer rents and any other charges which may have become a prior lien on the mortgaged premises.

15. That the whole of said principal sum shall become due at the option of the mortgagee, if the buildings on said premises are not maintained in reasonably good repair, or upon the failure of any owner of said premises to comply with the requirement of any governmental department claiming jurisdiction within three months after an order making such requirement has been issued by any such department.

16. That in the event of the passage after the date of this mortgage of any law of the State of New York, deducting from the value of land for the purposes of taxation any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgage for state or local purposes, or the manner of the collection of any such taxes, so as to affect this bond and mortgage, the holder of this bond and mortgage and of the debt which it secures, shall have the right to give thirty days' written notice to the owner of the mortgaged premises requiring the payment of the mortgage debt. If such notice be given the said debt shall become due, payable and collectible at the expiration of said thirty days.

17. That the whole of said principal sum shall immediately become due at the option of the mortgagee, if the mortgagor shall assign the rents or any part of the rents of the mortgaged premises without first obtaining the written consent of the mortgagee to such assignment, or upon the actual or threatened demolition or removal of any building erected or to be erected upon said premises.

18. That if any action or proceeding be commenced (except an action to foreclose this bond and mortgage or to collect the debt secured thereby), to which action or proceeding the holder of this bond and mortgage is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the holder of this bond and mortgage for the expense of any litigation to prosecute or defend the rights and lien created by this bond and mortgage (including reasonable counsel fees), shall be paid by the mortgagor, together with interest thereon at the rate of six per cent. per annum, and any such sum and the interest thereon shall be a lien on said premises, prior to any right, or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this mortgage, and shall be deemed to be secured by this bond and mortgage. In any action or proceeding to foreclose this mortgage, or to recover or collect the debt secured thereby, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

19. That the whole of said principal sum shall immediately become due at the option of the mortgagee upon any default in keeping the buildings on said premises insured as required by paragraph No. 2 or paragraph No. 11 hereof, or if after application by any holder of this bond and mortgage to two or more fire insurance companies lawfully doing business in the State of New York and issuing policies of fire insurance upon buildings situate in the place where the mortgaged premises are situate, the companies to which such application has been made shall refuse to issue such policies, or upon default in complying with the provisions of paragraph No. 11 hereof, or upon default, for five days after notice and demand, either in assigning and delivering to the mortgagee the policies of fire insurance or in reimbursing the mortgagee for premiums paid on such fire insurance as hereinbefore provided in paragraph No. 2 hereof.

20. The mortgagor shall, upon the property being found in violation of any building, housing, plumbing, electrical, fire or other code of the City of Newburgh, immediately pay to the mortgagee the full principal amount of the note.

If more than one person joins in the execution of this instrument, and if any of the feminine sex, or if this instrument is executed by a corporation, the relative words herein shall be read as if written in the plural, or in the feminine or neuter gender, as the case may be, and the words "mortgagor" and "mortgagee" where used herein shall be construed to include their and each of their heirs, executors, administrators, successors and assigns:

This bond and mortgage may not be changed orally.

IN WITNESS WHEREOF, this bond and mortgage has been duly executed by the mortgagor.

IN PRESENCE OF:

173 FIRST STREET ASSOCIATES, L.P.

BY: DWELLING GROUP, INC.
GENERAL PARTNER

 (L.S.)
Drew A. Kartiganer, President

LIBER 4333 PAGE 335

STATE OF NEW YORK
COUNTY OF Orange

On the 5th day of June 1992,
before me came
Drew A. Kartiganer

to me known to be the individual described in, and who executed
the foregoing instrument, and acknowledged that he executed
the same.

Luiz M. Mahoney
LUZ. M. MAHONEY
Commissioner of Deeds
City of Newburgh, NY
Commission Expires Dec. 31, 1992

STATE OF NEW YORK
COUNTY OF ORANGE

On the day of June 1992,
before me came Drew Kartiganer
to me known, who, being by me duly sworn, did depose and say
that he resides at No. 555 Blooming Grove Trpk
New Windsor, NY

in
; that he is the President
of DWELLING GROUP, INC.
the corporation described in and which executed, the foregoing instru-
ment; that he knows the seal of said corporation; that he is
affixed to said instrument as such corporate seal; that it was so affixed
by order of the Board of Directors of said Corp.
of said corporation; and that he signed his name thereto by
his order.

Luiz M. Mahoney
LUZ. M. MAHONEY
Commissioner of Deeds
City of Newburgh, NY
Commission Expires Dec. 31, 1992

STATE OF NEW YORK
COUNTY OF

On the day of 19
before me came

to me known to be the individual described in, and who executed
the foregoing instrument, and acknowledged that he executed
the same.

STATE OF NEW YORK
COUNTY OF

On the day of 19
before me came
the subscribing witness to the foregoing instrument, with whom I
am personally acquainted, who, being by me duly sworn, did depose
and say that he resides at

in , that he knows

to be the individual described in, and who executed, the foregoing
instrument; that he, said subscribing witness, was present and saw
execute the same; and that he, said witness, at the
same time subscribed name as witness thereto.

No. 173 FIRST STREET ASSOCIATES, L.P.

TO
NEWBURGH COMMUNITY DEVELOPMENT AGENCY

Bond and Mortgage

Dated, June 5, 1992
Amount, \$
Due, 19
Int Payable

The land affected by the within instrument lies
in City of Newburgh, Orange City, NY

Record and return to
COMMUNITY DEVELOPMENT
83 Broadway
Newburgh, N. Y. 12550

LIBER 4333 PAGE 336

Date Prepared: 10/03/2018 12:36 PM
 Report Date: 10/03/2018
 Account Table:
 Alt. Sort Table:

CITY OF NEWBURGH, NY

General Ledger Report

GLR0105 1.0
 Page 1 of 1
 Prepared By: TMILLER

Fiscal Year: 2018 Period From: 1 To: 12 Trans. Date From: To:

Account No.	Document No.	Description	Vendor Name / Remarks	Period	Jnl Cat	Jnl No. - Date	Trans	Debit	Credit	Balance
DR.0000.0390.0411		173 FIRST ST. ASSOC...		1	AR	78 01/02/2018		200.00		200.00
		RENTAL REHAB LOANS - CDBG LOAN AMOUNT DUE:								400.00
		BALANCE AS OF 12/31/2017 FOR 173 LIBERTY ST		6	JE	33916 06/20/2018			200.00	200.00
		TO REVERSE AR ENTRY FOR 173 FIRST ST ASSOC		9	TC	7860 09/21/2018			200.00	0.00
	200382	TO SHOW ACTUAL BALANCE DUE ON LOAN OF \$200		****				200.00	400.00	0.00
		173 FIRST STREET ASSOC LP - DETAIL GR POSTING								
		Ending Balance ----						200.00	400.00	0.00
		Balance Sheet Grand Total:						200.00	400.00	0.00
		Revenue /Expense Grand Total:						0.00	0.00	0.00

NOTE: One or more accounts may not be printed due to Account Security restrictions.

ORANGE COUNTY CLERK'S OFFICE RECORDING PAGE
THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE

PRINT OR TYPE BLACK INK ONLY

173 FIRST STREET ASSOCIATES, L.P.

TO

NEWBURGH COMMUNITY DEVELOPMENT AGENCY

173 First Street

SECTION 30 BLOCK 2 LOT 6

RECORD AND RETURN TO:
(Name and Address)

NEWBURGH COMMUNITY DEVELOPMENT AGENCY
CITY HALL, 83 BROADWAY
NEWBURGH, NEW YORK 12550

ATTACH THIS SHEET TO THE FIRST PAGE OF EACH
RECORDED INSTRUMENT ONLY.

DO NOT WRITE BELOW THIS LINE

CONTROL NO. 7329 DATE 6/5/92 AFFIDAVIT FILED 19

INSTRUMENT TYPE: DEED MORTGAGE X SATISFACTION ASSIGNMENT OTHER

BG20 Blooming Grove	SERIAL NO. <u>CJ3142</u>	CHECK <u> </u> CASH <u> </u> CHARGE <u>X</u>
CH22 Chester	Mortgage Amount \$ <u>7500⁰⁰</u>	
CO24 Cornwall	Exempt Yes <u> </u> No <u> </u>	MORTGAGE TAX \$ <u>No Tax</u>
CR26 Crawford	3-6 Cooking Units Yes <u> </u> No <u> </u>	TRANSFER TAX \$ <u> </u>
DP28 Deepark	Received Tax on above Mortgage	
GO30 Goshen	Basic \$ <u> </u>	RECORD FEE \$ <u>5.00</u>
GR32 Greenville	MTA \$ <u> </u>	<u>20.00</u>
HA34 Hamptonburgh	Spec. Add. \$ <u> </u>	REPORT FORMS \$ <u> </u>
HJ38 Highlands	TOTAL \$ <u> </u>	CERT. COPIES \$ <u> </u>
MK38 Minisink	MARION S. MURPHY	<i>Newburgh</i>
ME40 Monroe	Orange County Clerk	<i>Comm. Dev.</i>
MY42 Montgomery	by: <u>ML</u>	
MH44 Mount Hope	ORANGE COUNTY CLERK'S OFFICE S.S.	
NT46 Newburgh (T)	Recorded on <u>6/5/92</u>	
NW48 New Windsor	at <u>12:52</u> O'Clock <u>PM</u>	
TU50 Tuxedo	In Liber/Film <u>4333</u>	
WL52 Walkkill	at page <u>337</u> and examined.	
WK54 Warwick	<u>Marion S. Murphy</u>	
WA58 Wawayanda	County Clerk	
WO58 Woodbury		
MN09 Middletown		
NC11 Newburgh <u>✓</u>		
PJ13 Port Jervis		
9999 Hold		

RECEIVED

\$
REAL ESTATE
TRANSFER TAX
ORANGE COUNTY

LIBER 4333 PAGE 337

URG 06/25/92 12:52:42 29745 20.00

***** EDUCATION FUND: 5.00 *****

MORTGAGE CNTL NO: 7329 .00 *

***** SERIAL NUMBER: C3003142 *****
2587

THIS BOND AND MORTGAGE, made the ^{5th} day of June, nineteen hundred and ninety-two.

BETWEEN 173 FIRST STREET ASSOCIATES, L.P., C/O DWELLING GROUP, INC.
GENERAL PARTNER, 555 Blooming Grove Turnpike, New Windsor,
New York

herein referred to as the mortgagor,

and NEWBURGH COMMUNITY DEVELOPMENT AGENCY, an urban renewal agency
organized and existing under the laws of the State of New York
with its principal office for the transaction of business at
83 Broadway, City of Newburgh, Orange County, New York

herein referred to as the mortgagee,

WITNESSETH, that the mortgagor, does hereby acknowledge himself to be indebted to the mortgagee in the sum of
SEVEN THOUSAND FIVE HUNDRED AND NO/100----- (\$ 7,500.00) Dollars

lawful money of the United States, which the mortgagor does hereby agree and bind himself to repay to the mortgagee
and to pay on this instrument from the date hereof, at the rate of 0% percentum
per annum, until paid. Both the principal and interest on this instrument are
payable on the 1st day of each month in 240 monthly installments commencing
with a payment of \$31.25 on July 1, 1992 and \$31.25 on the first of each month
for the remaining 239 months, at which time the entire balance of principal
and interest shall become due and payable.

Subordination of first mortgage to CPC upon financing approval.

to secure the payment of which the mortgagor hereby mortgages to the mortgagee ALL

that certain, plot, piece or parcel of land, with the buildings and improvements
thereon erected, situate, lying and being in the State of New York, County
of Orange and City of Newburgh, known as 173 First Street in the City of Newburgh
and being more accurately described as Section 30, Block 2, Lot 6, on the
official tax map of the City of Newburgh.

SUBJECT to all easements, covenants and restrictions of record and not of record
existing in favor of the City of Newburgh prior to the vesting of title to the
described premises in the City of Newburgh.

BEING the same premises described in a certain deed dated June 1, 1992 from
Dwelling Group, Inc. to 173 First Street Associates, L.P., and recorded in the
Orange County Clerk's Office on June 2, 1992 in Liber 3610 of deeds at page 202.

(See SCHEDULE A attached for further description).

LIBER 4333 PAGE 338

TOGETHER with all right, title and interest, if any, of the mortgagor of, in and to any streets and roads abutting the above-described premises to the center lines thereof.

TOGETHER with all fixtures and articles of personal property now or hereafter attached to, or contained in and used in connection with, said premises, including but not limited to all apparatus, machinery, plumbing, heating, lighting and cooking fixtures, fittings, gas ranges, bathroom and kitchen cabinets, ice boxes, refrigerators, food freezers, air-conditioning fixtures and units, pumps, awnings, shades, screens, storm sashes, arials, plants and shrubbery.

TOGETHER with any and all awards heretofore and hereafter made to the present and all subsequent owners of the mortgaged premises by any governmental or other lawful authorities for taking by eminent domain the whole or any part of said premises or any easement therein, including any awards for any changes of grade of streets, which said awards are hereby assigned to the holder of this bond and mortgage, who is hereby authorized to collect and receive the proceeds of any such awards from such authorities and to give proper receipts and acquittances therefor, and to apply the same toward the payment of the amount owing on account of this bond and mortgage, notwithstanding the fact that the amount owing hereon may not then be due and payable; and the said mortgagor hereby covenants and agrees, upon request, to make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning the aforesaid awards to the holder of this bond and mortgage, free, clear and discharged of any and all encumbrances of any kind or nature whatsoever.

AND the mortgagor covenants with the mortgagee as follows:

1. That the mortgagor will pay the indebtedness as hereinbefore provided.
2. That the mortgagor will keep the buildings on the premises insured against loss by fire for the benefit of the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring the buildings or in so assigning and delivering the policies.
3. That no building on the premises shall be removed or demolished without the consent of the mortgagee.
4. That the whole of said principal sum and interest shall become due at the option of the mortgagee: after default in the payment of any instalment of principal or of interest for twenty days; or after default in the payment of any tax, water rate, sewer rent or assessment for thirty days after notice and demand; or after default after notice and demand either in assigning and delivering the policies insuring the buildings against loss by fire or in reimbursing the mortgagee for premiums paid on such insurance, as hereinbefore provided; or after default upon request in furnishing a statement of the amount due on the bond and mortgage and whether any offsets or defenses exist against the mortgage debt, as hereinafter provided.
5. That the holder of this bond and mortgage, in any action to foreclose it, shall be entitled to the appointment of a receiver.
6. That the mortgagor will pay all taxes, assessments, sewer rents or water rates, and in default thereof, the mortgagee may pay the same.
7. That the mortgagor within six days upon request in person or within fifteen days upon request by mail will furnish a written statement duly acknowledged of the amount due on this bond and mortgage and whether any offsets or defenses exist against the mortgage debt.
8. That notice and demand or request may be in writing and may be served in person or by mail.
9. That the mortgagor warrants the title to the premises.
10. That the mortgagor will, in compliance with Section 13 of the Lien Law, receive the advances secured hereby and will hold the right to receive such advances as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.
11. That fire insurance policies which are required by paragraph No. 2 above shall contain the usual extended coverage endorsement; in addition thereto the mortgagor, within thirty days after notice and demand will keep the buildings on the premises insured against loss by other insurable hazards for the benefit of the mortgagee, as may reasonably be required by the mortgagee; that he will assign and deliver the policies to the mortgagee; and that he will reimburse the mortgagee for any premiums paid for insurance made by the mortgagee on the mortgagor's default in so insuring or in so assigning and delivering the policies. The provisions of subdivision 4, of Section 264 of the Real Property Law, with reference to the construction of the fire insurance clause, shall govern the construction of this clause so far as applicable.
12. That in case of a sale, said premises, or so much thereof as may be affected by this bond and mortgage, may be sold in one parcel.
13. That in the event of any default in the performance of any of the terms, covenants or agreements herein contained, it is agreed that the then owner of the mortgaged premises, if he is the occupant of said premises or any part thereof, shall immediately surrender possession of the premises so occupied to the holder of this bond and mortgage, and if such occupant is permitted to remain in possession, the possession shall be as tenant of the holder of this bond and mortgage and such occupant shall, on demand, pay monthly in advance to the holder of this bond and mortgage a reasonable rental for the space so occupied and in default thereof, such occupant may be dispossessed by the usual summary proceedings. In case of foreclosure and the appointment of a receiver of rents, the covenants herein contained may be enforced by such receiver.

LIBER 4333 PAGE 339

DESCRIPTION
for
173 First Street
City of Newburgh, Orange County, New York

All that certain piece or parcel of land situate, lying and being
in the City of Newburgh, Orange County, New York, being more
particularly described as follows:

BEGINNING at a point in the southerly line of First Street, said
point being 25.00' as measured along said line from its
intersection with the westerly line of Johnston Street, running
thence the following courses:

1. Along lands now or formerly of Tapp, S $17^{\circ} 46' 00''$ W, 116.06'
to a point;
2. Along lands now or formerly of C.A.C. Business Ventures,
Inc., N $72^{\circ} 24' 30''$ W, 25.67' to a point;
3. Along lands now or formerly of Carlwright, N $17^{\circ} 46' 00''$ E,
116.14' to a point in the southerly line of First Street;
4. Along said line, S $72^{\circ} 14' 00''$ E, 25.67' to the point or
place of BEGINNING.

CONTAINING 2,980 square feet or 0.07 acres of land more or less.

SCHEDULE A

LIBER 4333 PAGE 340

14. That the whole of said principal sum shall become due at the option of the mortgagee after default for thirty days after notice and demand, in the payment of any installment of any assessment for local improvements heretofore or hereafter laid, which is or may become payable in annual installments and which has affected, now affects or hereafter may affect the said premises, notwithstanding that such installment be not due and payable at the time of such notice and demand, or upon the failure to exhibit to the mortgagee, within thirty days after demand, receipts showing payment of all taxes, assessments, water rates, sewer rents and any other charges which may have become a prior lien on the mortgaged premises.

15. That the whole of said principal sum shall become due at the option of the mortgagee, if the buildings on said premises are not maintained in reasonably good repair, or upon the failure of any owner of said premises to comply with the requirement of any governmental department claiming jurisdiction within three months after an order making such requirement has been issued by any such department.

16. That in the event of the passage after the date of this mortgage of any law of the State of New York, deducting from the value of land for the purposes of taxation any lien thereon, or changing in any way the laws for the taxation of mortgages or debts secured by mortgage for state or local purposes, or the manner of the collection of any such taxes, so as to affect this bond and mortgage, the holder of this bond and mortgage and of the debt which it secures, shall have the right to give thirty days' written notice to the owner of the mortgaged premises requiring the payment of the mortgage debt. If such notice be given the said debt shall become due, payable and collectible at the expiration of said thirty days.

17. That the whole of said principal sum shall immediately become due at the option of the mortgagee, if the mortgagor shall assign the rents or any part of the rents of the mortgaged premises without first obtaining the written consent of the mortgagee to such assignment, or upon the actual or threatened demolition or removal of any building erected or to be erected upon said premises.

18. That if any action or proceeding be commenced (except an action to foreclose this bond and mortgage or to collect the debt secured thereby), to which action or proceeding the holder of this bond and mortgage is made a party, or in which it becomes necessary to defend or uphold the lien of this mortgage, all sums paid by the holder of this bond and mortgage for the expense of any litigation to prosecute or defend the rights and lien created by this bond and mortgage (including reasonable counsel fees), shall be paid by the mortgagor, together with interest thereon at the rate of six per cent. per annum, and any such sum and the interest thereon shall be a lien on said premises, prior to any right, or title to, interest in or claim upon said premises attaching or accruing subsequent to the lien of this mortgage, and shall be deemed to be secured by this bond and mortgage. In any action or proceeding to foreclose this mortgage, or to recover or collect the debt secured thereby, the provisions of law respecting the recovering of costs, disbursements and allowances shall prevail unaffected by this covenant.

19. That the whole of said principal sum shall immediately become due at the option of the mortgagee upon any default in keeping the buildings on said premises insured as required by paragraph No. 2 or paragraph No. 11 hereof, or if after application by any holder of this bond and mortgage to two or more fire insurance companies lawfully doing business in the State of New York and issuing policies of fire insurance upon buildings situate in the place where the mortgaged premises are situate, the companies to which such application has been made shall refuse to issue such policies, or upon default in complying with the provisions of paragraph No. 11 hereof, or upon default, for five days after notice and demand, either in assigning and delivering to the mortgagee the policies of fire insurance or in reimbursing the mortgagee for premiums paid on such fire insurance as hereinbefore provided in paragraph No. 2 hereof.

20. The mortgagor shall, upon the property being found in violation of any building, housing, plumbing, electrical, fire or other code of the City of Newburgh, immediately pay to the mortgagee the full principal amount of the note.

If more than one person joins in the execution of this instrument, and if any of the feminine sex, or if this instrument is executed by a corporation, the relative words herein shall be read as if written in the plural, or in the feminine or neuter gender, as the case may be, and the words "mortgagor" and "mortgagee" where used herein shall be construed to include their and each of their heirs, executors, administrators, successors and assigns.

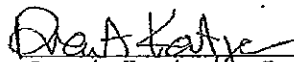
This bond and mortgage may not be changed orally.

IN WITNESS WHEREOF, this bond and mortgage has been duly executed by the mortgagor.

IN PRESENCE OF:

173 FIRST STREET ASSOCIATES, L.P.

BY: DWELLING GROUP, INC.
GENERAL PARTNER

 (L.S.)
Drew A. Kartiganer, President

LIBER 4333 PAGE 34

STATE OF NEW YORK
COUNTY OF ORANGE

On the 5th day of June 19 92,
before me came

Drew A. Kartiganer

to me known to be the individual described in, and who executed
the foregoing instrument, and acknowledged that he executed
the same.

Luiz M. Mahoney
LUZ M. MAHONEY
Commissioner of Deeds
City of Newburgh, NY
Commission Expires Dec. 31, 1992

STATE OF NEW YORK
COUNTY OF ORANGE

On the day of June 19 92,
before me came Drew A. Kartiganer

to me known, who, being by me duly sworn, did depose and say
that he resides at No. 555 Blooming Grove Trpk.
New Windsor, NY

in
; that he is the President
of DWELLING GROUP, INC.
the corporation described in and which executed, the foregoing instru-
ment; that he knows the seal of said corporation; that the seal
affixed to said instrument is such corporate seal; that it was so affixed
by order of the Board of Directors of said Corp.
of said corporation; and that he signed his name thereto by
like order.

Luiz M. Mahoney
LUZ M. MAHONEY
Commissioner of Deeds
City of Newburgh, NY
Commission Expires Dec. 31, 1992

STATE OF NEW YORK
COUNTY OF

On the day of 19 ,
before me came

to me known to be the individual described in, and who executed
the foregoing instrument, and acknowledged that he executed
the same.

STATE OF NEW YORK
COUNTY OF

On the day of 19 ,
before me came

the subscribing witness to the foregoing instrument, with whom I
am personally acquainted, who, being by me duly sworn, did depose
and say that he resides at

in , that he knows

to be the individual described in, and who executed, the foregoing
instrument; that he, said subscribing witness, was present and saw
execute the same; and that he, said witness, at the
same time subscribed name as witness thereto.

No. 173 FIRST STREET ASSOCIATES, L.P.

TO
NEWBURGH COMMUNITY DEVELOPMENT AGENCY

Bond and Mortgage

Dated, June 5, 19 92

Amount, \$

Due, , 19

Int. Payable

The land affected by the within instrument lies
in City of Newburgh, Orange Cty., NY

Record and return to

COMMUNITY DEVELOPMENT
83 Broadway
Newburgh, N. Y. 12550

Date Prepared: 11/18/2014 09:34 AM
 Report Date: 11/18/2014
 Account Table:
 Alt. Sort Table:

CITY OF NEWBURGH, NY

General Ledger Report

GLR0105 1.0
 Page 1 of 1
 Prepared By: ANNA

Fiscal Year: 2014 Period From: 1 To: 12 Trans. Date From: To:

Account No.	Document No.	Description Vendor Name / Remarks	Jnl Cat	Period Code	Jnl No.	Trans Date	Debit	Credit	Balance
CD.0000.0390.0135	75193	173 FIRST ST /KARTIGANER,D., 173 FIRST STREET ASSOCIATES, LP - DETAIL GR POSTING	4	GR	22310	04/21/2014		81.60	81.60
			****				0.00	81.60	0.00
							0.00	81.60	0.00
							0.00	0.00	0.00

Beginning Balance ----

Ending Balance ----

Balance Sheet Grand Total:

Revenue /Expense Grand Total:

RESOLUTION NO.: 333-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO LEONOR MACHUCA
TO THE PREMISES KNOWN AS 92 FULLERTON AVENUE
(SECTION 21, BLOCK 1, LOT 36)

WHEREAS, on March 29, 2001, the City of Newburgh conveyed property located at 92 Fullerton Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 21, Block 1, Lot 36, to Leonor Machuca; and

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

WHEREAS, it has been determined that such release be granted; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, 5 and 6 of the aforementioned deed.

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 92 Fullerton Avenue, Section 21, Block 1, Lot 36 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5 and 6 in a deed dated March 29, 2001, from THE CITY OF NEWBURGH to LEONOR MACHUCA, recorded in the Orange County Clerk's Office on April 13, 2001, in Liber 5499 of Deeds at Page 188 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By:

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: _____-2018

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.

RECORD & RETURN TO: _____

RESOLUTION NO.: 334-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO CALIXTO CASSAS TO THE PREMISES KNOWN AS
167 ANN STREET (SECTION 36, BLOCK 5, LOT 3)

WHEREAS, on July 27, 1984, the City of Newburgh conveyed property located at 167 Ann Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 36, Block 5, Lot 3, to Calixto Cassas; and

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

WHEREAS, it has been determined that such release be granted; and

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 167 Ann Street, Section 36, Block 5, Lot 3 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated July 27, 1984 from THE CITY OF NEWBURGH to CALIXTO CASSAS, recorded in the Orange County Clerk's Office on November 5, 1985, in Liber 2435 of Deeds at Page 321 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: _____-2018

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.

RECORD & RETURN TO: _____

RESOLUTION NO.: 335 -2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE EXECUTION
OF RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM DEEDS ISSUED TO 28 HASBROUCK REALTY PARTNERS LLC,
42 HASBROUCK REALTY PARTNERS LLC, AND
53 HASBROUCK REALTY PARTNERS LLC TO THE PREMISES KNOWN AS
28 HASBROUCK STREET (SECTION 38, BLOCK 3, LOT 42),
42 HASBROUCK STREET (SECTION 38, BLOCK 3, LOT 49), AND
53 HASBROUCK STREET (SECTION 38, BLOCK 4, LOT 11), RESPECTIVELY

WHEREAS, by Resolution No.: 117-2017 of May 8, 2017 the City Council authorized the sale of properties located at 28 Hasbrouck Street, 42 Hasbrouck Street and 53 Hasbrouck Street, being more accurately described as Section 38, Block 3, Lot 42, Section 38, Block 3, Lot 49 and Section 38, Block 4, Lot 11, respectively, on the official tax map of the City of Newburgh to Eulogio Santiago and Felderi Santiago; and

WHEREAS, consistent with the terms and conditions of sale Eulogio Santiago and Felderi Santiago elected to take title to said properties as entities wherein both are managing members of the entities being 28 Hasbrouck Realty Partners LLC, 42 Hasbrouck Realty Partners LLC, and 53 Hasbrouck Realty Partners LLC, respectively; and

WHEREAS, on August 10, 2017, the City of Newburgh conveyed property located at 28 Hasbrouck Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 3, Lot 42, to 28 Hasbrouck Realty Partners LLC; conveyed property located at 42 Hasbrouck Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 3, Lot 49, to 42 Hasbrouck Realty Partners LLC; and conveyed property located at 53 Hasbrouck Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 4, Lot 11, to 53 Hasbrouck Realty Partners LLC, and

WHEREAS, Felderi Santiago, as managing member for 28 Hasbrouck Realty Partners LLC, 42 Hasbrouck Realty Partners LLC, and 53 Hasbrouck Realty Partners LLC has requested a release of the restrictive covenants contained in said deeds, and the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommend such releases be granted; and

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 28 Hasbrouck Street, Section 38, Block 3, Lot 42 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated August 10, 2017, from THE CITY OF NEWBURGH to 28 HASBROUCK REALTY PARTNERS LLC, recorded in the Orange County Clerk's Office on August 21, 2017 in Liber 14277 of Deeds at Page 1958 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By:

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 42 Hasbrouck Street, Section 38, Block 3, Lot 49 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated August 10, 2017, from THE CITY OF NEWBURGH to 42 HASBROUCK REALTY PARTNERS LLC, recorded in the Orange County Clerk's Office on August 21, 2018 in Liber 14277 of Deeds at Page 1964 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 53 Hasbrouck Street, Section 38, Block 4, Lot 11 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated August 10, 2017, from THE CITY OF NEWBURGH to 53 HASBROUCK REALTY PARTNERS LLC, recorded in the Orange County Clerk's Office on August 21, 2017 in Liber 14277 of Deeds at Page 1952 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RESOLUTION NO.: 336-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO 120 JOHNSTON, LLC
TO THE PREMISES KNOWN AS 117 JOHNSTON STREET
(SECTION 18, BLOCK 11, LOT 14)

WHEREAS, on October 14, 2015, the City of Newburgh conveyed property located at 117 Johnston Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 11, Lot 14, to 120 Johnston, LLC; and

WHEREAS, Mr. Mark Epstein of 120 Johnston, LLC, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommend such release be granted; and

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 117 Johnston Street, Section 18, Block 11, Lot 14 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated October 14, 2015, from THE CITY OF NEWBURGH to 120 JOHNSTON, LLC, recorded in the Orange County Clerk's Office on December 18, 2015 in Liber 13985 of Deeds at Page 1291 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed

Dated: _____, 2018

THE CITY OF NEWBURGH

By:

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: _____-2018

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.

RESOLUTION NO.: 337-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE EXECUTION
OF RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM DEEDS ISSUED TO OLD NEWBURGH REDEVELOPMENT PARTNERSHIP, LP
AND ARACELI MENDOZA, RESPECTIVELY, TO THE PREMISES KNOWN AS
128 DUBOIS STREET (SECTION 18, BLOCK 1, LOT 27); DEEDS ISSUED TO IMC
MORTGAGE COMPANY AND DEUTSCHE BANK NATIONAL TRUST COMPANY, AS
TRUSTEE FOR J.P. MORGAN MORTGAGE ASSOCIATION- TRUST 2007-CH3,
RESPECTIVELY, TO THE PREMISES KNOWN AS 197 FIRST STREET (SECTION 30,
BLOCK 1, LOT 2); AND A DEED ISSUED TO CLAUDIA WILLIAMS TO THE PREMISES
KNOWN AS 44 S. MILLER STREET (SECTION 30, BLOCK 2, LOT 49)

WHEREAS, on March 26, 2004, the City of Newburgh conveyed property located at 128 Dubois Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 1, Lot 27 to Old Newburgh Redevelopment Partnership, LP; and

WHEREAS, the City of Newburgh reacquired title to the property located at 128 Dubois Street from Old Newburgh Redevelopment Partnership, LP on October 14, 2005, and on June 17, 2011, conveyed the property to Araceli Mendoza; and

WHEREAS, on February 26, 1999, the City of Newburgh conveyed property located at 197 First Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 1, Lot 2 to IMC Mortgage Company; and

WHEREAS, the City of Newburgh reacquired title to the property located at 197 First Street in a tax foreclosure proceeding on July 31, 2008, and on December 10, 2009, conveyed the property to Deutsche Bank National Trust Company, as Trustee for J.P. Morgan Mortgage Association- Trust 2007-CH3; and

WHEREAS, on March 15, 1999, the City of Newburgh conveyed property located at 44 S. Miller Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 30, Block 2, Lot 49 to Claudia Williams; and

WHEREAS, by Resolution Nos. 247-2018 and 287-2018, the City of Newburgh authorized the conveyance of the properties located at 128 Dubois Street, 197 First Street, and 44 S. Miller Street to the Newburgh Community Land Bank; and

WHEREAS, the Newburgh Community Land Bank has requested releases of the restrictive covenants from the aforementioned deeds from the City of Newburgh to Old Newburgh Redevelopment Partnership, LP, Araceli Mendoza, IMC Mortgage Company, Deutsche Bank National Trust Company, as Trustee for J.P. Morgan Mortgage Association- Trust 2007-CH3, and Claudia Williams, respectively; and

WHEREAS, the Council believes it is in the best interest of the City of Newburgh and its further development that such releases be granted; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the releases, annexed hereto and made a part of this resolution, of the restrictive covenants of the aforementioned deeds.

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 128 Dubois Street, Section 18, Block 1, Lot 27 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated March 26, 2004, from THE CITY OF NEWBURGH to OLD NEWBURGH REDEVELOPMENT PARTNERSHIP, LP, recorded in the Orange County Clerk's Office on April 23, 2004 in Liber 11470 of Deeds at Page 628 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____
Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 128 Dubois Street, Section 18, Block 1, Lot 27 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated June 17, 2011, from THE CITY OF NEWBURGH to ARACELI MENDOZA, recorded in the Orange County Clerk's Office on July 1, 2011 in Liber 13195 of Deeds at Page 368 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 197 First Street, Section 30, Block 1, Lot 2 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, and 4 in a deed dated February 26, 1999, from THE CITY OF NEWBURGH to IMC MORTGAGE COMPANY, recorded in the Orange County Clerk's Office on August 4, 1999 in Liber 5118 of Deeds at Page 336 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____
Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 197 First Street, Section 30, Block 1, Lot 2 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated December 10, 2009, from THE CITY OF NEWBURGH to DEUTSCHE BANK NATIONAL TRUST COMPANY, AS TRUSTEE FOR J.P. MORGAN MORTGAGE ASSOCIATION-TRUST 2007-CH3, recorded in the Orange County Clerk's Office on January 27, 2010 in Liber 12960 of Deeds at Page 242 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By:

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 44 S. Miller Street, Section 30, Block 2, Lot 49 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, and 4 in a deed dated March 15, 1999, from THE CITY OF NEWBURGH to CLAUDIA WILLIAMS, recorded in the Orange County Clerk's Office on March 15, 1999 in Liber 5011 of Deeds at Page 271 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2018

THE CITY OF NEWBURGH

By: _____

Michael G. Ciaravino, City Manager
Pursuant to Res. No.: -2018

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.

RECORD & RETURN TO:

RESOLUTION NO. 338 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING A NINE MONTH EXTENSION OF TIME
TO REHABILITATE THE PREMISES KNOWN AS 254 LIBERTY STREET
(SECTION 18, BLOCK 6, LOT 26) IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 254 Liberty Street, more accurately described as Section 18, Block 6, Lot 26 on the Official Tax Map of the City of Newburgh, by deed dated October 5, 2016; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about April 5, 2018; and

WHEREAS, Joseph Donovan of Hudson Todd LLC, the owner of property located at 254 Liberty Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Hudson Todd LLC be granted a nine (9) month extension to rehabilitate the premises known as 254 Liberty Street in the City of Newburgh; and

BE IT FURTHER RESOLVED; that such rehabilitation must be completed on or before August 13, 2019, that being nine (9) months from the date of this Resolution.

RESOLUTION NO.: 339-2018

OF

NOVEMBER 13, 2018

A RESOLUTION AMENDING THE 2018 PERSONNEL ANALYSIS BOOK
TO ADD ONE (1) SERGEANT POSITION ON A TEMPORARY BASIS
IN THE CITY OF NEWBURGH POLICE DEPARTMENT

WHEREAS, the Police Department previously advised the City Manager that the department is in need of an additional individual to perform the duties of "Sergeant;" and

WHEREAS, by Resolution No. 310-2017 of November 13, 2017, the City Council authorized the amendment of the 2017 Personnel Analysis Book to create one additional Sergeant position in the Police Department Sergeant position on a temporary basis; and

WHEREAS, by Resolution No. 3-2018 of January 8, 2018, the City Council authorized an amendment of the 2018 Personnel Analysis Book to create one additional Sergeant position in the Police Department on a temporary basis through February 28, 2018; and

WHEREAS, by Resolution No. 51-2018 of February 26, 2018, the City Council authorized an amendment to the Personnel Analysis Book for the fiscal year 2018 to create one (1) additional position on a temporary basis in the job title "Sergeant" in the Police Department through June 30, 2018; and

WHEREAS, the Police Department has advised the City Manager that the temporary Sergeant position will be needed until December 31, 2018; and

WHEREAS, the City Council has determined that continuing one temporary Sergeant position in the Police Department from July 1, 2018 through December 31, 2018 will promote economy and efficiency within the Department; the same being in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Personnel Analysis Book for the fiscal year 2018 be amended, and that there be and hereby is created and continued one (1) additional position on a temporary basis in the job title "Sergeant" in the Police Department from June 30, 2018 through December 31, 2018.

RESOLUTION NO.: 340 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A STAND-BY EMERGENCY SERVICES AGREEMENT WITH
CLEAN HARBORS ENVIRONMENTAL SERVICES, INC.
TO CONTAIN, COLLECT AND PROPERLY DISPOSE OF
AQUEOUS FILM FORMING FOAMS

WHEREAS, by Resolution No. 306-2015 of December 14, 2015, the City Council authorized the City Manager execute State Intergovernmental Memorandum of Agreement No. DHS01-X200045-1160200 between the State of New York Division of Homeland Security and Emergency Services, Office of Fire Prevention and Control (hereinafter "State Agreement") and the City of Newburgh Fire Department to respond to any potential Bakken Oil railroad train car fires that may take place on a 2-mile stretch of CSX railroad tracks and at a local petroleum tank farm known as the Global Tank Farm.; and

WHEREAS, the Material Safety Data Sheets for the Aqueous Film Forming Foams (AFFFs) currently being used by the Fire Department to respond to Class B flammable and combustible liquid fires, including but not limited to any oil or other hazardous substance related fires, and specifically pursuant to the State Agreement contain polyfluoralkyl substances (PFASs); and

WHEREAS, the City seeks to retain the services of a contractor to be contacted by the Fire Department to respond on an emergency basis to any Class B fire where AFFFs have been used to contain, collect and properly dispose of the AFFFs after discharge; and

WHEREAS, Clean Harbors Environmental Services, Inc. has been identified as having the technical capability and equipment, and access to disposal facilities, to properly contain, collect and dispose of any AFFFs used by the Fire Department and respond on an emergency basis any time of the day on any day; and

WHEREAS, this Council deems it to be in the best interests of the City of Newburgh to enter into a stand-by emergency services agreement with Clean Harbors Environmental Services, Inc. to properly contain, collect and dispose of any AFFFs used by the Fire 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 execute the Stand-by Emergency Services Agreement, in substantially the same form as annexed hereto and made part hereof with other provisions as Corporation Counsel may require, with Clean Harbors Environmental Services, Inc. for the proper containment, collection and disposal of Aqueous Film Forming Foams currently being used by the Fire Department.



STANDBY EMERGENCY RESPONSE AGREEMENT

This Agreement is made this _____ day of October 2018, by and between Clean Harbors Environmental Services, Inc., and affiliates, a Massachusetts corporation, with offices located at 42 Longwater Drive, P.O. Box 9149, Norwell, MA 02061-9149, ("Contractor") and the City of Newburgh ("City"), incorporated as a New York State municipality on behalf of the City of Newburgh Fire Department ("Fire Department"), with their principal places of business at 83 Broadway and 22 Grand Street, Newburgh, NY 12550, respectively (City and Fire Department are "Customers").

WHEREAS, Contractor is engaged in the business of providing Emergency Response Services ("Services") to respond to discharges of oil or other hazardous substances; and

WHEREAS, Contractor has reviewed the Material Safety Data Sheets for the Aqueous Film Forming Foams (AFFFs) containing polyfluoralkyl substances (PFASs) currently being used by the Fire Department to respond to Class B flammable and combustible liquid fires, including but not limited to any oil or other hazardous substance related fires, and specifically pursuant to a State Intergovernmental Memorandum of Agreement No. **DHS01-X200045-1160200** (Agreement) entered by and between the State of New York Division of Homeland Security and Emergency Services, Office of Fire Prevention and Control ("DHSES", "OFPC" or "State of New York") with offices located at 1220 Washington Avenue, State Office Campus, Building 7A, Albany, New York 12226 and the Fire Department to respond to any potential Bakken Oil railroad train car fires that may take place on a 2-mile stretch of CSX railroad tracks and at a local petroleum tank farm known as the Global Tank Farm.

WHEREAS, Contractor has the technical capability and equipment, and access to disposal facilities, to properly contain, collect and dispose of any AFFFs used by the Fire Department and respond on an emergency basis any time of the day on any day and Customers seek to retain Contractor to be contacted by the Fire Department to response on an emergency basis to any Class B fire where AFFFs have been used to contain, collect and properly dispose of the AFFFs are discharge;

WHEREAS, Customers desire to engage Contractor to provide such Services; and

WHEREAS, Customers and Contractor desire to establish the terms and conditions pursuant to which such Services will be provided.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

ARTICLE 1. Purpose

- 1.1 This Agreement establishes the terms and conditions pursuant to which Contractor may furnish Customers with certain Services in connection with response to discharges of AFFFs used by the Fire Department to extinguish Class B flammable or combustible liquid fires after discharge.
- 1.2 This Agreement shall not obligate Customers to purchase Services from Contractor, nor shall it obligate Contractor to provide Services, but shall govern all orders for Services issued by Customers and which are accepted by Contractor. Contractor will use best efforts to respond to requests by Customer for Services.
- 1.3 This Agreement will allow Customers to list Contractor as its provider of Services, as defined in Article 2, in emergency response plans and regulatory reporting.

ARTICLE 2. Scope of Services

- 2.1 The Services contemplated in connection with the response to discharges of AFFFs may include, but not be limited to, the following:
 - o Containment, recovery, repackaging and removal of discharged AFFF materials, including prevention of any discharged AFFFs from entering any City sewer, storm drain, or waterbody, including groundwater and surface water using inflatable bladders, vacuum equipment or trucks or any other equipment necessary to containerize the AFFFs for offsite disposal at the Sarnia facility in Canada or another equivalent hazardous waste facility;
 - o Site evaluation, decontamination and restoration of the fire incident site;
 - o Transportation, storage, treatment or disposal of AFFF wastes;
 - o Technical services, including sampling, laboratory analysis, proper waste characterization and other related services;
 - o Standby of personnel and equipment in anticipation of imminent activation;
 - o Training and mock spill drill deployments with the Fire Department to develop a methodology regarding how the Fire Department and Contractor will work simultaneously without interference in response to a Class B fire incident using AFFFs.

ARTICLE 3. Contractor's Warranties

- 3.1 Contractor shall provide supervision, labor, materials, tools, equipment and subcontracted items for the performance of the Services.

- 3.2 Contractor shall take necessary precautions for the safety of its employees, and shall comply with applicable provisions of the Occupational Safety and Health Act. It is understood and agreed, however, that Contractor shall not be responsible for the elimination or abatement of safety hazards created by or otherwise resulting from work being performed by Customer's employees, its other contractors or agents.
- 3.3 Contractor represents that it holds the permits and licenses required for the performance of Services.

ARTICLE 4. Customers' Warranties

- 4.1 Customer shall provide full and complete information regarding its requirements for the Services.
- 4.2 Customers shall designate a representative ("Customers' Representative") who shall be fully acquainted with the Services to be provided hereunder and who shall be authorized to approve changes in the Services; render decisions promptly; authorize commitments and expenditures on behalf of Customers; approve Contractor's daily worksheets and to accept, verify and approve Contractor's invoices.
- 4.3 Customers shall be responsible for repairs to all private property, roadways, structures and rights-of-way resulting from Contractor's reasonable use thereof.
- 4.4 Customers represent and warrant that they shall provide payment to Contractor for the services provided by Contractor as set forth in Article 5.
- 4.5 Customers has communicated to Contractor all special hazards or risks known to or learned by the Customers of AFFFs which are related to the performance of Services pursuant to this Agreement and shall communicate to Contractor the special hazards or risks known to or learned by the Fire Department in relation to each Class B fire incident to the extent known or learned.
- 4.6 The Fire Department shall provide full and complete information known or learned regarding the Class B fire incident, impacted site, surface and subsurface conditions, utility locations, site ownership, contractor access, hazardous materials or wastes and other substances or hazards likely to be present and any other reports, documentation or information concerning the site or Scope of Work which may reasonably be provided to Contractor during the initial dispatch contact and then shall provide any additional information learned while on site during the fire incident. Customers represent and warrant to Contractor that Customers have the requisite legal right, title, and interest necessary to provide access to the job site in relation to its emergency powers to respond to fire incidents. In the event subsurface or latent conditions at the work site materially differ from those indicated in the contract documents or if the latent or subsurface physical conditions are of an unusual nature not ordinarily found to exist in environmental service activities identified in the contract documents, the Contractor shall be entitled to an equitable adjustment of the Contract price and time.

ARTICLE 5. Compensation

- 5.1 The payment terms set forth herein are contingent upon the approval of Contractor's Credit Department. In the event of a change in Customer's financial condition, Contractor reserves the right to alter, change, or modify payment terms, and to immediately stop work. The failure of Contractor to exercise its rights under this article at any time shall not constitute a waiver of Contractor's continuing right to do so.
- 5.2 Customers agree to pay Contractor for Services in accordance with Contractor's Rate Schedule for emergency response work ("Rates") in effect at the time Services are rendered. Customers hereby assign to Contractor all rights to any insurance payments that Customers may be entitled to receive to pay for the Services provided under this Agreement and hereby authorize its insurance company or agent to pay Contractor directly. Customers' obligation to pay amounts due pursuant to this Agreement shall not be conditioned upon or limited by the types, amounts or availability of insurance coverage.
- 5.3 Contractor will present its first invoice to Customers as soon as possible following commencement of Services provided hereunder, and may issue subsequent invoices every five (5) days thereafter. Customers agree to pay the full amount of each invoice amount within thirty (30) business days of the date of receipt of said invoice by Customers' Representative.
- 5.4 Customers agree that interest shall accrue and will be paid to Contractor on any unpaid balance of any invoice after thirty (30) business days of receipt of invoice by Customer at the rate of one and one half percent (1.5%) per month or the maximum amount allowed by law.
- 5.5 In the event that legal or other action is required to collect unpaid balances of invoices due Contractor, Customers agree to pay all costs of collection, litigation or settlement incurred by Contractor, including reasonable attorneys fees. "Legal or other action" as used above shall include bankruptcy and insolvency proceedings.
- 5.6 In the event that work is suspended or terminated for any reason prior to the completion of the Services, Customers agree to pay for labor, equipment, materials, disposal and other costs incurred by Contractor at the Rates and for reasonable demobilization costs.
- 5.7 Services related to litigation support or testimony in connection with or arising out of the work performed by Contractor hereunder is not within the Scope of Services covered by this Agreement unless specifically indicated as an add-on service. In the event such services are required and are not indicated as an add-on service, Customers agree to pay Contractor in accordance with the Rates for any litigation support or testimony provided by Contractor in connection with, or arising out of, the work performed by Contractor hereunder.

ARTICLE 6. Changes in Work

- 6.1 In the event that changed or unforeseen circumstances at the work site necessitate changes in the work, Customers agree to pay Contractor at the Rates, or for such costs incurred which are not delineated in the Rates, for any costs incurred or delays which may occur during Contractor's response to any emergency condition which threatens safety of persons or property during the performance of the Services.
- 6.2 If any change occurs during the term of this Agreement with respect to any laws, rules, regulations or ordinances which affect the rights or obligations of Customer or Contractor under this Agreement, or the applicability of any taxes or fees, or the cost of handling waste materials, Customer and Contractor shall negotiate in good faith to bring this Agreement into conformance with such change or changes. In the event that such agreement cannot be reached, Customer or Contractor shall have the right to terminate this Agreement immediately upon written notice to the other party.

ARTICLE 7. Insurance

- 7.1 Contractor shall keep in effect during the term of this Agreement the following insurance coverages:

COVERAGE	LIMITS
a. Worker's Compensation	Statutory
b. Employer's Liability	\$2,000,000
c. General Commercial Liability	\$2 million per occurrence \$4 million aggregate
d. Automobile	\$5 million combined single limit
e. Contractors Pollution Liability	\$10 million each Claim \$10 million all Claims

- 7.2 Contractor shall add the City and Fire Department each as additional insureds and shall provide Customer with a certificate of insurance upon execution of this Agreement.

ARTICLE 8. Indemnification

- 8.1 Contractor shall indemnify, defend and hold harmless Customers, and their respective elected officials directors, officers, employees and agents from and against any and all costs, liabilities, claims, demands and causes of action including, without limitation, bodily injury to or death of any person or destruction of or damage to any property, except natural resource and other damages as provided in Section 8.3, which Customers may suffer, incur, or pay out, to the extent such are caused by the negligence or willful misconduct of Contractor, its agents or employees during the performance of this Agreement, or Contractor's failure to comply with any laws, regulations or lawful authority, or failure to comply with its obligations under this Agreement; except to the extent such liabilities, claims, demands and causes of action result from Customers'

failure to comply with any laws, regulations or other lawful authority, or Customers' failure to comply with its obligations under this Agreement or result from the negligence or willful misconduct of the Fire Department, its employees or agents. Use of AFFFs in Customer's normal course of business and within customary industry standards shall not be considered a negligent act or willful misconduct.

- 8.2 Notwithstanding the foregoing, Customers shall indemnify, defend and hold harmless Contractor, its parent and affiliated companies and their respective directors, officers, employees, agents and subcontractors from and against any and all costs, liabilities, claims, demands and causes of action for pollution damages; contamination or adverse effects on the environment; destruction of, damage to, or loss of, whether actual or alleged, any property or natural resources, including the cost of assessing the damage; injury to or economic losses resulting from destruction of real or personal property; damages for loss of subsistence use of natural resources; damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction or loss of real property, personal property or natural resources; damages for net costs of providing increased or additional public services; removal costs; and any other costs assessable under the Oil Pollution Act of 1990, the Comprehensive Environmental Response, Compensation and Liability Act or other local, state or Federal law or lawful authority applicable to discharges or releases of oil or hazardous substances which Contractor, individually or collectively, may suffer, incur, or pay out in connection with, or arising out of, the use of the AFFF by Customer; provided, however, that the foregoing indemnity shall not apply to any claims, liabilities or causes of action caused by the failure of Contractor to contain and collect the AFFFs discharge after a fire incident, and transportation or disposal of waste materials by Contractor.

ARTICLE 9. Excuse of Performance

The performance of this Agreement, except for the payment of money for Services already rendered, may be suspended by either party in the event performance of this Agreement is prevented by a cause or causes beyond the reasonable control of such party. Such causes shall include but not be limited to: acts of God, acts of war, riot, fire, explosion, accidents, inclement weather, or sabotage; lack of adequate fuel, power, raw materials, labor or transportation facilities; changes in government laws, regulations, orders, or defense requirements; restraining orders, labor dispute, strike, lock-out or injunction (provided that neither party shall be required to settle a labor dispute against its own best judgments). The party which is prevented from performing by a cause beyond its reasonable control shall use its best efforts to eliminate such cause or event.

ARTICLE 10. Termination

This Agreement may be terminated by either party upon forty-eight (48) hours prior notice to the other party.

ARTICLE 11. Notice

Any notice to be given under this Agreement shall be in writing and delivered to the address listed below:

Customer: City of Newburgh
Attn: City Manager
83 Broadway
Newburgh, NY 12550

With a copy to:
Corporation Counsel
83 Broadway
Newburgh, NY 12550

Contractor: Clean Harbors Environmental Services, Inc.
42 Longwater Drive,
P.O. Box 9149
Norwell, MA 02061-9149
Attn: General Counsel (Urgent Contract Matter)

ARTICLE 12. Additional Provisions

- 12.1 Limitation of Liability - Customer agrees that Contractor shall not be responsible for pre-existing contamination at the job location, natural resource damage, or for indirect, incidental, consequential or special damages, including loss of use or lost profits, resulting from or arising out of the performance of the Scope of Work by Contractor, its employees, agents and/or subcontractors.
- 12.2 Waiver - Any waiver by either party of any provision or condition of this Agreement shall not be construed or deemed to be a waiver of any other provision or condition of this Agreement, nor a waiver of a subsequent breach of the same provision or condition.
- 12.3 Severability - If any section, subsection, sentence or clause of this Agreement shall be deemed to be illegal, invalid or unenforceable for any reason, such illegality, invalidity or unenforceability shall not affect the legality, validity or enforceability of this Agreement or other sections of this Agreement.
- 12.4 Entire Agreement - This Agreement and any Exhibits to this Agreement represent the entire understanding and agreement between Customer and Contractor and supersedes any and all prior agreements, whether written or oral, that may exist between the parties regarding same. Modifications to this Agreement shall be in writing and shall be signed by the Customer and Contractor. Additional, conflicting or different terms on any Purchase Order or other preprinted document issued by Customer shall be void and are hereby expressly rejected by Contractor.

12.5 Survival - The provisions contained in Articles 3, 4, 5, 8 and 12 shall survive and remain in effect following the termination of this Agreement.

12.6 Applicable Law - This Agreement shall be interpreted and enforced according to the Laws of the State of New York and the parties agree to submit to the jurisdiction of the courts of the State of New York for any disputes arising under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the day and year first above written.

CUSTOMERS

CLEAN HARBORS ENVIRONMENTAL
SERVICES, INC.

Signature: _____

Signature: _____

By: _____
PRINT NAME

By: _____
PRINT NAME

Title: _____
City Manager on Behalf of
City of Newburgh and Fire Department

Title: _____

RESOLUTION NO.: 341 - 2018

OF

NOVEMBER 13, 2018

RESOLUTION APPROVING A MEMORANDUM OF AGREEMENT WITH
THE LOCAL 589 INTERNATIONAL ASSOCIATION OF FIREFIGHTERS
TO PROVIDE CERTAIN ADDITIONAL BENEFITS
TO MEMBERS WHO HAVE BEEN CALLED TO ACTIVE MILITARY DUTY

WHEREAS, the City of Newburgh and the Local 589 International Association of Fire Fighters (hereafter "Local 589") are parties to a collective bargaining agreement; and

WHEREAS, Firefighter David Roach of Local 589 has been called to active duty in support of The Global War on Terrorism and will be required to interrupt his regular City employment; and

WHEREAS, the City Council of the City of Newburgh wishes to grant certain additional benefits to such employee and other employees and members of the Local 589 bargaining unit who may be called to active duty in the future; and

WHEREAS, the City Council has reviewed the terms of the Memorandum of Agreement, a copy of which is annexed hereto, and has consulted with the representatives of the City, who have recommended that the City Council approve the agreement;

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 on behalf of the City of Newburgh, the Memorandum of Agreement annexed hereto, or in substantially the same form; and

BE IT FURTHER RESOLVED, that the Council of the City of Newburgh hereby extends its pride, gratitude, appreciation and admiration to every member of Local 589 called to active duty on behalf of this Country.

AGREEMENT made and entered into this ____ day of _____ 2018 by and between the City of Newburgh and Local 589, IAFF, AFL-CIO ("the Union").

WHEREAS, the City of Newburgh and the Local 589 International Association of Fire Fighters (hereinafter "Local 589"), are parties to a collective bargaining agreement; and

WHEREAS, members of the Local 589 serving in the military reserve have been and continue to be called to active duty as a result of the terrorist attacks in New York City and Washington, D.C. on September 11, 2001 and in support of the Global War on Terrorism and other on-going conflicts overseas and will be required to interrupt their regular City employment; and

WHEREAS, the City of Newburgh and Local 589 have been approving Memoranda of Agreement on a case-by-case basis to grant certain additional benefits to employees ordered to active military service; and

WHEREAS, the City and Local 589 wish to enter into a Memorandum of Agreement to provide certain additional benefits to all Local 589 members ordered to active military service without further need for individual agreements;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties stipulate and agree as follows:

1. Employees ordered to active military duty, including service in the reserve force and/or civilian orders, as a result of the events of September 11, 2001, and in support of the Global War on Terrorism and other on-going conflicts overseas, shall be entitled to receive the following benefits:

- A. Members who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave

at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days or 44 working days for any one continuous period of absence.

- B. Employees who have exhausted their entitlement to the paid leave set forth in paragraph A shall be entitled to military leave at reduced pay, which shall be the difference between the employee's rate of pay prior to the their date of activation and compensation they receive as a result of active duty.
- C. Employees shall receive the same individual or family health insurance benefits provided pursuant to the parties' collective bargaining agreement as received by them prior to the date of activation.
- D. Members shall accrue vacation leave at the rate set forth in the Collective Bargaining Agreement during the period they receive benefits pursuant to this Memorandum.

2. This Agreement constitutes the entirety of the agreement between the parties regarding its subject matter. There are no other agreements, oral or otherwise.

FOR THE CITY:

FOR LOCAL 589:

Dated:

Dated:

RESOLUTION NO.: 342-2018

OF

NOVEMBER 13, 2018

A RESOLUTION TO APPOINT COMMISSIONERS OF DEEDS
FOR JANUARY 1, 2019 THROUGH DECEMBER 31, 2020

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Newburgh, New York, that the following persons be appointed as Commissioners of Deeds for the period beginning January 1, 2019 and expiring December 31, 2020, pursuant to the City Charter of the City of Newburgh §C6.95, and the Executive Law of the State of New York, §139:

Theresa Cramer (Board of Ed.)
10 Hob Street
Newburgh, NY 12550

Lyzette Galbraith (Board of Ed.)
2063 Independence Dr.
New Windsor, NY 12553

Katrina Cotten
25 Clark Street
Newburgh, NY 12550

Michael McLymore, Sr.
(Board of Ed.)
1573 Rt. 300
Newburgh, NY 12550

Vickiana Demora
48 Larter Avenue
Newburgh, NY 12550

Lorene Vitek
8 Continental Drive
New Windsor, NY 12553

Naomi Fay
20 Duncan Ave.
Cornwall-on-Hudson, NY 12520

Autumn Resto
45 Fleetwood Drive
Newburgh, NY 12550

Eliana Diaz
1 Chadwick Gardens, #C13
Newburgh, NY 12550

Omar Balbuena-Palma
41 Hawthorne Avenue
Newburgh, NY 12550

ORDINANCE NO.: 5 - 2018

OF

NOVEMBER 13, 2018

AN ORDINANCE AMENDING CHAPTER 34, ARTICLE III OF THE CODE OF THE CITY OF NEWBURGH ENTITLED "EQUAL EMPLOYMENT OPPORTUNITY AND ANTI-HARASSMENT POLICY" AND ADDING NEW ARTICLE IV ENTITLED "POLICY AGAINST WORKPLACE SEXUAL HARASSMENT"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 34, Article III entitled "Equal Employment Opportunity and Anti-Harassment Policy" of the Code of Ordinances of the City of Newburgh be and is hereby amended and new Article IV entitled "Policy Against Workplace Sexual Harassment Prevention Policy" is added to read as follows:

SECTION 1. Chapter 34, Code of Ethics, Article III

Equal Employment Opportunity and Anti-Harassment Policy

§ 34-17 Council Intent

The City of Newburgh continues to have a zero tolerance for unlawful discrimination, harassment or retaliation in the workplace.

All employees are required to comply with the City's policy. Any employee who violates this policy will be subject to the full weight of disciplinary sanctions, up to and including discharge. Any department head or supervisor violates this policy if, having been made aware of conduct by an employee that violates this policy, that department head or supervisor knowingly allows the conduct to continue.

§ 34-18 Individuals and Conduct Covered

This policy applies to all applicants and employees, and prohibits unlawful harassment, discrimination and retaliation, whether engaged in by or with fellow employees, a supervisor or someone not directly connected to the City (e.g., an outside vendor, contractor, consultant or resident). Conduct prohibited by the policy is unacceptable in the workplace and in any work-related setting outside the workplace, including during business trips, business meeting and business-related social events. It is the responsibility of supervisory personnel to be aware of and sensitive to conditions, situations or circumstances which, left unresolved, could potentially rise to the level of unlawful harassment, discrimination or retaliation in the workplace, and to take appropriate remedial action to address the conditions, situations or circumstances as soon as possible.

The City Manager will carry out those duties necessary to ensure compliance with this policy. The City Manager will designate, in writing, one or more Harassment Complaint Officers, to receive and

investigate complaints of violations of this policy. Copies of this policy and the written designation of Harassment Complaint Officer (including their contact information) will be posted in conspicuous places and be available to employees and applicants for employment.

§ 34-19 Equal Employment Opportunity

The City is committed to a policy of ensuring equal employment opportunity to all employees and applicants for employment without unlawful discrimination with regard to race, color, religion, creed, gender, national origin, age, disability, marital status, citizenship status, military or veteran status, sexual orientation, domestic violence victim status, genetic information, or any other characteristic protected by applicable law. In accordance with all applicable federal, state and local laws, this commitment to equal employment opportunity extends to all employment decisions including, but not limited to, recruitment, hiring, compensation, benefits, training, promotion, demotion or downgrading, transfer, layoff and recall, termination, and all other terms and conditions of employment. The City prohibits and will not tolerate this kind of discrimination.

§ 34-20 Anti-Harassment Policy

~~A. Sexual Harassment~~

- ~~1. Sexual harassment constitutes discrimination, and is illegal pursuant to federal, state and local laws. For the purposes of this policy, sexual harassment pursuant to the Equal Employment Opportunity Commission Guidelines, as unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example: (i) submission to the conduct is made either explicitly or implicitly a term or condition of the individual's employment; (ii) submission to or rejection of the conduct by an individual is used for the basis for employment decisions affecting the individual or; (iii) the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.~~
- ~~2. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, the behaviors may include, but are not limited to: unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual's body; sexual prowess or sexual deficiencies; leering, catcalls or touching; insulting or obscene comments or gestures; display or circulation in the workplace of sexually explicit objects or pictures (including through e-mail); and other physical, verbal or visual conduct of a sexual nature. Gender-based harassment – that is, harassment not involving sexual activity or language (e.g. when a male supervisor yells only at female employees and not males) – may also constitute discrimination if it is severe or pervasive and directed at employees because of their gender. The City prohibits and will not tolerate all of these types of sexual harassment.~~

~~Strikethrough~~ denotes deletions

Underlining denotes additions

Harassment on the Basis of ~~any other~~ Protected Characteristics

- A. Harassment on the basis of any ~~other~~ protected characteristics is ~~also~~ strictly prohibited by the City. Pursuant to ~~Under~~ this policy, harassment is verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his/her race, color, religion, creed, gender, national origin, age, disability, marital status, citizenship status, military or veteran status, sexual orientation, genetic information, or any other characteristic protected by applicable law and that: (i) has the purpose or effect of creating an intimidating, or hostile work environment; (ii) has the purpose or effect of unreasonably interfering with an individual's work performance; or (iii) otherwise adversely affects an individual's employment opportunities. See Article IV of this Chapter for the City of Newburgh Policy Against Workplace Sexual Harassment.
- B. Harassing conduct includes, but is not limited to: epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; denigrating jokes and display or circulation in the workplace of written or graphic material that denigrates or shows hostility or aversion toward an individual or group (including through e-mail). The City prohibits and will not tolerate all of these types of harassment.

§ 34-21 Retaliation is Prohibited

The City prohibits retaliation against any individual who in good faith reports discrimination or harassment or participates in an investigation of those reports. Retaliation against an individual for in good faith reporting harassment or discrimination or for participating in an investigation of a claim of harassment or discrimination is a serious violation of this policy. Violators will be subject to disciplinary action up to and including termination.

§ 34-22 Complaint Procedure

- A. Reporting an incident of Prohibited Harassment, Discrimination or Retaliation:

The City strongly urges the reporting of all alleged incidents of harassment, discrimination or retaliation, regardless of the alleged offender's identity or position. Individuals who believe they have experienced conduct that they believe to be contrary to the City's policy or who have concerns about these matters should file their complaints before the conduct becomes severe or pervasive. The complaint may be filed with the employee's immediate supervisor or any individual designated in writing by the City Manager as a Harassment Complaint Officer. If the complaint involves one of the Harassment Complaint Officers, it may be filed with the City Manager. If the complaint involves the City Manager, it may be filed with the Mayor. Individuals should not feel obligated to bring their complaints to their immediate supervisor before bringing the matter to the attention of the Harassment Complaint Officer, the City Manager or the Mayor. Employees can submit claims in writing, by e-mail or by meeting in person. All oral complaints or reports must be documented in writing by the City. A department head or supervisor who observes harassment, discrimination or retaliation, or receives a complaint of same, must immediately make a report to the Harassment Complaint Officer, the City Manager or Mayor, respectively.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of prohibited harassment. Therefore, while no fixed reporting period has been established by this policy, the City strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The City will make every effort to stop alleged harassment before it becomes severe or pervasive, but can only do so with the cooperation of its employees. The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcomed and requesting that it be discontinued.

§ 34-23 The Investigation

- A. Any reported allegations of harassment, discrimination or retaliation will be investigated promptly, thoroughly, and impartially pursuant to the direction of the City Manager or, if the complaint involves the City Manager, pursuant to the direction of the Mayor. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. No individual who is the subject of a harassment, discrimination or retaliation complaint will play a role in the decision-making process with respect to the resolution of the complaint.
- B. The City Manager (or Mayor) will make best efforts to ensure the investigation of all complaints of harassment, discrimination or retaliation, preparation of written findings of the results of each investigation and the remedial actions proposed. This report will be considered an internal memorandum and one protected by personal privacy rights so as to not be subject to disclosure pursuant to the Freedom of Information Law. The City Manager (or Mayor) will communicate with the complaining party about the results of the investigation and remedial actions taken, if any, all within a reasonable period of time consistent with the circumstances of the complaint.
- C. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. If, after investigating any complaint of harassment or discrimination, it is determined that an employee has intentionally made a false claim of harassment or has intentionally provided false information regarding a harassment or discrimination complaint, disciplinary or legal action may be taken against that individual.
- D. No record of a complaint will be kept in the complaining employee's personnel file, unless the investigation concludes that the employee intentionally made a false claim of harassment or intentionally provided false information regarding a harassment or discrimination complaint.

§ 34-24 Responsive Action

Misconduct constituting prohibited harassment, discrimination or retaliation will be dealt with promptly and appropriately. Responsive action may include, for example, training, referral to

~~Strikethrough~~ denotes deletions

Underlining denotes additions

counseling, monitoring of the offender and/or disciplinary action including, but not limited to, a warning, reprimand, withholding of a promotion or pay increase, reduction of wages, demotion, reassignment, temporary suspension without pay or termination, as the City believes to be appropriate given the circumstances, and in accordance with applicable law.

Individuals who have questions or concerns about these policies should contact the City Manager.

§ 34-25 Additional Rights

Nothing in this policy will be construed in any way in order to limit an employee's rights before the United States Equal Employment Opportunity Commission, the New York State Division of Human Rights or the Orange County Human Rights Commission, or to take any other legal action which the employee may deem advisable to pursue.

§ 34-26 Severability

If any clause, sentence, paragraph, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 2. Chapter 34, Code of Ethics, Article IV

Policy Against Workplace Sexual Harassment

§ 34-27. Introduction

The City of Newburgh is committed to maintaining a workplace that is free from sexual harassment. Sexual harassment is a form of workplace discrimination and will not be tolerated. All employees are required to work in a manner that prevents sexual harassment in the workplace. This Policy is one component of the City's commitment to a discrimination-free work environment.

Sexual harassment is against the law. All employees, applicants for employment, interns, non-employees (as defined below) and other persons conducting business with the City have a legal right to a workplace that is free from sexual harassment.

The City is equally committed to maintaining a workplace that is free from discrimination and other types of prohibited harassment. For more information, please see the City's "Equal Employment Opportunity and Anti-Harassment Policy" which is set forth in Article III of this Chapter.

§ 34-28. Policy

This Policy applies to all employees, applicants for employment, interns, non-employees (see definition below), and other persons conducting business with the City, regardless of immigration status, ("covered individuals") with respect to conduct by other persons.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

For purposes of this Policy, a "non-employee" is an independent contractor, agent or someone who is (or who is employed by) a contractor, subcontractor, vendor, consultant or anyone providing services in the workplace. Non-employees also include volunteers, temporary workers, persons providing equipment repair, cleaning services or any other service pursuant to a contract, or other relationship with the City.

All covered individuals must follow and uphold this Policy.

Sexual harassment is a form of misconduct and will not be tolerated. Sexual harassment is offensive, a violation of the City's policies, unlawful, and may subject the City to liability for harm to targets of sexual harassment. Sexual harassers may also be individually subject to liability.

Following receipt of a complaint about sexual harassment or of knowledge regarding possible sexual harassment that is occurring or has occurred, the City will conduct a prompt, thorough and confidential investigation that ensures due process for all parties. Appropriate corrective action, subject to any statutory or contractual limitations, will be taken whenever sexual harassment is found to have occurred.

A. What is "Sexual Harassment"?

Sexual harassment is a form of sex discrimination and is unlawful pursuant to federal, State and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, sexual orientation, self-identified or perceived sex, gender expression, gender identity and the status of being transgender.

Sexual harassment includes unwelcome conduct that is of a sexual nature or that is directed at an individual because of his/her sex, sexual orientation, gender identity or transgender status when:

- the conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the reporting individual is not the intended target of the sexual harassment;
- the conduct is made either explicitly or implicitly a term or condition of employment; or
- submission to or rejection of the conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment includes, but is not limited to, words, signs, jokes, pranks, intimidation or physical violence that are of a sexual nature, or that are directed at an individual because of his/her sex, sexual orientation, gender identity or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone that are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation or that interfere with his/her job performance.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

Sexual harassment also occurs when a person in authority tries to trade job benefits for sexual favors. Job benefits may include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called "quid pro quo" harassment.

Any covered individual who believes that he/she is being or has been sexually harassed should report the sexual harassment so that any violation of this Policy can be promptly corrected. Any sexually harassing conduct, even a single incident, can be addressed pursuant to this Policy.

B. Examples of Sexual Harassment

The following describes some of the types of acts that are strictly prohibited and that may constitute unlawful sexual harassment:

- Physical acts of a sexual nature including:
 - Touching, pinching, patting, kissing, hugging, grabbing, brushing against another person's body or poking another person's body; and
 - Rape, sexual battery, molestation or attempts to commit these assaults.
- Unwanted sexual advances or propositions including:
 - Requests for sexual favors accompanied by implied or overt threats concerning the target's job performance evaluation, a promotion or other job benefits or detriments; and
 - Subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience that creates a hostile work environment.
- Sex stereotyping which occurs when conduct or personality traits are considered inappropriate simply because they may not conform to other people's ideas or perceptions about how individuals of a particular sex should act or look.
- Sexual or discriminatory displays or publications anywhere in the workplace including:
 - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes displays on workplace computers, cell phones or other electronic devices and sharing these displays while in the workplace.
- Hostile actions taken against an individual because of his/her sex, sexual orientation, gender identity or transgender status, including:
 - Interfering with, destroying or damaging a person's workstation, tools or equipment, or otherwise interfering with the person's ability to perform the job;
 - Sabotaging a person's work; and
 - Bullying, yelling or name-calling.

C. Who Can be a Target of Sexual Harassment?

Sexual harassment can occur between or among any individuals, regardless of their sex or gender. New York Law protects covered individuals from sexual harassment. Sexual harassers can be a

~~Strikethrough~~ denotes deletions

Underlining denotes additions

superior, a subordinate, a co-worker or anyone in the workplace including another covered individual or any other person, including a visitor.

D. Where Can Sexual Harassment Occur?

Unlawful sexual harassment is not limited to the physical workplace itself. It can also occur outside of the workplace while covered individuals are traveling for work or at employer sponsored events, programs, activities or parties. Calls, texts, emails, and social media usage can constitute unlawful workplace harassment even if they occur away from the workplace premises, on personal devices or outside of work hours.

§ 34-29. Retaliation is Prohibited

Retaliation against anyone who, in good faith, complains, provides information or assists in an investigation of suspected sexual harassment as a witness or otherwise will not be tolerated.

No covered individual will be subject to adverse action(s) (e.g., being discharged, disciplined, discriminated against; etc.) because that person, in good faith, reports an incident of sexual harassment, provides information, or otherwise participates in any investigation of a sexual harassment complaint.

Appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the City will be implemented.

Unlawful retaliation can be any action that could discourage a covered individual from coming forward to make or support a sexual harassment claim. Adverse action need not be job related or occur in the workplace to constitute unlawful retaliation (e.g., threats of physical violence outside of work hours).

Retaliation is unlawful pursuant to federal, State and (where applicable) local law. The New York State Human Rights Law protects any individual who has engaged in "protected activity." Protected activity occurs when a person has, in good faith:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment pursuant to the Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to management, or by simply informing a supervisor or manager of harassment;
- reported that another employee has been sexually harassed; or
- encouraged a fellow employee to report sexual harassment.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

Even if the alleged sexual harassment does not rise to the level of a violation of law, the individual is protected from retaliation if he/she had a good faith belief that the practices were unlawful. The retaliation provision is not intended, however, to protect persons making intentionally false charges of sexual harassment.

Any covered individual who believes that he/she has been a target of any acts of retaliation in violation of this Policy should immediately report that conduct to his/her immediate supervisor or any individual designated in writing by the City Manager as a Harassment Complaint Officer. If the complaint involves or the individual is hesitant to report to his/her immediate supervisor or a Harassment Complaint Officer, the individual should report the conduct to the City Manager. If the complaint involves or the individual is hesitant to report to the City Manager, the individual is encouraged to report the behavior to the Mayor. Individuals should not feel obligated to bring their complaints to their immediate supervisor before bringing the matter to the attention of a Harassment Compliance Officer, the City Manager or the Mayor.

Contact information for these individuals can be found on the City's website at <https://www.cityofnewburgh-ny.gov>.

Anyone who believes that he/she has been a target of prohibited retaliation may seek legal remedies, as explained below in the section on "Legal Protections."

§ 34-30. Reporting Sexual Harassment

Preventing sexual harassment is everyone's responsibility. The City cannot prevent or remedy sexual harassment unless we know about it.

All covered individuals are encouraged to report any behavior that may constitute sexual harassment in violation of this Policy to his/her immediate supervisor or any individual designated in writing by the City Manager as a Harassment Complaint Officer. If the complaint involves or the individual is hesitant to report to his/her immediate supervisor or a Harassment Complaint Officer, the individual should report the conduct to the City Manager. If the complaint involves or the individual is hesitant to report to the City Manager, the individual is encouraged to report the behavior to the Mayor. Individuals should not feel obligated to bring their complaints to their immediate supervisor before bringing the matter to the attention of a Harassment Compliance Officer, the City Manager or the Mayor.

Contact information for these individuals can be found on the City's website at <https://www.cityofnewburgh-ny.gov>.

Anyone who witnesses or becomes aware of a potential instance of sexual harassment should also report this behavior to one of the above individuals.

Reports of sexual harassment may be made orally or in writing. A form for submission of a written complaint is attached to this Policy, and all covered individuals are encouraged to use this complaint form. If a covered individual reports sexual harassment on behalf of someone else, he/she should use the written complaint form and note that he/she is submitting the complaint on someone else's behalf.

Anyone who believes that he/she has been a target of prohibited sexual harassment may seek legal remedies, as explained below in the section on "Legal Protections."

A. Supervisory Responsibilities

Any supervisor or manager who receives a complaint or information about suspected sexual harassment, observes what may be sexually harassing behavior or for any reason becomes aware of or suspects that sexual harassment is occurring or has occurred, is required to report that suspected sexual harassment to a Harassment Compliance Officer, irrespective of whether the affected individual files a complaint. If the complaint or information involves the Harassment Compliance Officer, the supervisor/manager must report the suspected sexual harassment to the City Manager. If the complaint or information involves the City Manager, the supervisor/manager must report the suspected sexual harassment to the Mayor.

Contact information for these individuals can be found <https://www.cityofnewburgh-ny.gov>.

In addition to potentially being subject to appropriate corrective action, subject to any statutory or contractual limitations, if they engage in sexually harassing conduct or retaliation themselves, supervisors and managers will be subject to appropriate corrective action, subject to any statutory or contractual limitations, for failing to report suspected sexual harassment or for otherwise knowingly allowing sexual harassment to continue. Corrective action includes, but is not limited to, disciplinary action or termination of employment.

B. Complaint and Investigation of Sexual Harassment

All complaints or information about sexual harassment will be investigated, whether that information was reported in oral or written form. An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commenced immediately and completed as soon as possible. All persons involved, including complainants, witnesses and alleged sexual harassers will be afforded due process, as outlined below, to protect their rights to a fair and impartial investigation.

All covered individuals, including supervisors and managers, may be required to cooperate as needed in an investigation of suspected sexual harassment to the extent permitted by law. Anyone who participates in an investigation will not be retaliated against for that reason. The City will not tolerate retaliation against anyone who files a complaint, supports another's complaint or participates in an investigation regarding a violation of this Policy.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

While the process may vary from case to case, the following investigation procedure must be followed when there is any indication that sexual harassment has taken, or is taking, place:

- The City Manager, or designee, will investigate all complaints of sexual harassment, except as otherwise outlined herein. Third parties may be designated to investigate a complaint or assist with any investigation. If the complaint involves the City Manager, then the Mayor, or designee, will investigate the complaint(s) in accordance with the below procedure, except as otherwise outlined herein.
- Upon receipt of a complaint or report of suspected sexual harassment, the City Manager, or designee, will conduct an immediate review of the allegations. If the complaint is oral, the City Manager, or designee, will encourage the complainant or informant to complete the written complaint form, a copy of which is attached to this Policy. If he or she refuses, the City Manager, or designee, will prepare a complaint form based on the oral reporting.
- If documents, emails, phone records or other paper or electronic records are relevant to the allegations, the City will take steps to obtain and preserve them.
- The City Manager, or designee, will request and review all relevant documents, including all electronic communications.
- The City Manager, or designee, will interview all parties involved, including any relevant witnesses.
- All records of the investigation will be maintained in a secure and confidential location.
- The City Manager, or designee, will notify the individual who complained and the alleged perpetrator of the outcome of the investigation.
- The City Manager, or designee, will inform the individual who complained of his/her right to file a complaint or charge externally, as outlined below.

C. Corrective Action

Any person, including covered individuals of every level who, upon an investigation in accordance with this Policy, is determined to have engaged in impermissible sexual harassment or retaliation in violation of this Policy, will be subject to appropriate corrective action, subject to any statutory or contractual limitations, including, but not limited to, disciplinary action (e.g., suspension or termination of employment).

If the sexual harassment involves a non-employee or other individual, then other consequences may be implemented up to and including termination of any contractual or other relationship between the City and the non-employee or other individual.

D. Confidentiality

The confidentiality and privacy of all parties involved in a complaint, report or investigation of suspected sexual harassment or retaliation in accordance with this Policy will be respected to the

~~Strikethrough~~ denotes deletions

Underlining denotes additions

extent possible while permitting the City to conduct a thorough investigation of the complaint or report and take appropriate corrective action as necessary.

E. Bad Faith Claims

If, after investigating a complaint of sexual harassment, it is determined that a person has made a claim of sexual harassment or retaliation in bad faith, or intentionally provided false information regarding a claim of sexual harassment or retaliation, legal action and/or appropriate corrective action including, but not limited to, disciplinary action, termination of employment and/or termination of any contractual or other relationship with the City may be taken against that person, subject to any statutory or contractual limitations.

§ 34-31. Legal Protections and External Remedies

Sexual harassment is not only prohibited by the City, but it is also prohibited by State, federal and (where applicable) local law. Aside from the internal process at the City, covered individuals may also choose to pursue legal remedies including, for example, in court and/or with the below governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

A. New York State Human Rights Law (HRL)

The HRL, codified as N.Y. Executive Law, Art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment and protects employees, paid and unpaid interns and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with the DHR may be filed any time within one year of the harassment. If an individual did not file at the DHR, they can sue directly in State court pursuant to the HRL within three years of the alleged harassment. An individual may not file with the DHR if they have already filed a HRL complaint in State court.

Complaining internally to the City does not extend your time to file with the DHR or in court. The one-year and three-year time periods outlined above are counted from the date of the most recent incident of harassment.

You do not need an attorney to file a complaint with the DHR, and there is no cost to file. The DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, the DHR has the authority to award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, attorneys' fees and civil fines.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

The DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458, (718) 741-8400. The contact information for DHR's White Plains Office (which serves Orange County) is: 7-11 South Broadway, Suite 314, White Plains, New York 10601, Telephone No. (914) 989-3120, eFax: (914) 989-3122, InfoWhitePlains@dhr.ny.gov, www.dhr.ny.gov. Individuals can contact the DHR at (888) 392-3644 or visit dhr.ny.gov/complaint for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to the DHR. The website also contains contact information for DHR's regional offices across New York State.

B. Civil Rights Act of 1964

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within 300 days from the harassment. You do not need an attorney to file a complaint with the EEOC and there is no cost to file. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an employee believes that he/she has been discriminated against at work, he/she can file a "Charge of Discrimination." The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY), visiting their website at www.eeoc.gov or via email at info@eeoc.gov. If an individual filed an administrative complaint with the DHR, the DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

C. Local Protections

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live or work to find out if one or more of these laws exist.

For example, anyone who lives or works in Orange County may file complaints of sexual harassment with the Orange County Human Rights Commission at: 40 Matthews Street, Suite 301, Goshen, NY 10924, (845) 615-3680.

D. Contact the Police Department

If the sexual harassment involves physical touching, coerced physical confinement or coerced sexual acts, the conduct may constitute a crime and affected individuals should contact the police department.

§ 34-32. Dissemination and Training

This Policy should be posted prominently in all work locations to the extent practicable (for example, in a main office, but not an off-site work location). The City will provide this Policy to all employees and will provide this Policy to new employees upon hire.

All employees will receive sexual harassment prevention training at least annually.

We trust that everyone will continue to act responsibly to establish a working environment free of sexual harassment. We encourage you at any time to raise any questions you may have about this Policy.

§ 34-33 Severability

If any clause, sentence, paragraph, section or part of this Article shall be adjudged by any court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 3. This Equal Employment Opportunity and Anti-Harassment Policy and Policy Against Sexual Harassment takes effect on November 14, 2018.

LOCAL LAW NO.: 4 - 2018

OF

NOVEMBER 13, 2018

**A LOCAL LAW AUTHORIZING A PROPERTY TAX LEVY IN EXCESS OF THE LIMIT
ESTABLISHED IN GENERAL MUNICIPAL LAW SECTION 3-c**

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1. LEGISLATIVE INTENT

It is the intent of this local law to allow the City of Newburgh to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the "tax levy limit" as defined by General Municipal Law Section 3-c.

SECTION 2. AUTHORITY

This local law is adopted pursuant to subdivision 5 of General Municipal Law Section 3-c, which expressly authorizes a local government's governing body to override the property tax cap for the coming fiscal year by the adoption of a local law approved by a vote of sixty percent (60%) of said governing body.

SECTION 3. TAX LEVY LIMIT OVERRIDE

The City Council of the City of Newburgh, County of Orange, is hereby authorized to adopt a budget for the fiscal year commencing January 1, 2019 that requires a real property tax levy in excess of the amount otherwise prescribed in General Municipal Law Section 3-c.

SECTION 4. SEVERABILITY

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Secretary of State.

RESOLUTION NO.: 343 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION SCHEDULING A PUBLIC HEARING FOR NOVEMBER 26, 2018
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW
AMENDING SECTION 248-1(B)(1) ENTITLED "SEWER USE RENTS" TO INCREASE
SEWER USE RENTS TO 108 PERCENT OF THE CUSTOMER'S ANNUAL WATER BILL

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning a Local Law amending Section 248-1(B)(1) of the City of Newburgh Code of Ordinances entitled "Sewer Use Rents" to Increase Sewer Use Rents to 108 Percent of the Customer's Annual Water Bill; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 26th day of November, 2018, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

LOCAL LAW NO.: _____-2018

OF

_____, 2018

A LOCAL LAW AMENDING SECTION 248-1(B)(1) ENTITLED "SEWER USE RENTS"
OF THE CITY OF NEWBURGH CODE OF ORDINANCES TO INCREASE
SEWER USE RENTS TO 108 PERCENT OF THE CUSTOMER'S ANNUAL WATER BILL

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law amending Section 248-1(B)(1) of the City of Newburgh Code of Ordinances entitled 'Sewer Use Rents' to Increase Sewer Use Rents to 108 Percent of the Customer's Annual Water Bill".

SECTION 2 - AMENDMENT

Section 248-1(B)(1) "Sewer Use Rents" shall be amended to read as follows:

Section 248-1. Imposition; method of determination.

There is hereby established and imposed sewerage facilities rents and sewer use rents, which rents are to be imposed upon the owners of real property and which rents are to be determined as follows:

B. Sewer use rents.

- (1) The sewer use rent shall be ~~104~~ 108% of the customer's annual water bill, except as specified in Subsection B(2) and B(3).

SECTION 3 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect on January 1, 2019 after it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

DRAFT

Underlining denotes additions
~~Strikethrough~~ denotes deletions

RESOLUTION NO. 344 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH
DECLARING NOVEMBER 17, 2018 AS SONYA DIXON DAY
IN THE CITY OF NEWBURGH

WHEREAS, Sonya Dixon was employed by the Newburgh Enlarged City School District for 19 years; and

WHEREAS, in her capacity as Director of Grants the NECSD, she collaborated with faculty, staff, administrators and community members to bring hundreds of millions of dollars in grant funding to support many programs which have enriched the lives of students in the past, present and future, including such programs as the Newburgh Free Academy P-TECH, NECSD Marist Early High School Program, Vails Gate STEAM Academy Environment and the 21st Century and Empire State after school programs; and

WHEREAS, Mrs. Dixon touched the lives of many in the NECSD and surrounding community and developed rich and lasting friendships with her colleagues; and

WHEREAS, Mrs. Dixon will be remembered fondly and celebrated for all that she has accomplished in support of the community and most importantly the students; and

WHEREAS, the City Council finds it fitting and appropriate to honor Mrs. Dixon for her contributions to the NECSD, its students, faculty and community;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newburgh that this 17TH day of November, 2018 be officially declared "Sonya Dixon Day" in Newburgh, and that a copy of this resolution be presented to Mrs. Dixon's family with the gratitude of the City of Newburgh and its residents and stakeholders.

RESOLUTION NO.: 345 - 2018

OF

NOVEMBER 13, 2018

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A PAYMENT OF CLAIM WITH ALLSTATE INSURANCE COMPANY
a/s/o PHILIP LEGNINI IN THE AMOUNT OF \$2,865.11

WHEREAS, Allstate Insurance Company a/s/o Philip Legnini brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Two Thousand Eight Hundred Sixty-Five and 11/100 Dollars (\$2,865.11) in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Allstate Insurance Company a/s/o Philip Legnini in the total amount of Two Thousand Eight Hundred Sixty-Five and 11/100 Dollars (\$2,865.11) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

RESOLUTION NO.: 346 - 2018

OF

NOVEMBER 13, 2018

RESOLUTION AMENDING RESOLUTION NO. 333-2017,
THE 2018 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$316,962.67 WITHIN THE SELF INSURANCE FUND

WHEREAS, it has become necessary to reallocate available funds in the Self-Insurance Fund from Insurance Recoveries to offset expenses and to pay current bills and provide funding to the end of FY 2018;

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>
M.2680.0005 Insurance Recoveries WC		\$316,962.67
M.1420.4100 General Legal Liability		\$167,703.19
M.1420.4100.0001 General Legal Liability Services- No Fault		\$ 32,707.24
M.1930.0400 Judgment and Claims		<u>\$116,552.24</u>
TOTALS:		\$316,962.67