



City of Newburgh Council Work Session  
*Sesion de trabajo del Concejal de la  
Ciudad de Newburgh*  
September 5, 2019  
6:00 PM

Council Meeting Presentations

1. Public Hearing - Local Law rescinding installment payment agreements for eligible delinquent taxes

A public hearing will be held on Monday, September 9, 2019 to hear comment on the proposed local law amending Chapter 270, 'Taxation', of the Code of the City of Newburgh rescinding Section 270-23.1 through Section 270-23.11 of Article III entitled 'Collection of Delinquent Taxes' providing for the Installment Payment of Eligible Delinquent Taxes.

*Una audiencia pública será llevada a cabo el lunes, 9 de septiembre de 2019 para escuchar Comentarios sobre la Ley Local propuesta enmendando el Capítulo 270, 'Impuesto', del Código de la Ciudad de Newburgh rescindiendo la Sección 270-23.1 por medio de la Sección 270.23.11 del Artículo III titulado 'Colección de Impuestos Morosos' proporcionando para el Pago a Plazos de Impuestos Morosos Elegibles.*

Work Session Presentations

2. Facilities Master Plan Presentation by Robert Mitchell from Mitchell Associates Architects, PLLC

*Presentación por Robert Mitchell de "Mitchell Associates Architects, PLLC" sobre el Plan Maestro de Instalaciones*

3. State of Department of Recreation - Derrick Stanton / Potential Plan for Delano-Hitch Park - Victor Cornelius

*Estado del Departamento de Recreación – Derrick Stanton / Plan Potencial para el Parque Delano-Hitch*

Finance/Finanza

4. Gas & Electric Bid 2019

Resolution to ratify the award of a bid and the execution of a contract with Engie Resources, LLC for electrical supply to the City of Newburgh for a two (2) year term at a cost of \$0.05715 per kilowatt hour and the award of a bid and the execution of a contract with East Coast Power & Gas, LLC for gas supply services to the City of Newburgh for a two (2) year term at a cost of \$0.4066 per 100 cubic feet. (Todd Venning)

*Una resolución para ratificar la otorgación de un contrato y la ejecución de un contrato con Engie Resources, LLC para el suministro eléctrico a la*

*Ciudad de Newburgh por un periodo de dos (2) años a un costo de \$0.05715 por hora de kilovatio y la otorgación de una licitación y la ejecución de un contrato con East Coast Power & Gas, LLC para servicios de suministro de gas a la Ciudad de Newburgh por un periodo de dos (2) años a un costo de \$0.4066 por 100 pies cúbicos. (Todd Venning)*

Planning and Economic Development/Planificación y Desarrollo Económico

5. Purchase of 394 Liberty Street

Resolution to authorize the conveyance of real property known as 394 Liberty Street (Section 10, Block 1, Lot 41) at private sale to Abel Salazar, Irene Salazar and Alina Preciado for the amount of \$50,000.00. (Ali Church)

*Una resolución para autorizar el traspaso de bienes raíces conocidas como la 394 de la Calle Liberty (Sección 10, Bloque 1, Lote 41) en una venta privada a Abel Salazar, Irene Salazar y Alina Preciado por el monto de \$50,000.00 (Ali Church)*

6. Purchase of 16 Maple Street

Resolution to authorize the conveyance of real property known as 16 Maple Street (Section 25, Block 3, Lot 35) at private sale to Karen Cestoni for the amount of \$10,000.00. (Ali Church)

*Una resolución para autorizar el traspaso de bienes raíces conocidas como la 16 de la Calle Maple (Sección 25, Bloque 3, Lote 35) en una venta privada a Karen Cestoni por el monto de \$10,000.00. (Ali Church)*

7. 92 Overlook Place - Extension of Time to Rehabilitate

Resolution authorizing a twelve month extension of time to rehabilitate the premises known as 92 Overlook Place (Section 45, Block 8, Lot 24) in the City of Newburgh. (Michelle Kelson)

*Una resolución autorizando una extensión de tiempo de doce meses para rehabilitar las instalaciones conocidas como la 92 del Overlook Place (Sección 45, Bloque 8, Lote 24) en la Ciudad de Newburgh. (Michelle Kelson)*

8. 66 Johnston Street - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to M & N Newburgh Development, LLC to the premises known as 66 Johnston Street (Section 23, Block 7, Lot 21)

*Una resolución autorizando la ejecución de la liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a M & N Newburgh Development, LLC para las instalaciones conocidas como la 66 de la Calle Johnston (Sección 23, Bloque 7, Lote 21) (Michelle Kelson)*

9. 44 Johnes Street, unit 206-J - Release of Restrictive Covenants

Resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to Bisessar A. Moonesar to the premises known as 44 Johnes Street, unit 206 (Section 58, Block 1, Lot 1.-16) (Michelle

Kelson)

*Una resolución autorizando la ejecución de la liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a Bisessar A. Moonesar para las instalaciones conocidas como la 44 de la Calle Johnes, unidad 206 (Sección 58, Bloque 1, Lote 1.-16) (Michelle Kelson)*

10. CDBG FY 2020 Annual Action Plan - Schedule Public Hearing

Resolution scheduling a second public hearing for September 23, 2019 to hear public comment regarding the housing and community development needs of the City of Newburgh and to hear public comment on the City of Newburgh's proposed actions concerning the Community Development Block Grant Program for the 2020-2024 Five Year Consolidated Plan and Fiscal Year 2020 Annual Action Plan. (Ali Church)

*Una resolución programando una segunda audiencia publica para el 23 de septiembre para escuchar comentarios públicos sobre las necesidades de la Ciudad de Newburgh con respecto a viviendas y desarrollo comunitario y para escuchar comentarios públicos sobre las acciones propuestas por la Ciudad de Newburgh con respecto a la Subvención del Programa de Desarrollo de los Bloques Comunitarios para el Plan Consolidado de Cinco Años del 2020-2024 y el Plan de Acción Anual del Año Fiscal del 2020. (Ali Church)*

Grants/Contracts/Agreements / Becas /Contratos/Convenios

11. Apply for and Accept if Awarded a Cities RISE III Grant

Resolution authorizing the City Manager to apply for and accept if awarded a Cities for Responsible Investment and Strategic Enforcement Phase III grant from Enterprise Community Partners, Inc. to improve code enforcement policy and practices in the City of Newburgh. (Ali Church)

*Una resolución autorizando al Gerente Municipal para solicitar y aceptar si es otorgada una Subvención Fase III de Ciudades para Inversión Responsable y Aplicación Estratégica de "Enterprise Community Partners, Inc." Para mejorar pólizas del cumplimiento del código y prácticas en la Ciudad de Newburgh. (Ali Church)*

12. Resolution to Engage Mitchell Associates Architects, PLLC to Develop a Facilities Master Plan

Resolution authorizing the City Manager to accept a proposal and execute an agreement with Mitchell Associates Architects for architectural services for the City of Newburgh Facilities Master Plan Phase I at a cost of \$98,500.00 and amending Resolution No. 364-2018, the 2019 budget for the City of Newburgh, New York to transfer funds from Health Insurance to Executive Office - Consultant Services. (Ali Church)

*Una resolución autorizando al Gerente Municipal a aceptar una propuesta y ejecutar un acuerdo con Mitchell Associates Architects para servicios arquitectónicos para la Fase I del Plan Maestro de Instalaciones de la*

*Ciudad de Newburgh a un costo de \$98,500.00 y enmendando la Resolución No. 364-2018, el presupuesto del 2019 para que la Ciudad de Newburgh, Nueva York transfiera fondos del Seguro de Salud a la Oficina Ejecutiva – Servicios Consultivos. (Ali Church)*

13. FY2019 Edward Byrne Justice Grant Program

Resolution authorizing the City Manager to apply for and accept if awarded a U.S. Department of Justice Edward Byrne Memorial Justice Assistance Program grant in the amount of \$30,787.00 with a City match in the amount of \$9,184.25 to purchase a vehicle for the City of Newburgh Police Department. (Michelle Kelson)

*Una resolución autorizando al Gerente Municipal a solicitar y aceptar si es otorgado una Subvención del Programa de Asistencia de Justicia del Memorial Edward Byrne del Departamento de Justicia de los Estados Unidos por un monto de \$30,787.00 el cual será correspondido por la Ciudad en un monto de \$9,181.25 para comprar un vehículo para el Departamento de Policía de la Ciudad de Newburgh. (Michelle Kelson)*

14. Intermunicipal Water Supply Agreement with Town of New Windsor

Resolution authorizing the City Manager to execute an Inter-Municipal Water Supply Agreement with the Town of New Windsor. (Michelle Kelson)

*Una resolución autorizando al Gerente Municipal a ejecuta un Acuerdo Intermunicipal de Abastecimiento de Agua con la Ciudad de New Windsor. (Michelle Kelson)*

Ordinances/ Decretos

15. Ordinance amending Section 88-2 of the Code of Ordinances of the City of Newburgh to address retention of electronic records

Ordinance amending Section 88-2 of the Code of Ordinances of the City of Newburgh to address the retention of electronic records. (Michelle Kelson)

*Una Ordenanza enmendando Sección 88-2 del Código de Ordenanzas de la Ciudad de Newburgh para tratar la retención de registros electrónicos. (Michelle Kelson)*

Executive Session/ Sesión Ejecutiva

16. Proposed, pending or current litigation

*Litigación propuesta, pendiente o actual*



RESOLUTION NO.: 213 - 2019

OF

AUGUST 12, 2019

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 9, 2019  
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING CHAPTER  
270 "TAXATION" OF THE CODE OF THE CITY OF NEWBURGH RESCINDING  
SECTION 270-23.1 THROUGH SECTION 270-23.11 OF  
ARTICLE III "COLLECTION OF DELINQUENT TAXES" PROVIDING FOR  
THE INSTALLMENT PAYMENT OF ELIGIBLE DELINQUENT TAXES

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 "A Local Law amending Chapter 270, 'Taxation', of the Code of the City of Newburgh rescinding Section 270-23.1 through Section 270-23.11 of Article III entitled 'Collection of Delinquent Taxes' providing for the Installment Payment of Eligible Delinquent Taxes"; 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 9<sup>th</sup> day of September, 2019, in the 3<sup>rd</sup> Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held 8/12/19  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 13<sup>th</sup> day of Aug 20 19

Katrina Cotten  
Deputy City Clerk

LOCAL LAW NO.: \_\_\_\_\_ - 2019

OF

\_\_\_\_\_, 2019

A LOCAL LAW AMENDING CHAPTER 270 "TAXATION" OF THE CODE  
OF THE CITY OF NEWBURGH RESCINDING  
SECTION 270-23.1 THROUGH SECTION 270-23.11 OF  
ARTICLE III "COLLECTION OF DELINQUENT TAXES" PROVIDING FOR  
THE INSTALLMENT PAYMENT OF ELIGIBLE DELINQUENT TAXES

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 Chapter 270, 'Taxation', of the Code of the City of Newburgh rescinding Section 270-23.1 through Section 270-23.11 of Article III entitled 'Collection of Delinquent Taxes' providing for the Installment Payment of Eligible Delinquent Taxes".

**SECTION 2 - PURPOSE AND INTENT**

The purpose of this local law is to repeal Local Law No. 1-2012 which enacted Section 270-23.1 through Section 270-23.11 of Chapter 270, Article III which authorized installment payment of eligible delinquent taxes pursuant to Section 1184 of the New York State Real Property Tax Law. The City Council of the City of Newburgh finds that since Local Law No. 1-2012 was enacted that the installment payment agreement has not assisted property owners in becoming current on their real property tax payments and resulted in continued delinquency and non-payment of real property taxes. This City Council has determined that the continued delinquency and non-payment of real property taxes discourages the prompt payment of real property taxes and adversely affects the City's ability to provide and pay for essential public services. Therefore, the City Council further finds that repealing and rescinding Local Law No. 1-2012 in its entirety will promote the life, health, safety and well-being of all City residents.

**SECTION 3 - AMENDMENT**

Local Law No. 1-2012 of April 9, 2012, enacting Section 270-23.1 through Section 270-23.11 of Article III entitled "Collection of Delinquent Taxes" providing for the Installment Payment of Eligible Delinquent Taxes is hereby rescinded in its entirety.

#### SECTION 4 - SEVERABILITY

The provisions of this Local Law are separable and if any provision, clause, sentence, section, subsection, word or part thereof is held to be illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Local Law would have been adopted is such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part here of is held inapplicable had been specifically exempt therefrom.

#### SECTION 5 - CODIFICATION

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Local Law may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Local Law" shall be changed to "Chapter", "Section", or other appropriate word as required for codification; and that any such rearranging of the numbering and/or lettering and editing shall not affect the validity of this Local Law or the provisions of the Code of Ordinances affected thereby.

#### SECTION 6 - 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.

#### SECTION 7 - EFFECTIVE DATE

This Local Law shall be effective on October 1, 2019 and after the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION TO RATIFY THE AWARD OF A BID AND THE EXECUTION OF  
A CONTRACT WITH ENGIE RESOURCES, LLC FOR ELECTRIC SUPPLY TO  
THE CITY OF NEWBURGH FOR A TWO (2) YEAR TERM  
AT A COST OF \$0.05715 PER KILOWATT HOUR  
AND THE AWARD OF A BID AND THE EXECUTION OF A CONTRACT  
WITH EAST COAST POWER & GAS, LLC FOR GAS SUPPLY SERVICES TO  
THE CITY OF NEWBURGH FOR A TWO (2) YEAR TERM  
AT A COST OF \$0.4066 PER 100 CUBIC FEET**

**WHEREAS**, by Resolution No.: 193-2019 of August 12, 2019, this Council authorized the bid for the electric supply services contract and the bid for the gas supply services contract be awarded to the lowest responsible bidders, providing for a two (2) year term, and further authorized the City Manager to execute a contract for the provision of electric services and gas supply services, with all such terms and conditions as may be required by the Corporation Counsel and subject to ratification of the final pricing by this Council; and

**WHEREAS**, on behalf of the City of Newburgh, M & R Energy Resources Corporation has duly advertised for bids for the electric supply services contract and for gas supply services contract; and

**WHEREAS**, bids were duly received and opened and Engie Resources, LLC is the low bidder for the electric supply services and East Coast Electric & Gas, LLC is the low bidder for gas supply services;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh New York, hereby ratifies the bid for the electric supply services contract with Engie Resources, LLC, providing for a two (2) year term at a cost of \$0.05715 per kilowatt hour; and

**BE IT FURTHER RESOLVED**, that the Council of the City of Newburgh, New York hereby ratifies the bid for the gas supply services contract with East Coast Electric & Gas, LLC providing for a two (2) year term at a cost of \$0.4066 per 100 cubic feet.



City of Newburgh

Electric Bid Results

Date: 8/14/2019

Ann Avg Consumption - kWh 6,186,969

Term Start Date: January-20

Current Contract \$ 0.06337

Proposed Contract - 24 mth: \$ 0.05680  
Proposed Annual Savings \$ 40,648

25% Green  
Proposed Contract - 24 mth w \$ 0.05715  
Proposed Annual Savings \$ 38,483

| Supplier               | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>12-months | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>12-months<br>25% Green | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>18-months | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>18-months<br>25% Green | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>24-months | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>24-months<br>25% Green | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>36-Months | Price per kWh - PQR - including<br>Clean Energy Standard (DEC, REC and TQTS)<br>Full Plant Requirements<br>36-Months<br>25% Green |
|------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------|
| Constellation          | \$ 0.05374                                                                                                           | \$ 0.05393                                                                                                                        | \$ 0.05607                                                                                                           | \$ 0.05627                                                                                                                        | \$ 0.05802                                                                                                           | \$ 0.05822                                                                                                                        | \$ 0.06392                                                                                                           | \$ 0.06414                                                                                                                        |
| East Coast Power & Gas | \$ 0.05846                                                                                                           | \$ 0.05896                                                                                                                        | \$ 0.05999                                                                                                           | \$ 0.06049                                                                                                                        | \$ 0.05976                                                                                                           | \$ 0.06026                                                                                                                        | No Bid                                                                                                               | No Bid                                                                                                                            |
| Engie - incumbent      | \$ 0.05543                                                                                                           | \$ 0.05577                                                                                                                        | \$ 0.05652                                                                                                           | \$ 0.05687                                                                                                                        | \$ 0.05680                                                                                                           | \$ 0.05715                                                                                                                        | \$ 0.05893                                                                                                           | \$ 0.05927                                                                                                                        |
| Marathon Energy        | \$ 0.05690                                                                                                           | \$ 0.05590                                                                                                                        | \$ 0.05689                                                                                                           | \$ 0.05690                                                                                                                        | \$ 0.06090                                                                                                           | \$ 0.06190                                                                                                                        | \$ 0.06390                                                                                                           | \$ 0.06490                                                                                                                        |



## Electric Supply Bid

**Bid Due Date:** Wednesday, August 14, 2019 at 11:00 a.m.

**Contact:** Melissa Cobuzzi, Energy Procurement Consultant

M&R Energy Resources Corp.

845-534-5462

***Preferred Method of Response - Email:***

Melissa Massimi: [mmassimi@mandrenergy.com](mailto:mmassimi@mandrenergy.com)

**Exclusivity:** Please be advised that the City of Newburgh hereby authorizes M&R Energy Resources Corp. to exclusively represent our accounts, located within the following utility: Central Hudson Gas & Electric, in developing electric pricing proposals for us to consider from all participating bidders in this Electric Supply Bid. All questions should be directed to Melissa Cobuzzi, M&R Energy Resources Corp., via email: [mmassimi@mandrenergy.com](mailto:mmassimi@mandrenergy.com).

**Delivery and Receipt of Bids:** Bids must be submitted no later than the date and time as listed.

### **Late bids will not be accepted.**

**Bidders Responsibilities** -The Bidder assumes all responsibility for receipt of his/her bid by the City of Newburgh. The Bidder assumes all risk of delay via email.

**Rejection of Bids** - Newburgh reserves the right to reject all bids if such bids are not deemed in the best interest of the City and send a request for new bids, or to accept the bid of the lowest responsible Bidder, or that bid which is in the best interest of the City of Newburgh.

**Award of Contract** – In the event that Newburgh chooses to Award the contract, it will be awarded by 4 p.m. on August 14, 2019.

## Bid Specification and Bid Response Sheet

Central Hudson Account Numbers: See the attached excel spreadsheet.

Annual Consumption: 6,600,000 kWh

Contract State Date: January MRD 2020

Payment Terms: POR billing only

### Bidders Section to be completed and submitted with pricing:

Supplier Name: \_\_\_\_\_ Constellation \_\_\_\_\_

Contact Name: \_\_\_\_\_ Jeffrey Hills \_\_\_\_\_

Contact Phone Number: \_\_\_\_\_ 607-208-4107 \_\_\_\_\_

Contact Fax Number: \_\_\_\_\_

Contact email: \_\_\_\_\_ Jeffrey.Hills@constellation.com \_\_\_\_\_

The supplier MUST provide their bid in the following format:

Fixed Price \$/kWh

For the fixed-price, Suppliers must provide pricing in the form of all-hours fixed price (\$/kWh) for each contract term.

**All pricing must include \$0.00144 per kWh for the City of Newburgh's Energy Procurement Consultant. To be paid by the awarded bidder.**

The fixed price must be inclusive of all costs necessary to provide Clarkstown with full-requirements non-recallable electric supply, including but not limited to firm energy, capacity, transmission, load following, reserve margin requirements, all other necessary ancillary services, line losses, clean energy standard charges (ZEC, REC and TOTS) supplier's margin and Energy Consultant's fee. Any congestion costs and balancing penalties or fees must be borne by the Bidder within the prices provided.

| Term      | Price per kWh – POR<br>Including: Clean Energy<br>Standard (ZEC, REC and TOTS)<br>Full Plant Requirements | Price per kWh – POR<br>Including: Clean Energy<br>Standard<br>(ZEC, REC and TOTS)<br>25% Green<br>Full Plant Requirements | Price per kWh – POR<br><del>Excluding: Clean Energy<br/>Standard (ZEC, REC and<br/>TOTS)</del><br>Full Plant Requirements | Price per kWh – POR<br><del>Excluding: Clean Energy<br/>Standard (ZEC, REC and<br/>TOTS)</del><br>25% Green<br>Full Plant Requirements |
|-----------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 12-months | \$.05374                                                                                                  | \$.05393                                                                                                                  |                                                                                                                           |                                                                                                                                        |
| 18-months | \$.05607                                                                                                  | \$.05627                                                                                                                  |                                                                                                                           |                                                                                                                                        |
| 24-months | \$.05802                                                                                                  | \$.05822                                                                                                                  |                                                                                                                           |                                                                                                                                        |
| 36-months | \$.06392                                                                                                  | \$.06414                                                                                                                  |                                                                                                                           |                                                                                                                                        |
| Sweet 16  | \$.05528                                                                                                  | \$.05550                                                                                                                  |                                                                                                                           |                                                                                                                                        |



City of  
**NEWBURGH** New York

## Electric Supply Bid

**Bid Due Date:** Wednesday, August 14, 2019 at 11:00 a.m.

**Contact:** Melissa Cobuzzi, Energy Procurement Consultant

M&R Energy Resources Corp.

845-534-5462

**Preferred Method of Response - Email:**

Melissa Massimi: [mmassimi@mandrenergy.com](mailto:mmassimi@mandrenergy.com)

**Exclusivity:** Please be advised that the City of Newburgh hereby authorizes M&R Energy Resources Corp. to exclusively represent our accounts, located within the following utility: Central Hudson Gas & Electric, in developing electric pricing proposals for us to consider from all participating bidders in this Electric Supply Bid. All questions should be directed to Melissa Cobuzzi, M&R Energy Resources Corp., via email: [mmassimi@mandrenergy.com](mailto:mmassimi@mandrenergy.com).

**Delivery and Receipt of Bids:** Bids must be submitted no later than the date and time as listed.

**Late bids will not be accepted.**

**Bidders Responsibilities** -The Bidder assumes all responsibility for receipt of his/her bid by the City of Newburgh. The Bidder assumes all risk of delay via email.

**Rejection of Bids** - Newburgh reserves the right to reject all bids if such bids are not deemed in the best interest of the City and send a request for new bids, or to accept the bid of the lowest responsible Bidder, or that bid which is in the best interest of the City of Newburgh.

**Award of Contract** – In the event that Newburgh chooses to Award the contract, it will be awarded by 4 p.m. on August 14, 2019.



## Bid Specification and Bid Response Sheet

Central Hudson Account Numbers: See the attached excel spreadsheet.

Annual Consumption: 6,600,000 kWh

Contract State Date: January MRD 2020

Payment Terms: POR billing only

### Bidders Section to be completed and submitted with pricing:

Supplier Name: East Coast Power & Gas LLC

Contact Name: Ted Rodormer

Contact Phone Number: 929-306-7232

Contact Fax Number: 718-402-4336

Contact email: [trodormer@ecpg.com](mailto:trodormer@ecpg.com)

The supplier MUST provide their bid in the following format:

Fixed Price \$/kWh

For the fixed-price, Suppliers must provide pricing in the form of all-hours fixed price (\$/kWh) for each contract term.

**All pricing must include \$0.00144 per kWh for the City of Newburgh's Energy Procurement Consultant. To be paid by the awarded bidder.**

The fixed price must be inclusive of all costs necessary to provide Clarkstown with full-requirements non-recallable electric supply, including but not limited to firm energy, capacity, transmission, load following, reserve margin requirements, all other necessary ancillary services, line losses, clean energy standard charges (ZEC, REC and TOTS) supplier's margin and Energy Consultant's fee. Any congestion costs and balancing penalties or fees must be borne by the Bidder within the prices provided.

| Term      | Price per kWh – POR<br>Including: Clean Energy<br>Standard (ZEC, REC and TOTS)<br>Full Plant Requirements | Price per kWh – POR<br>Including: Clean Energy<br>Standard<br>(ZEC, REC and TOTS)<br>25% Green<br>Full Plant Requirements |
|-----------|-----------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|
| 12-months | 0.05846                                                                                                   | 0.05896                                                                                                                   |
| 18-months | 0.05999                                                                                                   | 0.06049                                                                                                                   |
| 24-months | 0.05976                                                                                                   | 0.06026                                                                                                                   |
| 36-months |                                                                                                           |                                                                                                                           |

Following accounts are excluded from pricing:

8282000600, 8282280500, 8353091000, 8353190000, 8667055000, 8673038500

**Bid Specification and Bid Response Sheet**

Central Hudson Account Numbers: See the attached excel spreadsheet.

Annual Consumption: 6,600,000 kWh

Contract State Date: January MRD 2020

Payment Terms: POR billing only

Bidders Section to be completed and submitted with pricing:

Supplier Name: Engie Resources, LLC.

Contact Name: Beth Roberts-Russell

Contact Phone Number: (716) 885-1068 or (917) 880-7132

Contact Fax Number: (716) 833-3368

Contact email: beth.roberts-russell@engie.com

The supplier MUST provide their bid in the following format:

Fixed Price \$/kWh

For the fixed-price, Suppliers must provide pricing in the form of all-hours fixed price (\$/kWh) for each contract term.

**All pricing must include \$.00144 per kWh for the City of Newburgh's Energy Procurement Consultant. To be paid by the awarded bidder.**

The fixed price must be inclusive of all costs necessary to provide Clarkstown with full-requirements non-recallable electric supply, including but not limited to firm energy, capacity, transmission, load following, reserve margin requirements, all other necessary ancillary services, line losses, clean energy standard charges (ZEC, REC and TOTS) supplier's margin and Energy Consultant's fee. Any congestion costs and balancing penalties or fees must be borne by the Bidder within the prices provided.

| Term      | Price per kWh - POR<br>Including: Clean Energy<br>Standard (ZEC, REC and<br>TOTS)<br>Full Plant Requirements | Price per kWh - POR<br>Including: Clean Energy<br>Standard<br>(ZEC, REC and TOTS)<br>25% Green<br>Full Plant Requirements | Price per kWh - POR<br>Excluding: Clean<br>Energy Standard (ZEC,<br>REC and TOTS)<br>Full Plant<br>Requirements | Price per kWh - POR<br>Excluding: Clean<br>Energy Standard (ZEC,<br>REC and TOTS)<br>25% Green<br>Full Plant<br>Requirements |
|-----------|--------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 12 months | \$0.05543                                                                                                    | \$0.05577                                                                                                                 |                                                                                                                 |                                                                                                                              |
| 24 months | \$0.05652                                                                                                    | \$0.05687                                                                                                                 |                                                                                                                 |                                                                                                                              |
| 36 months | \$0.05680                                                                                                    | \$0.05715                                                                                                                 |                                                                                                                 |                                                                                                                              |
| 48 months | \$0.05893                                                                                                    | \$0.05929                                                                                                                 |                                                                                                                 |                                                                                                                              |



# Pricing Proposal

Confidential & Proprietary

As of 8/14/2019 11:44:31 AM

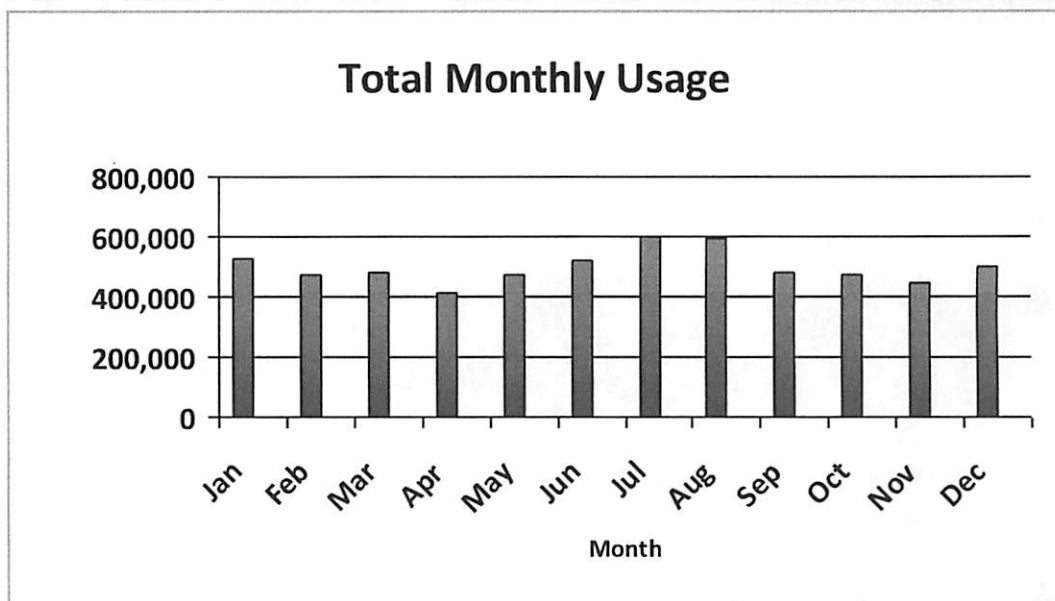
Prices Valid Until 4:00PM

## Quote Summary

|              |                                            |              |                      |                        |                      |
|--------------|--------------------------------------------|--------------|----------------------|------------------------|----------------------|
| <b>Quote</b> | 39696                                      | <b>Agent</b> | M&R Energy Resources | <b>Accounts Priced</b> | 63 out of 66 priced. |
| <b>Name</b>  | City of Newburgh - Electric Bid - New Deal |              |                      |                        |                      |

## Calendarized Volumes

| Month        | Usage            | Units      |
|--------------|------------------|------------|
| Jan          | 529,268          | KWH        |
| Feb          | 470,433          | KWH        |
| Mar          | 481,514          | KWH        |
| Apr          | 413,513          | KWH        |
| May          | 476,248          | KWH        |
| Jun          | 520,314          | KWH        |
| Jul          | 602,839          | KWH        |
| Aug          | 593,719          | KWH        |
| Sep          | 481,090          | KWH        |
| Oct          | 476,413          | KWH        |
| Nov          | 445,894          | KWH        |
| Dec          | 502,565          | KWH        |
| <b>Total</b> | <b>5,993,810</b> | <b>KWH</b> |



## Pricing Options

| Start Month | Term | Product  | Swing | Rewards | Single Bill | Total Usage | Price    | Price w/o Tax |
|-------------|------|----------|-------|---------|-------------|-------------|----------|---------------|
| 1/1/2020    | 6    | Fixed    | 100%  | No      | Yes         | 2,891,290   | \$0.0599 | \$0.0584      |
| 1/1/2020    | 6    | Fixed    | 100%  | No      | Yes         | 2,891,290   | \$0.0609 | \$0.0594      |
| 1/1/2020    | 12   | Fixed    | 100%  | No      | Yes         | 5,993,810   | \$0.0569 | \$0.0559      |
| 1/1/2020    | 12   | Fixed    | 100%  | No      | Yes         | 5,993,810   | \$0.0579 | \$0.0569      |
| 1/1/2020    | 18   | Fixed    | 100%  | No      | Yes         | 8,885,100   | \$0.0589 | \$0.0581      |
| 1/1/2020    | 18   | Fixed    | 100%  | No      | Yes         | 8,885,100   | \$0.0599 | \$0.0591      |
| 1/1/2020    | 24   | Fixed    | 100%  | No      | Yes         | 11,987,620  | \$0.0609 | \$0.0595      |
| 1/1/2020    | 24   | Fixed    | 100%  | No      | Yes         | 11,987,620  | \$0.0619 | \$0.0605      |
| 1/1/2020    | 30   | Fixed    | 100%  | No      | Yes         | 14,878,910  | \$0.0629 | \$0.0616      |
| 1/1/2020    | 30   | Fixed    | 100%  | No      | Yes         | 14,878,910  | \$0.0639 | \$0.0627      |
| 1/1/2020    | 36   | Fixed    | 100%  | No      | Yes         | 17,981,430  | \$0.0639 | \$0.0623      |
| 1/1/2020    | 36   | Fixed    | 100%  | No      | Yes         | 17,981,430  | \$0.0649 | \$0.0635      |
| 1/1/2020    | 11   | Fixed_SS | 100%  | No      | Yes         | 5,491,245   | \$0.0569 | \$0.0558      |
| 1/1/2020    | 11   | Fixed_SS | 100%  | No      | Yes         | 5,491,245   | \$0.0579 | \$0.0569      |

## Included Utility Accounts

DISCLAIMER: Any and all data contained herein is for informational purposes only and subject to change at any time, at the sole discretion of Marathon Energy. This proposal is not a binding offer to provide electricity or natural gas and related services. Service shall only become binding and enforceable when executed in accordance with the terms and conditions specified, in a formal contract, and nothing herein shall be deemed to require Marathon Energy to enter into any such agreement. This proposal and any attachments are intended only for the use of the addressee and contain information that is proprietary, privileged and highly confidential. If the reader of this proposal is not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited; please notify Marathon Energy immediately and promptly delete the proposal and any attachments.



# Pricing Proposal

Confidential & Proprietary

As of 8/14/2019 11:44:33 AM

Prices Valid Until 4:00PM

| Account Number | Utility        | Zone | Commodity   | Service Class | LF%  | Annual Usage |
|----------------|----------------|------|-------------|---------------|------|--------------|
| 8282282000     | Central Hudson | G    | Electricity | ND1           | 135% | 118          |
| 8666037000     | Central Hudson | G    | Electricity | SD2           | 28%  | 118,064      |
| 8666024000     | Central Hudson | G    | Electricity | ND1           | 90%  | 1,346        |
| 8353220009     | Central Hudson | G    | Electricity | RNH           | 71%  | 12,635       |
| 8353219500     | Central Hudson | G    | Electricity | ND1           | 6%   | 136          |
| 8353191000     | Central Hudson | G    | Electricity | ND1           | 26%  | 430          |
| 8353182500     | Central Hudson | G    | Electricity | ND3           | 23%  | 5,502        |
| 8332230500     | Central Hudson | G    | Electricity | ND1           | 72%  | 1,903        |
| 8328065500     | Central Hudson | G    | Electricity | ND1           | 71%  | 1,916        |
| 8327115500     | Central Hudson | G    | Electricity | ND1           | 73%  | 1,350        |
| 8325064000     | Central Hudson | G    | Electricity | ND3           | 46%  | 11,620       |
| 8324253000     | Central Hudson | G    | Electricity | ND2           | 82%  | 8,841        |
| 8288204500     | Central Hudson | G    | Electricity | ND1           | 73%  | 1,916        |
| 8284018900     | Central Hudson | G    | Electricity | ND1           | 70%  | 856          |
| 8120055000     | Central Hudson | G    | Electricity | PD2           | 105% | 1,334,256    |
| 8282000600     | Central Hudson | G    | Electricity | ND1           | ∞    | 39           |
| 8120070000     | Central Hudson | G    | Electricity | SD3           | 104% | 518,416      |
| 8263142500     | Central Hudson | G    | Electricity | ND1           | 71%  | 1,796        |
| 8264017300     | Central Hudson | G    | Electricity | ND1           | 93%  | 1,946        |
| 8264036500     | Central Hudson | G    | Electricity | ND1           | 71%  | 1,675        |
| 8264056500     | Central Hudson | G    | Electricity | ND1           | 75%  | 461          |
| 8284018702     | Central Hudson | G    | Electricity | ND1           | 38%  | 630          |
| 8282000500     | Central Hudson | G    | Electricity | ND1           | 29%  | 101          |
| 8283133500     | Central Hudson | G    | Electricity | ND1           | 75%  | 1,443        |
| 8282008000     | Central Hudson | G    | Electricity | ND2           | 67%  | 8,629        |
| 8282008500     | Central Hudson | G    | Electricity | ND1           | 71%  | 1,932        |
| 8282246500     | Central Hudson | G    | Electricity | ND1           | 51%  | 666          |
| 8282273500     | Central Hudson | G    | Electricity | ND1           | 72%  | 1,755        |
| 8282280500     | Central Hudson | G    | Electricity | ND1           | ∞    | 12           |
| 8667004900     | Central Hudson | G    | Electricity | ND3           | 58%  | 15,715       |
| 8279026000     | Central Hudson | G    | Electricity | ND1           | 71%  | 1,853        |
| 8681095500     | Central Hudson | G    | Electricity | SD2           | 6%   | 28,746       |
| 8666042000     | Central Hudson | G    | Electricity | SD3           | 41%  | 647,087      |
| 8673070716     | Central Hudson | G    | Electricity | ND1           | 6%   | 20           |
| 8673091500     | Central Hudson | G    | Electricity | SD1           | 117% | 52,881       |
| 8673147002     | Central Hudson | G    | Electricity | SD1           | 92%  | 129,265      |
| 8673152000     | Central Hudson | G    | Electricity | ND1           | 51%  | 3,612        |

DISCLAIMER: Any and all data contained herein is for informational purposes only and subject to change at any time, at the sole discretion of Marathon Energy. This proposal is not a binding offer to provide electricity or natural gas and related services. Service shall only become binding and enforceable when executed in accordance with the terms and conditions specified, in a formal contract, and nothing herein shall be deemed to require Marathon Energy to enter into any such agreement. This proposal and any attachments are intended only for the use of the addressee and contain information that is proprietary, privileged and highly confidential. If the reader of this proposal is not the intended recipient, you are hereby notified that any dissemination of this communication is strictly prohibited; please notify Marathon Energy immediately and promptly delete the proposal and any attachments.



## City of Newburgh

### Natural Gas Bid Results

Date: 8/19/2019

Annual Average Consumption - Ccf: 127,000

Term Start Date: January-20

#### Current Contract Price per Ccf

Current Contract Price: \$ 0.3878

|                                  |            |                 |
|----------------------------------|------------|-----------------|
| Proposed Contract:               | \$ 0.4066  | Percent Savings |
| Proposed Savings vs. C. Contract | \$ (2,388) | -5%             |

| Supplier                            | Bid Date  | Fixed Price<br>12<br>Months | Fixed Price<br>18<br>Months | Fixed Price<br>24<br>Months | Fixed Price<br>36<br>Months |
|-------------------------------------|-----------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| East Coast Power & Gas              | 8/14/2019 | \$ 4.114                    | \$ 4.640                    | \$ 4.116                    | \$ 4.122                    |
|                                     | 8/19/2019 | \$ 4.054                    | No Bid                      | \$ 4.066                    | No Bid                      |
|                                     |           | NYMEX<br>12<br>Months       | NYMEX<br>18<br>Months       | NYMEX<br>24<br>Months       | NYMEX<br>36<br>Months       |
| East Coast Power & Gas              | 8/14/2019 | \$ 1.670                    | \$ 1.582                    | \$ 1.633                    | \$ 1.606                    |
|                                     | 8/19/2019 | \$ 1.670                    | \$ 1.582                    | \$ 1.633                    | \$ 1.606                    |
| Supplier                            | Bid Date  | Fixed Price<br>12<br>Months | Fixed Price<br>18<br>Months | Fixed Price<br>24<br>Months | Fixed Price<br>36<br>Months |
| Marathon Energy                     | 8/19/2019 | \$ 4.634                    | \$ 4.629                    | \$ 4.629                    | \$ 4.619                    |
| New York Gas & Electric - incumbent | 8/15/2019 | \$ 5.112                    | No Bid                      | \$ 5.244                    | No Bid                      |

All pricing is confidential and is for the informational purposes of City of Newburgh.



## City of Newburgh

### Natural Gas Bid Results

Date: 8/19/2019

Annual Average Consumption - Ccf: 127,000

Term Start Date: January-20

#### Current Contract Price per Ccf

Current Contract Price: \$ 0.3878

|                                  |            |                 |
|----------------------------------|------------|-----------------|
| Proposed Contract:               | \$ 0.4066  | Percent Savings |
| Proposed Savings vs. C. Contract | \$ (2,388) | -5%             |

| Supplier                            | Bid Date  | Fixed Price<br>12<br>Months | Fixed Price<br>18<br>Months | Fixed Price<br>24<br>Months | Fixed Price<br>36<br>Months |
|-------------------------------------|-----------|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| East Coast Power & Gas              | 8/14/2019 | \$ 4.114                    | \$ 4.640                    | \$ 4.116                    | \$ 4.122                    |
|                                     | 8/19/2019 | \$ 4.054                    | No Bid                      | \$ 4.066                    | No Bid                      |
|                                     |           | NYMEX<br>12<br>Months       | NYMEX<br>18<br>Months       | NYMEX<br>24<br>Months       | NYMEX<br>36<br>Months       |
| East Coast Power & Gas              | 8/14/2019 | \$ 1.670                    | \$ 1.582                    | \$ 1.633                    | \$ 1.606                    |
|                                     | 8/19/2019 | \$ 1.670                    | \$ 1.582                    | \$ 1.633                    | \$ 1.606                    |
| Supplier                            | Bid Date  | Fixed Price<br>12<br>Months | Fixed Price<br>18<br>Months | Fixed Price<br>24<br>Months | Fixed Price<br>36<br>Months |
| Marathon Energy                     | 8/19/2019 | \$ 4.634                    | \$ 4.629                    | \$ 4.629                    | \$ 4.619                    |
| New York Gas & Electric - incumbent | 8/15/2019 | \$ 5.112                    | No Bid                      | \$ 5.244                    | No Bid                      |

All pricing is confidential and is for the informational purposes of City of Newburgh.





East Coast Power & Gas, LLC  
 340 Jackson Ave, Bronx, New York 10454  
 Tel: 718-402-5107 Fax: 718-402-4336  
 info@ecpowerandgas.com



## YOUR POWER TO CHOOSE

|                                                             |                                      |                  |                                                               |                    |                                        |
|-------------------------------------------------------------|--------------------------------------|------------------|---------------------------------------------------------------|--------------------|----------------------------------------|
| Date: 8/19/2019                                             |                                      | Completed by: LV |                                                               | Contract type: New |                                        |
| <b>Customer</b> Customer Name "Customer": City of Newburgh  |                                      |                  | <b>Billing</b> Contact Name: TODD VENNING                     |                    | Method: Email                          |
| Service Address: See Attached                               |                                      |                  | Billing Address: City Hall, 83 Broadway, Newburgh, N.Y. 12550 |                    |                                        |
| Email; Phone: 845 569 7322; TVenning@cityofnewburgh-ny.gov  |                                      |                  | Email; Phone: 845 569 7322; TVenning@cityofnewburgh-ny.gov    |                    |                                        |
| Sales Person/Broker: M&R                                    |                                      | SBC:             | <input checked="" type="checkbox"/> Door-to-Door              |                    |                                        |
|                                                             |                                      |                  | N/A Residential                                               |                    | X Commercial                           |
|                                                             |                                      |                  | N/A Apt Building                                              |                    | N/A House of Worship                   |
| Billing: POR X Dual N/A Pass Thru(s): No                    |                                      |                  | Rate Class: N/A                                               |                    | Utility Pool %                         |
| Utility/Local Distribution Company ("Utility" or LDC): CHUD |                                      |                  | Utility Account Number (s): see appendix A                    |                    |                                        |
| Select Plan/Commodity: Gas                                  |                                      | X Gas            | Firm X                                                        | Interruptible N/A  | N/A Electric 100% Green No             |
| Price Plans                                                 | Fixed Price X Variable N/A Index N/A |                  | Zone(s): N/A                                                  |                    | Fixed Price N/A Variable N/A Index N/A |
| Therm                                                       | Tax Exempt: Yes                      |                  | Monthly Budget: No                                            |                    | Budget Amount:                         |

### CUSTOMER DISCLOSURE STATEMENT

**Price:** Electric Fixed Price N/A /kWh, and additional costs if usage exceeds or falls below 25 percent of Base Historic Load. Gas Fixed Price 0.4066 /therm, and additional costs if usage exceeds or falls below 25 percent of Base Historic Load. Variable rate plans run month-to-month, with no long term commitment or cancellation fee and the rate you pay per kWh for electric and per Dth for gas can vary from month to month based on the market. Electric Index + Rate Price will equal the Index rate plus a \$ N/A fixed adder. Gas NYMEX + Rate Price will equal the NYMEX rate plus a \$ N/A fixed adder

**How price is determined:** Electric Fixed and Variable Price Rates include the cost of electricity obtained from all sources (including energy, capacity, settlement, ancillaries, losses and congestion), related transmission and distribution charges and other market-related factors, including such factors as electricity market pricing, utility charges, and other market price related factors, as determined by East's discretion, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. Gas Fixed and Variable Price Rates includes the wholesale cost of natural gas (including commodity, capacity, storage and balancing), transportation to the Delivery Point, and other market-related factors, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. While variable price rates will vary month-to-month, fixed price rates will not change throughout Term of Agreement. Electric Index Price will be determined by the varying Index market rate, a publicly available index, plus the fixed adder as stated above (the fixed adder will not change throughout the Term of the Agreement), plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. Gas NYMEX+ Rate Price will be determined by the varying NYMEX market rate, a publicly available price, plus the fixed adder as stated above (the fixed adder will not change throughout the Term of the Agreement), plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. All Fixed, Index and NYMEX+ rates may be modified due to a subsequent change in the law per the Regulatory Change section 19 of the Terms & Conditions.

**Length of the agreement and end date:** The Initial Term of this Agreement will be for 24 month(s) beginning on the first available date that your Account is successfully enrolled with your Distribution Utility. Unless otherwise agreed to, upon completion of the Initial Term, this Agreement will renew on a month-to-month basis with a monthly variable rate methodology with no change to the remaining terms. Contractual Start Date: 1/1/2020

**Process customer may use to rescind the agreement without penalty:** A residential customer may rescind this Agreement by calling East at 1.800.545.9155 within three (3) business days of executing this Agreement (if executed in person), or within three (3) business days of receipt of confirmation of this Agreement (if enrolled via a telephonic or Internet-based sale), with no termination fee.

**Amount of Early Termination Fee and method of calculation:** For all residential customers, and commercial customers solicited through door-to-door marketing, the early termination fee will be no greater than \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months. For all other customers, the early termination fee will equal the multiplication of the (i) difference between the price set forth in this Agreement and the calculation by East of the price at the date of termination; and (ii) the estimated volumes for the remainder of the Initial or Renewal Term, as applicable, using the actual volumes received by Customer for the prior 12 month period as the volumes used in determining damages.

**Amount of Late Payment Fee and method of calculation:** Customer agrees to pay each invoice in full on or before the due date or be subject to a late payment charge of 1.5% per month.

**Provisions for renewal of the agreement:** At least 30 days and no more than 60 days prior to the renewal date, East Coast Power & Gas will notify Customer in writing of the terms of renewal of this Agreement and of the Customer's right to renew, reject or renegotiate this Agreement. While receiving service on a month-to-month basis, such notification will be provided only for the first renewal occurring at the end of the Initial term, and Customer or East may cancel or terminate this Agreement by providing 30 days' advance written notice of termination to the other party

By entering into this Agreement, Customer agrees that they: 1-are authorized to transact on behalf of these accounts and 2- agree to the terms (along with the attached Terms and Conditions) and authorizes East to act as Customer's agent in dealing with the Utility.

|                                                 |                            |
|-------------------------------------------------|----------------------------|
| <b>EAST COAST POWER &amp; GAS, LLC ("EAST")</b> | <b>CUSTOMER</b>            |
| <b>Signed By:</b>                               | <b>Signed By:</b>          |
| <b>Name: Derek Pisani</b>                       | <b>Name: JOSEPH POLINI</b> |
| <b>Date:</b>                                    | <b>Date: 8/19/19</b>       |

## Consumer Bill of Rights

### New York State Public Service Commission Consumer Bill of Rights

Customers can purchase energy from an Energy Services Company (ESCO) or from a traditional utility. If you choose to purchase energy from an ESCO you are entitled to:

- A clear description of the services offered by the ESCO.
- Receive energy delivery and 24-hour emergency services from your utility company.
- Clear procedures for switching energy suppliers, including information about the enrollment process.
- Disclosure, in simple and clear language, of the terms and conditions of the agreement between you and the ESCO including: price and all variable charges or fees; length of the agreement; terms for renewal of the agreement; cancellation process and any early termination fees, which are limited by law; and conditions, if any, under which the ESCO guarantees cost savings.
- Rescind an agreement with an ESCO within three days of receiving the agreement, if you are a residential customer.
- A description of how pre-payment agreements work, if offered.
- Notice from the ESCO, no less than thirty days prior to the contract renewal date, of the renewal terms and the options you have as a customer. A fair and timely complaint resolution process.
- Provision of any written documents (contracts, marketing materials, and this ESCO Consumer Bill of Rights), in the same language used to enroll you as a customer.

If you are a residential customer you are also entitled to the rights and protections of the Home Energy Fair Practices Act (HEFPA) which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. For more information go to [www.dps.ny.gov/resright.html](http://www.dps.ny.gov/resright.html).

ESCOs that do not assure these consumer rights could lose their eligibility to provide service in New York. Please report any complaints to the Department of Public Service at 1-800-342-3377 (8:30 am - 4:00 pm), by mail at Office of Consumer Services, NYS Department of Public Service, 3 Empire State Plaza, Albany, NY 12223, or online at [www.dps.ny.gov](http://www.dps.ny.gov).

You can find more information about your energy alternatives by visiting: [www.askpsc.com](http://www.askpsc.com)



**1. Agreement to Sell and Purchase Energy.** This is an agreement between East Coast Power and Gas, LLC ("East"), an independent energy services company, and the undersigned customer ("Customer") under which Customer shall initiate natural gas and/or electricity service and begin enrollment with East (the "Agreement"). Customer will sign and return this Agreement to East by 3:00 p.m. ET on the day the Contract is received by Customer and an Agreement returned later than such time may be honored by East only at its sole discretion. East is dependent upon Customer or Customer's agent/broker for data required for timely enrollment of Customer's account(s) and Customer warrants it has given East complete and accurate information. East is not responsible for any delays, fees or penalties caused by Customer's failure to provide timely, complete or accurate information. Subject to the terms and conditions of this Agreement, East agrees to sell and deliver, and Customer agrees to purchase and accept the quantity of natural gas and/or electricity, as estimated by East, necessary to meet Customer's requirements based upon consumption data obtained by East or the delivery schedule of the Local Distribution Utility (the "LDC"). East is not affiliated with and does not represent the LDC. The amount of natural gas and/or electricity supplied under this Agreement is subject to change based upon data reflecting Customer's consumption obtained by East or the LDC's delivery schedule. The LDC will continue to deliver the natural gas and/or electricity supplied by East. East may request at any time prior to or during the Initial Term or any Renewal Term, financial statements or financial information and Customer will provide accurate and complete financial information to East promptly. Failure to provide such information may result in enrollment delays or suspension of performance at no liability to East.

**2.Term.** For Variable Rate service this Agreement shall commence as of the date Customer's notice regarding the change of Customer's provider to East is deemed effective by the LDC, and shall continue for 30 days thereafter (the "Initial Term"). Unless otherwise agreed to, upon completion of the Initial Term, this Agreement will renew on a month-to-month basis with a monthly variable rate methodology with no change to the remaining terms. (the "Renewal Term"). While receiving service on a month-to-month basis, either party may cancel or terminate this Agreement by providing 30 days' advance written notice of termination to the other party.

For Fixed Rate and Index Price Plan service, this Agreement shall commence as of the date Customer's notice regarding the change of Customer's provider to East is deemed effective by the LDC, and shall continue for 3-36 months thereafter, as designated on your Customer Disclosure Statement (the "Initial Term"). Unless otherwise agreed to, upon completion of the Initial Term, this Agreement will renew on a month-to-month basis with a monthly variable rate methodology with no change to the remaining terms (the "Renewal Term"). At least 30 days and no more than 60 days prior to the renewal date, East will notify Customer in writing of the terms of renewal of this Agreement and of the Customer's right to renew, reject or renegotiate this Agreement. While receiving service on a month-to-month basis, such notification will be provided only for the first renewal occurring at the end of the Initial term, and Customer or East may cancel or terminate this Agreement by providing 30 days' advance written notice of termination to the other party. In the event an Initial Term or a Renewal Term is interrupted by the utility improperly switching the Customer to a new supplier, East may re-enroll the Customer with the utility.

**3. Pricing, Billing, Termination.** Unless otherwise agreed to in writing, the price for all natural gas sold under this Agreement is designated on your Customer Disclosure Statement ("Disclosure Statement"). As designated in your Disclosure Statement, the price for natural gas shall be one of the following: a variable price which each month shall reflect the whole sale cost of natural gas (including commodity, capacity, storage and balancing), transportation to the Delivery Point, and other market-related factors, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins; NYMEX plus a fixed adder (Index); or a fixed price on a per therm basis. In each case, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. Unless otherwise agreed to in writing, the price for all electricity sold under this Agreement is designated on your Disclosure Statement. As designated in your Disclosure Statement, the price for electricity shall be one of the following: a variable price which shall each month reflect the cost of electricity obtained from all sources (including energy, capacity, settlement, ancillaries), related transmission and distribution charges and other market-related factors, including such factors as electricity market pricing, utility charges, and other

## Terms and Conditions

market price related factors, as determined by East's discretion, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins; Index plus a fixed adder (Index); or a fixed price on a per kWh basis. In each case, plus all applicable taxes, fees, charges or other assessments and East's costs, expenses and margins. All Fixed, Index and NYMEX+ rates may be modified due to a subsequent change in the law per Section 19 Regulatory Change.

For fixed price service if usage in any month exceeds the level of usage in the same month in the previous year ("Base Load") by 25 percent or more, the Customer will be charged a variable price for all usage in excess of the Base Load and the fixed price for usage up to the Base Load. If the usage in any month falls by 25 percent or more below the Base Load, the Customer will be charged the fixed price for all usage and shall be charged for hedging, cash out costs, settlement or balancing costs related to the difference between the base load minus 25 percent and the actual consumption. All calculations will be performed on a per account basis. If there is a material adverse change in the business or financial condition of Customer (as determined by East at its discretion) or if Customer fails to meet its obligations under this Agreement or pay or post any required security deposit, then, in addition to any other remedies that it may have, East may terminate this Agreement upon 15 days' written notice to Customer or, consistent with East's right to bill you directly or bill you through the utility, East may at your cost, transfer the account(s) to the utility "POR" (Purchase of Receivables) program if said accounts are not already in the program.

If Customer terminates this Agreement prior to the end of the Initial or Renewal Term or if East terminates this Agreement due to Customer's breach, the Customer shall pay East, in addition to any other applicable charges, an early termination fee equivalent to the multiplication of the (i) difference between the fixed price set forth in this Agreement and the calculation by East of the fixed price at the date of termination; and (ii) the estimated volumes for the remainder of the Initial or Renewal Term, as applicable using the actual volumes received by Customer for the prior 12 month period as the volumes used in determining damages. Notwithstanding the foregoing, for all residential customers and commercial customers solicited through door-to-door marketing, the early termination fee will

be no greater than \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months. Customer may receive a single bill for both commodity and delivery costs from either East or the LDC, or each of the LDC and East may invoice Customer separately. Customer warrants that the information provided by it on the Customer Disclosure Statement, including but not limited to its billing address, is complete and accurate in all respects and will pay any cost accruing to East as a result of such information being or becoming incomplete or inaccurate. If East invoices Customer monthly for natural gas and/or electricity supplied under this Agreement, as measured by the LDC (or in absence of such usage data from the LDC, as estimated by East using Customer's historical usage which East will true up upon East receiving usage data from the LDC), East will send such invoice to the billing address specified in the Customer Disclosure Statement which shall be considered the complete and accurate billing address and Customer will pay each invoice by bank wire or ACH in full within 20 days of the invoice date or be subject to a late payment charge of 1.5% per month. For all purposes, the billing address shall be considered the appropriate address for purposes of collection of any invoice due or past due and any interest accrued thereupon. East reserves the right to charge customer for any duplicate bills issued to Customer for any purpose or for detailed invoice summaries requested by Customer. Customer payments remitted in response to a consolidated bill shall be pro-rated (when so required) in accordance with procedures adopted by the New York State Department of Public Service (the "DPS"). East may assign and sell Customer accounts receivable to the LDC. If Customer's energy usage exceeds the cost of providing services to Customer and East is no longer economically able to continue this Agreement, East has the right to terminate this Agreement in accordance with applicable regulations. This Agreement may be terminated at the sole discretion of East if you fail to meet any of the terms and conditions of this Agreement, for nonpayment, or if any of the information you have provided to East is or becomes untrue. In the event of failure to remit payment when due by a residential customer, East may terminate commodity service and seek suspension of distribution service in conformance with the Home Energy Fair Practices Act ("HEFPA"). Failure by a commercial customer to make full payment of East charges due on any consolidated bill prepared by the LDC for East will



be grounds for disconnection of utility services in accordance with NYPSC rules and regulations on the termination of service to non-residential customers, 16 NYCRR Section 13.3. A \$30 fee will be charged for all returned payments. For any NYMEX + products East will execute Nymex/Henry Hub trigger prices associated with Customer's executed sales agreement. Trigger volumes will be defined and requested by the Customer and be evenly divisible by 2,500Dth and will not exceed the total monthly volume per Customer's contractual obligation. Customer will bear any losses due to ineffective utilization. The requested trigger prices and associated volumes will be valid until executed or amended by the Customer in writing or e-mail.

**4. Assignment.** Customer may not assign its interests in and delegate its obligations under this Agreement without the express written consent of East. This contract will be binding upon any successors in interest of the customer. Customer must demonstrate that any assignee or successor is at least as creditworthy as Customer. East may sell, transfer, pledge, or assign the accounts, revenues, or proceeds hereof, in connection with any financing agreement or receivables purchase program, and may assign this Agreement to another energy supplier, energy services company or other entity as authorized by the DPS.

**5. Information Release Authorization.** Customer authorizes East to obtain and review information regarding Customer's credit history from credit reporting agencies and the following information from the LDC: consumption history; billing determinants; account number; credit information; public assistance status; existence of medical emergencies, status as to whether Customer has a medical emergency, is human needs, elderly, blind or disabled and data applicable to cold weather periods under PSL § 32 (3); and information pertaining to PSL § 33, tax status and eligibility for economic development or other incentives. This information may be used by East to determine whether it will commence and/or continue to provide energy supply service to Customer and will not be disclosed to a third party unless required by law. Customers preferred method to be contacted by East is via Email. Customer's execution of this Agreement shall constitute authorization for the release of this information to East. This authorization will remain in effect during the Initial Term and any Renewal Term. Customer may rescind this

authorization at any time by providing written notice thereof to East or by calling East at [1.800.545.9155](tel:1.800.545.9155). East reserves the right to cancel this Agreement in the event Customer rescinds the authorization. Upon Cancellation, East shall provide a cancellation number to Customer.

**6. Consumer Protections.** The services provided by East to Customer are governed by the terms and conditions of this Agreement and HEFPA for residential customers. East will provide at least 15 days' notice prior to the cancellation of service to Customer. In the event of non-payment of any charges owed to East, a residential Customer may be subject to termination of commodity service and the suspension of distribution service under procedures approved by the DPS. Customer may obtain additional information by contacting East at 1.800.545.9155 or the DPS at 1-800-342-3377, or by writing to the DPS at: New York State Department of Public Service, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223, or through its website at: [www.dps.ny.gov](http://www.dps.ny.gov). You may also contact the Department for inquiries regarding the competitive retail energy market at 1.888.697.7728.

**7. Cancellation.** A residential Customer may rescind this Agreement within 3 business days after the signing or receipt of this Agreement, whichever comes first, by contacting East at 1.800.545.9155 or in writing. Customer is liable for all East charges until Customer returns to the LDC or goes to another supplier. A final bill will be rendered within twenty (20) days after the final scheduled meter reading or if access is unavailable, an estimate of consumption will be used in the final bill, which will be trued up subsequent to the final meter reading.

**8. Agency-Gas.** Customer hereby designates East as agent to: (a) arrange and administer contracts and service agreements between Customer and East and between the interstate pipeline transporters of Customer natural gas supplies; (b) nominate and schedule with the interstate pipeline the transportation of Customer's natural gas supplies from the Sales point to the Delivery Points, and with the LDC for the transportation of the Customer's natural gas supplies from the Delivery Points to the Customer's end-use premises; and (c) aggregate Customer's natural gas supplies with such supplies of other customers served

by East to maintain qualification for LDC transportation service and resolve imbalances that may arise during the term of this Agreement. East as agent for the Customer will schedule the delivery of adequate supplies of natural gas that meet the Customer's city gate requirements as established by the LDC and in response to information provided by the LDC.

The Sales Points for the natural gas supplies provided under this Agreement will be a point or points located outside the State of New York as selected from time to time by East to assure service reliability. The Delivery Points for the natural gas transported by interstate pipelines will be the city gate stations of the LDC. East agrees to arrange for the transportation of the natural gas supplied under this Agreement from the Sales Points to the Delivery Points and from the Delivery Points to the Customer's end-use premises. These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**Agency-Electric:** Customer hereby designates East as agent to; (a) arrange and administer contracts and service agreements between Customer and East and those entities including the New York Independent System Operator ("NYISO") engaged in the generation, transmission and delivery of Customer electricity supplies; and (b) nominate and schedule with the appropriate entities including the LDC for the delivery of electricity to the Sales Point and the Customer's end-use premises. East as agent for the Customer will schedule the delivery of adequate supplies of electricity that meet the Customer's requirements as established by the LDC and in response to information provided by the LDC. The Sales Points for the electricity will be a point at the NYISO East load bus (located outside of the municipality where Customer resides). These services are provided on an arm's length basis and market-based compensation is included in the price noted above.

**9. Buyer's Usage Obligations:** For Customers providing Contract Quantity as the base usage of this Agreement, as described in Attachment A and if there is a Material Usage Deviation, Customer will be responsible for the losses and costs, including the costs of obtaining and/or liquidating the applicable volume, based upon the difference between the applicable Contract Quantity and Actual Quantity. Customer will pay the amount of such losses and costs to East within fifteen (15) Business Days of East's

invoice. "Material Usage Deviation" means any deviation in Actual Quantity at the Service Location(s) stated in the related Transaction Confirmation from Contract Quantity (or, as applicable, estimated Contract Quantities) stated in that Transaction Confirmation of +/- 25% or more.

**10. Addition or Deletion of account(s):** At any time during the term of this Agreement, upon advance written notice to East, Customer may request to add accounts to be served pursuant to this Agreement at the Contract Price, or to delete accounts from service for no early termination fee, up to the point at which the contracted volumes and load factor remain constant and unchanged in aggregate. Account addition(s) that cause the add/delete band to be exceeded may be, at East's sole discretion, added at the Contract Price. If East does not offer to add such account addition(s) at the Contract Price, Customer and East may agree to a price for the additional volumes. Account deletion(s) in excess of the add/delete band may be, at East's sole discretion, deleted for no early termination charge for such deletion(s). If East does not offer to delete such account(s) for no early termination charge, Customer shall pay East for the liquidation value (Contract Price less current market price) of the associated quantity liquidated within fifteen (15) days of notice from East of such amount due. The timing of completion for any addition or deletion shall be determined by the enrollment/drop rules in effect for the applicable market

**11. Title.** Customer and East agree that title to, control of, and risk of loss to the natural gas and electricity supplied by East under this Agreement will transfer from East to Customer at the Sales Point(s).

**12. Warranty.** This Agreement, including any enrollment form and applicable attachments, as written makes up the entire Agreement between Customer and East. East makes no representations or warranties other than those expressly set forth in this Agreement, and East expressly disclaims all other warranties, express or implied, including merchantability and fitness for a particular use.

**13. Force Majeure.** East will make commercially reasonable efforts to provide natural gas and/or electricity hereunder but East does not guarantee a continuous supply of natural gas and/or electricity to Customer. Certain causes and events out of the control of East ("Force Majeure Events") may result in interruptions in service. East will not be liable for any



such interruptions caused by a Force Majeure Event, and East is not and shall not be liable for damages caused by Force Majeure Events. Force Majeure Events shall include acts of God, fire, flood, storm, terrorism, war, civil disturbance, acts of any governmental authority, accidents, strikes, labor disputes or problems, required maintenance work, inability to access the local distribution utility system, non-performance by the LDC (including, but not limited to, a facility outage on its gas distribution lines or electric facilities), changes in laws, rules, or regulations of any governmental authority or any other cause beyond East's control.

**14. Liability.** The remedy in any claim or suit by Customer against East will be solely limited to direct actual damages (which will not exceed the amount of Customer's single largest monthly invoice amount in the immediately preceding 12 months). Subject to the foregoing, if, in respect of the enrollment of Customer, an administrative or unintentional error occurs caused solely by East which inadvertently results in Customer accruing damages from its previous supplier, Customer may provide East written notice of damages caused by such error with all supporting documentation including but not limited to the previous supplier's sales contract and invoices. Customer acknowledges that such notice and supporting documentation will allow East to evaluate, in its discretion, the amount of damage then due, if any, to Customer and the foregoing does not constitute a guarantee commitment or agreement of East to pay any requested damages. East may, to the extent it determines damages are due, revert such damage via bill credit, check or any other reasonable means of payment at its discretion. All other remedies at law or in equity are hereby waived. In no event will either East or Customer be liable for consequential, incidental, indirect, special or punitive damages. These limitations apply without regard to the cause of any liability or damages. There are no third-party beneficiaries to this Agreement.

**15. East Contact Information.** Customer may contact East's Customer Service Center at 1.800.545.9155, Monday through Friday 8:00 a.m. - 8:00 p.m. EST (contact center hours subject to change). Customer may write to East at: East, 340 Jackson Ave, Bronx, N.Y. 10454

**16. Dispute Resolution (Residential).** In the event of a billing dispute or a disagreement involving East's service hereunder, the parties will use their best efforts

to resolve the dispute. Customer should contact East by telephone or in writing as provided above. The dispute or complaint relating to a residential customer may be submitted by either party at any time to the DPS pursuant to its Complaint Handling Procedures ("Procedures") or calling the DPS at 1.800.342.3377. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute, and such payment shall be refunded if warranted by the decision of DPS.

**Dispute Resolution (Commercial).** In the event of a billing dispute or disagreement involving East's service, Customer should contact East's Customer Service Center as provided above. Customer must pay the bill in full, except for the specific disputed amount, during the pendency of the dispute. If the parties cannot resolve the dispute within 45 days, either party may avail itself of all remedies available under law or equity. The DPS will not resolve Non Residential disputes associated with the services provided under this Agreement. However, the DPS will monitor inquiries and contacts from Non-Residential customers regarding energy service companies and an excessive number of confirmed complaints may result in an energy service company no longer being eligible to supply natural gas or electricity in New York State. The DPS Office of Consumer Services can be reached at: New York State Public Service Commission, Office of Consumer Services, Three Empire State Plaza, Albany, New York 12223; or by visiting [www.dps.ny.gov](http://www.dps.ny.gov).

**17. Choice of Laws.** Venue for any lawsuit brought to enforce any term or condition of this Agreement or to construe the terms hereof shall lie exclusively in the State of New York. This Agreement shall be construed under and shall be governed by the laws of the State of New York without regard to the application of its conflicts of law principles.

**18. Taxes and Laws.** Except as otherwise provided in the Agreement or provided by law, all taxes of whatsoever kind, nature and description due and payable with respect to service provided under this Agreement, other than taxes based on East's net income, shall be paid by Customer and Customer agrees to indemnify East and hold East harmless from and against any and all such taxes.

**19. Regulatory Changes.** This Agreement is subject to present and future legislation, orders, rules, regulations



or decisions of a duly constituted governmental authority having jurisdiction over this Agreement or the services to be provided hereunder. East and Customer recognize that a change in any law, rule, regulation, tariff, ISO design, ICAP tag or demand charge, regulatory structure, or a change in the interpretation of the application of any of the foregoing, ("Regulatory Change") could materially impact a term, condition or provision of this Agreement including, but not limited to price. East and Customer further recognize that the financial impact of a Regulatory Change that occurred prior to the date this Agreement was executed ("Execution Date") may not be known until a future date. Accordingly, East retains the right to: (i) to modify this Agreement to reflect a Regulatory Change that occurs after the Execution Date; and/or (ii) pass through to Customer any capital, operating, commodity or other costs it incurs as a result of a Regulatory Change that occurred prior to the Execution Date where the (x) costs were not known or (y) Regulatory Change was not implemented until after the Execution Date. In all cases, East shall provide 30 days' written notice of any modification to the Customer.

**20. Emergency Service.** The LDC will continue to respond to leaks and emergencies. In the event of a gas leak, service interruption or other emergency, Customer should immediately call the LDC at Con Edison 1-800-75CONED; Orange and Rockland at 1.877.434.4100; KeySpan 718.643.4050 (NYC) and 1.800.490.0045 (Long Island); Niagara Mohawk at 1.800.892.2345; Central Hudson at 1.800.527.2714; RG&E at 1.800.743.1701; NYSEG at 1.800.527.2714; National Fuel at 1.800.444.3130 and emergency personnel. Customer should then call East at: 1.800.545.9155.

**21. Parties Bound.** This Agreement is binding upon the parties hereto and their respective successors and legal assigns. Customer and East have caused this Agreement to be executed as of the date noted above on the first page of this Agreement, by individuals authorized to bind each party, and Customer has reviewed all of the terms herein.

In the case of telephonic or electronic enrollment execution shall be deemed provided pursuant to the methods authorized under the New York Uniform Business Practices.

**22. Loyalty Program.** Unless Customer indicates otherwise, Customer will be automatically enrolled in

East's Customer Loyalty Point Program ("Program"). Customer may opt-out of participation of the Program at any time by contacting East at 1.800.545.9155. More information about the Program is available at [www.ecpowerandgas.com](http://www.ecpowerandgas.com).

**23. Gift Cards.** Any Prepaid Card promotion will be issued following the completion of your first paid month of commodity supply in which this promotion has been applied to your ECP&G account. Please allow several weeks for processing and delivery. No Prepaid Card will be issued to you if: (i) your account is in arrears or inactive; (ii) your energy usage or credit does not meet ECP&G requirements; (iii) you have received an ECP&G promotion within the past 12 months; (iv) you cancel service prior to completion of your first month of supply; (v) fail to submit any documentation that is required prior to issuance of your Prepaid card or (vi) fail to timely submit any requisite documentation. This promotion is only available to new customers for a limited time and is only valid on fixed rate electric and natural gas products. This promotion may not be combined with other promotions or special rates. This promotion may be cancelled at any time and may not be available in all areas. ECP&G reserves the right to bill you for the full value of your Prepaid Card if you are issued a card and you choose to cancel your ECP&G service within 90 days of your first billing cycle.

**24. Renewable Energy Product.** Under East's renewable energy program the Customer's electricity supply will come from renewable energy resources such as biomass, biogas, wind, solar or hydro resources in the percentage noted on page one of this Agreement.

**25. Forward Contract:** Each Party acknowledges that: (a) this Agreement is a forward contract and a master netting agreement as defined in the United States Bankruptcy Code ("Code"); (b) this Agreement shall not be construed as creating an association, trust, partnership, or joint venture in any way between the Parties, nor as creating any relationship between the Parties other than that of independent contractors for the sale and purchase of Commodities; (c) Seller is not a "Utility" as defined in the Code; (d) Commodity supply will be provided by Seller under this Agreement, but delivery will be provided by the Utility; and (e) the Utility, and not Seller, is responsible for responding to service problems or emergencies should they occur.



**26. Energy Consumption Information** (Commercial Customers only) Customer hereby agrees, upon request, to provide East with facility descriptions, operating information, meter identification numbers and locations, and such other information available to Customer as East may reasonably require to provide electric and/ or gas service pursuant to this Agreement. Customer's expected energy usage for the Accounts may change for various reasons including, without limitation, additional equipment going on-line, ramp-up in equipment use, equipment modifications, increasing operating hours, remodel or facilities, new construction, applications for new construction permits, participation in demand response programs or energy efficiency programs including but not limited to peak shaving / management, solar installation, fuel cell, combined heat and power solutions, participation in special government electricity supply programs or on-site electric generation of any type or size. Customer

shall provide East at least thirty (30) days advance notice whenever it believes that Customer's estimated monthly aggregate usage will materially change from Customer's historical monthly usage, weather normalized, and shall provide good faith estimates of such usage changes.

**27. Signatory Affirmation.** Signor affirms that he or she is authorized to make decisions regarding the account and voluntarily authorizes Supplier to make the enrollment. Customer agrees to accept all notifications by email to the email address provided at time of enrollment, or subsequently provided to East.

Appendix A

| Account Number | Service Address                          |
|----------------|------------------------------------------|
| 8265163000     | 79 DuBois Street, Pump Station           |
| 8282008000     | Central Sig Station City Terr Fire Alarm |
| 8666037000     | 83 Broadway                              |
| 8666042000     | 22 GRAND ST                              |
| 8666077000     | Incinerator/Renwick Street               |
| 8666092500     | NBG COMMUNITY CNTR, 104 S LANDER ST      |
| 8667004900     | 129-131 S Robinson Ave                   |
| 8670113000     | GARAGE/PIERCES RD                        |
| 8670135500     | 492 BROADWAY HILAND ENG                  |
| 8672082003     | (BROADWAY SCHOOL) 294-306 BROADWAY       |
| 8673091500     | REC DEPT/DOWNING PARK                    |
| 8681095000     | 375 WASHINTON ST/MGMT FACILITY           |
| 8681097000     | OFFICE-WASHINGTON ST ACTIVITY CNTR       |
| 8681098000     | SOFTBALL HALL OF FAME WASHINGTON ST      |
| 8683143502     | Filtration Plant/Route 207               |
| 8683144100     | 493 Rt 207                               |

Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

**ATTACHMENT A: AGREEMENT SUMMARY INFORMATION**

Product Code: FP01-GE01A  
Product: Fixed Price RTC

**Exhibit 1: Facilities and Accounts**

| #  | Facility Name Service Address | City, State, Zip           | County   | Utility | Delivery Point         | Account Number | Rate Schedule | Start Date | End Date   |
|----|-------------------------------|----------------------------|----------|---------|------------------------|----------------|---------------|------------|------------|
| 1  | 510 LTL BRITAIN RD            | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8353182500     | 235           | 01/01/2020 | 12/31/2021 |
| 2  | 26 FRONT ST                   | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673028900     | 235           | 01/01/2020 | 12/31/2021 |
| 3  | GRAND ST                      | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673038500     | 235           | 01/01/2020 | 12/31/2021 |
| 4  | 375 WASHINGTON ST             | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681095000     | 205           | 01/01/2020 | 12/31/2021 |
| 5  | GIDNEY AVE                    | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8281009501     | 235           | 01/01/2020 | 12/31/2021 |
| 6  | ROBINSON AVE/MARNE AVE        | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8283133500     | 235           | 01/01/2020 | 12/31/2021 |
| 7  | SOUTH ST, FULLERTON AVE       | NEWBURGH, NY 00000-0000    | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8332230500     | 230           | 01/01/2020 | 12/31/2021 |
| 8  | ELLIS AVE                     | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8353091000     | 235           | 01/01/2020 | 12/31/2021 |
| 9  | 696 LTL BRITAIN RD            | NEW WINDSOR, NY 12553-2553 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8353219500     | 235           | 01/01/2020 | 12/31/2021 |
| 10 | 696 LTL BRITAIN RD SHD        | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8353220009     | 115           | 01/01/2020 | 12/31/2021 |
| 11 | WALSH RD SEWER PUMP           | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8667067000     | 235           | 01/01/2020 | 12/31/2021 |
| 12 | SCOBIE DR SEWAGE LIFT         | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8670117500     | 235           | 01/01/2020 | 12/31/2021 |
| 13 | CARPENTER AVE                 | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673147002     | 205           | 01/01/2020 | 12/31/2021 |
| 14 | CRESCENT AVE                  | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673152000     | 235           | 01/01/2020 | 12/31/2021 |
| 15 | RIVER RD                      | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8270283500     | 235           | 01/01/2020 | 12/31/2021 |
| 16 | RIVER RD-TRAFFIC LT           | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8284018900     | 235           | 01/01/2020 | 12/31/2021 |
| 17 | SOUTH ST                      | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8328065500     | 235           | 01/01/2020 | 12/31/2021 |
| 18 | 660 LTL BRITAIN RD            | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8353191000     | 235           | 01/01/2020 | 12/31/2021 |
| 19 | 104 S LANDER ST               | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8666092500     | 209           | 01/01/2020 | 12/31/2021 |
| 20 | 83 BROADWAY                   | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8666037000     | 200           | 01/01/2020 | 12/31/2021 |
| 21 | 524 BROADWAY-TRAFFIC LT       | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8670000500     | 235           | 01/01/2020 | 12/31/2021 |

Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

**ATTACHMENT A: AGREEMENT SUMMARY INFORMATION**

Product Code: FP01-GE01A

**Exhibit 1: Facilities and Accounts**

Product: Fixed Price RTC

| #  | Facility Name Service Address | City, State, Zip           | County   | Utility | Delivery Point         | Account Number | Rate Schedule | Start Date | End Date   |
|----|-------------------------------|----------------------------|----------|---------|------------------------|----------------|---------------|------------|------------|
| 22 | 88 PIERCES RD                 | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8670113000     | 205           | 01/01/2020 | 12/31/2021 |
| 23 | WASHINGTON ST                 | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681097000     | 205           | 01/01/2020 | 12/31/2021 |
| 24 | 117 MOORES HILL RD PUMP STA   | NEW WINDSOR, NY 12553-2553 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8120070000     | 207           | 01/01/2020 | 12/31/2021 |
| 25 | 22 GRAND ST                   | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8666042000     | 202           | 01/01/2020 | 12/31/2021 |
| 26 | 129-131 S ROBINSON AVE        | NEWBURGH, NY 00000-0000    | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8667004900     | 230           | 01/01/2020 | 12/31/2021 |
| 27 | 492 BROADWAY                  | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8670135500     | 205           | 01/01/2020 | 12/31/2021 |
| 28 | 294-306 BROADWAY              | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8672082003     | 202           | 01/01/2020 | 12/31/2021 |
| 29 | WATERS ST FESTIVAL/MENORAH    | NEWBURGH, NY 00000-0000    | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8673070716     | 230           | 01/01/2020 | 12/31/2021 |
| 30 | 210 GRAND ST                  | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673067500     | 235           | 01/01/2020 | 12/31/2021 |
| 31 | 375 WASHINGTON ST N           | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681096000     | 235           | 01/01/2020 | 12/31/2021 |
| 32 | 399 WASHINGTON ST             | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681098000     | 235           | 01/01/2020 | 12/31/2021 |
| 33 | LTL BRITAIN RD                | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8683001500     | 205           | 01/01/2020 | 12/31/2021 |
| 34 | SOUTH ST ROBINSON             | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8264036500     | 235           | 01/01/2020 | 12/31/2021 |
| 35 | SOUTH ST PROSPECT             | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8264056500     | 235           | 01/01/2020 | 12/31/2021 |
| 36 | 207 CARPENTER AVE GREENHS     | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282000500     | 235           | 01/01/2020 | 12/31/2021 |
| 37 | HAIBLE WAY-PERGOLA            | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282280500     | 235           | 01/01/2020 | 12/31/2021 |
| 38 | WASHINGTON ST                 | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681095700     | 205           | 01/01/2020 | 12/31/2021 |
| 39 | 207 CARPENTER AVE GARAGE      | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282000600     | 235           | 01/01/2020 | 12/31/2021 |
| 40 | SOUTH ST DUBOIS ST            | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282008500     | 235           | 01/01/2020 | 12/31/2021 |
| 41 | RT 9W SOUTH ST                | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282246500     | 235           | 01/01/2020 | 12/31/2021 |
| 42 | GIDNEY AVE TRAFFIC            | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282273500     | 235           | 01/01/2020 | 12/31/2021 |
| 43 | ROBINSON AVE NORTH ST         | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8288204500     | 235           | 01/01/2020 | 12/31/2021 |
| 44 | SOUTH ST DUPONT               | NEWBURGH, NY 12550-2550    | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8327115500     | 235           | 01/01/2020 | 12/31/2021 |
| 45 | MASTERTON PARK BOOTH          | NEWBURGH, NY 00000-0000    | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8353190000     | 230           | 01/01/2020 | 12/31/2021 |



Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

**ATTACHMENT A: AGREEMENT SUMMARY INFORMATION**

Product Code: FP01-GE01A

Product: Fixed Price RTC

**Exhibit 1: Facilities and Accounts**

| #  | Facility Name Service Address | City, State, Zip        | County   | Utility | Delivery Point         | Account Number | Rate Schedule | Start Date | End Date   |
|----|-------------------------------|-------------------------|----------|---------|------------------------|----------------|---------------|------------|------------|
| 46 | 2 WASHINGTON ST               | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8666024000     | 235           | 01/01/2020 | 12/31/2021 |
| 47 | 88 PIERCES RD                 | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8670113200     | 235           | 01/01/2020 | 12/31/2021 |
| 48 | FRONT ST-AREA LIGHTS          | NEWBURGH, NY 00000-0000 | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8673030100     | 230           | 01/01/2020 | 12/31/2021 |
| 49 | NEW COLDEN ST-GARAGE          | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673037500     | 205           | 01/01/2020 | 12/31/2021 |
| 50 | 123 GRAND ST COURT HSE        | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673049100     | 205           | 01/01/2020 | 12/31/2021 |
| 51 | DOWNING PARK                  | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673091500     | 235           | 01/01/2020 | 12/31/2021 |
| 52 | 357 WASHINGTON ST             | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681093000     | 202           | 01/01/2020 | 12/31/2021 |
| 53 | RT 207                        | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8683144000     | 202           | 01/01/2020 | 12/31/2021 |
| 54 | ROBINSON AVE FIRST ST         | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8263142500     | 235           | 01/01/2020 | 12/31/2021 |
| 55 | CITY TER FIRE ALARM           | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282008000     | 235           | 01/01/2020 | 12/31/2021 |
| 56 | S WILLIAM ST REC PARK         | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8667055000     | 235           | 01/01/2020 | 12/31/2021 |
| 57 | COLDEN ST/WATERS ST LIGHT     | NEWBURGH, NY 00000-0000 | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8673028600     | 230           | 01/01/2020 | 12/31/2021 |
| 58 | 123 GRAND ST COURT HSE        | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673049000     | 202           | 01/01/2020 | 12/31/2021 |
| 59 | WASHINGTON ST-BALL FLD        | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8681095500     | 200           | 01/01/2020 | 12/31/2021 |
| 60 | 493 RT 207                    | NEWBURGH, NY 00000-0000 | UNKNO WN | CENTHUD | Zone G - Hudson Valley | 8683144100     | 200           | 01/01/2020 | 12/31/2021 |
| 61 | 2 RENWICK ST SEWAGE PLT       | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8120055000     | 243           | 01/01/2020 | 12/31/2021 |
| 62 | ROBINSON AVE THIRD ST         | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8264017300     | 235           | 01/01/2020 | 12/31/2021 |
| 63 | SOUTH ST LIBERTY              | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8279026000     | 235           | 01/01/2020 | 12/31/2021 |
| 64 | DOWNING PARK-THEATRE          | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8282282000     | 235           | 01/01/2020 | 12/31/2021 |
| 65 | LEROY PL                      | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8284018702     | 235           | 01/01/2020 | 12/31/2021 |
| 66 | CRONOMER HILL RD              | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8324253000     | 235           | 01/01/2020 | 12/31/2021 |
| 67 | BRADY AVE                     | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8325064000     | 235           | 01/01/2020 | 12/31/2021 |
| 68 | DUBOIS ST                     | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8672087000     | 202           | 01/01/2020 | 12/31/2021 |
| 69 | FRONT ST BATHROOMS            | NEWBURGH, NY 12550-2550 | ORANG E  | CENTHUD | Zone G - Hudson Valley | 8673029800     | 235           | 01/01/2020 | 12/31/2021 |

Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

ATTACHMENT A: AGREEMENT SUMMARY INFORMATION

Product Code: FP01-GE01A  
Product: Fixed Price RTC

Exhibit 1: Facilities and Accounts

| # | Facility Name Service Address | City, State, Zip | County | Utility | Delivery Point | Account Number | Rate Schedule | Start Date | End Date |
|---|-------------------------------|------------------|--------|---------|----------------|----------------|---------------|------------|----------|
|---|-------------------------------|------------------|--------|---------|----------------|----------------|---------------|------------|----------|

|                            |         |
|----------------------------|---------|
| Contract Price (\$/KWh):   | 0.05715 |
| Post Term Charge (\$/Kwh): | 0.009   |

Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

**ATTACHMENT A: AGREEMENT SUMMARY INFORMATION**

**Exhibit 2: Monthly Anticipated Consumption (in MWh)**

**Delivery Point:** Zone G - Hudson  
Valley

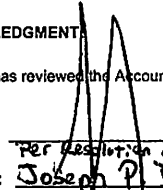
| Month | Year | MWh    |
|-------|------|--------|
| Jan   | 2020 | 534.67 |
| Feb   | 2020 | 496.84 |
| Mar   | 2020 | 506.67 |
| Apr   | 2020 | 431.13 |
| May   | 2020 | 482.26 |
| Jun   | 2020 | 557.15 |
| Jul   | 2020 | 617.87 |
| Aug   | 2020 | 610.08 |
| Sep   | 2020 | 506.68 |
| Oct   | 2020 | 484.13 |
| Nov   | 2020 | 454.65 |
| Dec   | 2020 | 510.69 |
| Jan   | 2021 | 531.04 |
| Feb   | 2021 | 473.46 |
| Mar   | 2021 | 496.23 |
| Apr   | 2021 | 428.04 |
| May   | 2021 | 494.57 |
| Jun   | 2021 | 563.68 |
| Jul   | 2021 | 614.19 |
| Aug   | 2021 | 599.60 |
| Sep   | 2021 | 503.17 |
| Oct   | 2021 | 487.19 |
| Nov   | 2021 | 467.01 |
| Dec   | 2021 | 513.34 |

Customer: CITY OF NEWBURGH  
Effective Date: 08/14/2019  
Agreement #: 1-JAU0ER,1  
PR #: 1-J4IXMS,3

**ATTACHMENT A: AGREEMENT SUMMARY INFORMATION**

**ACKNOWLEDGMENT**

Customer has reviewed the Account Numbers on this Attachment A for accuracy and completeness and verifies that the facilities and accounts identified on this Attachment A are owned or under its control.

Signature:   
Print Name: Joseph P. Donat

☐ Customer, please check this box if your accounts are tax exempt.  
If tax exempt, please send your tax exemption certificates to [custserv@na.engie.com](mailto:custserv@na.engie.com)  
We cannot apply the tax exemption until we receive your certificates.



**SALES CONFIRMATION**  
**New York**  
**Fixed Price RTC**

This Sales Confirmation is entered on 8/14/2019 ("Confirmation Effective Date"), by and between ENGIE Resources LLC ("ENGIE") and City Of Newburgh ("Customer") (hereinafter collectively referred to as the "Parties") regarding the purchase and sale of electric energy and related services pursuant to and subject to the Master Electric Energy Sales Agreement dated 12/11/2017 by and between the Parties (the "Master Agreement"). Terms not defined herein shall have the meaning given in the Master Agreement.

**CONSUMER DISCLOSURE STATEMENT**

Product Type                      **Fixed Price**

Contract Price                      \$0.05715 / KWh

The Contract Price does not include Taxes or Utility Related Charges. If a cost component is separately listed as an obligation in this Sales Confirmation (for example, Capacity, Congestion, RPS Compliance Fees, or Losses), such charge or cost is not included in the Contract Price. All prices may be modified due to a subsequent change in law, administrative regulation, or any fees or costs imposed by the NYISO or by a Governmental Authority, as further described in Section 2.15.

Contract Term                      Start Date: 1-1-2020      End Date: 12-31-2021

Renewal Terms. In the event Customer does not timely exercise one of the options specified below in the Transaction Term section herein, service by ENGIE may continue hereunder following the End Date until the next available Utility Transfer Date following Customer's exercise of one of the above options or ENGIE's transfer of the accounts to the applicable default service provider, whichever occurs first (the "Post-Term Period"). For service during the Post-Term Period, in lieu of the Contract Price described in this Sales Confirmation, Customer shall pay ENGIE an amount equal to the applicable real time index price as posted by the ISO for the relevant delivery point, plus a per kWh Post-Term Charge as defined herein, plus any applicable non-utility charges, including but not limited to Ancillary Services, installed (or unforced) capacity, losses, and all other ISO charges or administrative fees incurred in connection with delivery of energy to the delivery point specified in Attachment A, Exhibit 1. Taxes and Utility Related Charges are additional and are separately listed in the Customer invoice.

Right to Rescind. Per the New York Public Service Commission Uniform Business Practices, a commercial customer with account(s) classified by the utility as residential shall have the right to cancel this agreement within three (3) business days after receipt or execution, as applicable. To exercise this right, see the New York Consumer Statement in the Miscellaneous Section of this Sales Confirmation.

Early Termination Fee Calculation. As specified in Section 2.7 of the Master Agreement: Termination Payment = (Contract Price – Current Market Price) x (the amount of electricity remaining to be delivered under the terminated Sales Confirmations as shown in the Monthly Anticipated Consumption table attached thereto. Current Market Price means the wholesale price of electricity and any applicable related services (e.g. capacity, ancillary services) that are available for sale at the time of a termination and liquidation. Such price may be based on quotes from leading brokers, dealers, and other sellers in the wholesale market.

Late Payment Fee. The rate of one and one half percent (1½%) (or maximum rate permitted by applicable law) multiplied by the past due balance.

Guaranteed Savings. None

**Transaction Term:** This Sales Confirmation shall be effective on the Confirmation Effective Date and service shall commence at the Contract Price on the Utility Transfer Date immediately on or following the Start Date. Service

shall remain in effect at the Contract Price through the Utility Transfer Date immediately on or following the End Date, but in no event later than the end of the Billing Cycle including such date. Customer's options for service beyond the Utility Transfer Date immediately following the End Date include: i) executing an agreement with ENGIE for new terms and conditions of service, ii) transferring to another competitive supplier or iii) providing a written request to ENGIE to transfer Customer's accounts to the default service provider. In the event Customer does not timely exercise an option, service by ENGIE may continue hereunder following the End Date (the "Post-Term Period"). For service during the Post-Term Period, Customer shall pay an amount equal to the applicable real time index price as posted by the ISO for the relevant delivery point, plus a per kWh Post-Term Charge as defined herein, plus all non-utility charges, including ancillary services, installed (or unforced) capacity, network integrated transmission, losses, and all other ISO charges or administrative fees incurred in connection with delivery of energy. Taxes and Utility Related Charges are additional and are separately listed in the Customer invoice.

**Full Swing Transaction:** Customer's electricity consumption is variable and is not subject to a maximum or minimum usage limit.

**Contract Price:** Customer shall pay ENGIE the applicable Contract Price as specified in Attachment A, Exhibit 1 per kWh of electric energy consumed in a Billing Cycle.

Except to the extent that a charge is separately listed as an obligation in this Sales Confirmation, the Contract Price may include a broker fee and includes non-utility charges including energy, ancillary services, congestion, losses, capacity, and current network integrated transmission charges (provided that changes to rate or obligation effective after contract execution may be passed through to Customer).

**Taxes and Utility Related Charges:** Taxes and Utility Related Charges are separately listed in the Customer bill and are not included in any other charge identified in this Sales Confirmation.

**Green-e Certified Renewable Energy Certificates (RECs).** ENGIE shall procure, on Customer's behalf, the quantity of Green-e RECs from the type of renewable source stated in Attachment A, Exhibit 4. Customer shall pay a monthly fixed fee as specified in Attachment A, Exhibit 4. In the event the stated source fails to deliver sufficient Green-e RECs, ENGIE will, if the parties mutually agree: (i) procure replacement Green-e RECs at the current market price; or (ii) if replacement Green-e RECs are not available, replace such Green-e RECs with equivalent non-certified RECs to fulfill the quantity not produced by the Green-e REC source. If Customer elects not to purchase replacement Green-e RECs or not to accept replacement non-certified RECs, then ENGIE's obligations, as to such REC quantity not provided, shall be terminated without further liability.

**Facilities, Accounts and Quantities:** See Attachment A.

**Miscellaneous:**

**New York Requirement:** Notwithstanding anything to the contrary in the Master Agreement, ENGIE must provide at least fifteen (15) days prior notice prior to any cancellation of service applicable to this Sales Confirmation.

**New York Consumer Statement:** In accordance with the New York Public Service Commission ("NY PSC") Uniform Business Practices, Case 98-M-1343, Section 5(B)(2), a commercial customer with account(s)/facility(ies) classified by the applicable utility as residential shall have the right to cancel this agreement within three (3) business days after receipt or execution, as applicable. To exercise this right, contact ENGIE Customer Care toll-free at 1-888-644-1014.

In accordance with the New York Public Service Law and the Home Energy Fair Practices Act, commercial customer with account(s)/facility(ies) classified by the applicable utility as residential shall be entitled to special complaint handling procedures promulgated by the NY PSC. In the event of an unresolved dispute and/or complaint, contact the NY PSC at [www.dps.state.ny.us](http://www.dps.state.ny.us), toll-free at 1-800-342-3377, or by mail at 3 Empire State Plaza, Albany, NY 12223. For all other commercial customers, the toll-free number for information regarding the competitive energy retail market; inquiries, disputes, or consumer complaints; or information regarding Electric Service Companies in New York is 1-888-697-7728.

The energy supplied to Customer pursuant to this Sales Confirmation is provided by ENGIE. Energy delivery shall continue to be provided by Customer's applicable local utility. In the event of an emergency, Customer should contact its applicable local utility to respond.

**New York Transmission Owner Transmission Solutions Charges.** Costs associated with the Transmission Owner Transmission Solutions for the New York Transco Facilities for the Ramapo to Rock Tavern (RRT) transmission line, the Staten Island Unbottling (SIU) project, and the Marcy South Series Compensation project incurred by ENGIE to provide retail electric service to Customer are included in the Contract Price. Costs associated with the Transmission Owner Transmission Solutions for the New York Power Authority (NYPA) Marcy South Series Compensation Project in the State of New York service territory incurred by ENGIE to provide retail electric service to Customer are included in the Contract Price.

**Purchase of Receivables Program:** ENGIE retains the right to and may sell its account receivables to the applicable consolidated billing utility under the terms of the applicable Purchase of Receivables Program (POR). Such utility is authorized to disconnect its delivery service and ENGIE's commodity service for non-payment of all amounts due on the consolidated bill, including the amount due ENGIE, in accordance with all applicable provisions set forth in the Purchase of Accounts Receivable program. If the billing utility disconnects its delivery service for Customer's non-payment, this shall be deemed an event of default pursuant to Section 2.6 of the Master Agreement.

**Payment Terms:** 20 days.

**IDR Meter Authorization:** Customer shall, during the term of this Sales Confirmation, promptly provide all necessary authorizations to ENGIE in order to allow ENGIE to receive interval meter data (IDR) from Customer's facility(ies) listed on Attachment A. At its sole cost, ENGIE or its representative shall have the right to access or install telemetry from Customer's facility(ies) listed on Attachment A in order to track and evaluate Customer's usage on a regular basis for the purpose of load forecasting.

**"Rate Ready" Accounts.** For account(s) in which the applicable utility uses a "rate ready" billing system, the Contract Price during the Post-Term Period shall be a monthly variable rate set by ENGIE plus a post-term charge and any applicable non-utility related charges, ISO charges or administrative fees. Taxes and Utility Related Charges are separately listed in an invoice. Customer may terminate post-term service at any time without liability.

**ON-SITE CUSTOMER GENERATION:** The Contract Price is conditioned on Customer's representation that, except for emergency back-up generation used when the local utility is not capable of delivering electricity, Customer does not operate on-site generation or thermal storage facilities. If Customer does operate on-site generation or thermal storage, ENGIE shall calculate in a commercially reasonable manner the present value of any economic loss resulting from the reduced load caused by such operation, and such loss shall be due from the Customer.

**Government/Public Entity Payment Terms and Indemnity Waiver.** This Agreement may be subject to state mandated payment term requirements for government/public entities; Customer shall provide a written verification of the applicability of such provision(s) to ENGIE to receive such extended terms at an additional cost to be determined by ENGIE. To the extent prohibited by state law or other statute, the Indemnification provision set forth in Section 2.9 of the Master Agreement shall be inapplicable.

**Independent System Operator (ISO)** means the system operator that controls or governs the transmission and distribution system or any successor thereto for the location where the facility(ies) are physically located.

**"Utility Related Charges"** means tariff based charges or surcharges assessed by a local utility arising from or related to, including but not limited to, (i) transmission and distribution of energy (including network transmission); (ii) stranded costs or transition costs and any other similar types of charges associated with the opening of the applicable state's electric market to competition; (iii) system reliability, rate recovery,

future payback of under-collections, amortization, of above market purchases or energy load repurchases, public purpose programs and all similar items.

**"Post-Term Charge"** means the \$/kWh charge of electric energy consumed as specified on the Attachment A. ENGIE may, at its discretion, charge an additional fee of up to \$0.0030/kWh of electric energy consumed if the number of accounts specified on the Attachment A exceeds 100.

**Facility/Account Deletions Prior to End Date:** The Parties intend that each of the Facilities listed on Attachment A will be continuously served by ENGIE through the End Date shown on Attachment A. However, should Customer close a Facility or otherwise discontinue electric service prior to the End Date, then ENGIE shall calculate in a commercially reasonable manner, the present value of any economic gain or loss it incurred thereby. Any gain or loss that ENGIE reasonably concludes is material shall be due to Customer (if a gain) or due from Customer (if a loss). Customer shall provide notice of any Facility closure to ENGIE as soon as practicable.

**"Green-e Certified Renewable Energy Certificate" or "Green-e REC"** means a renewable energy certificate transferable by the producer of renewable energy from an eligible source, as determined by the Center for Resource Solutions Green-e certification requirements, after independent verification of generation of the MWh(s) by the agency or body overseeing the state or regional renewable energy program. The price of Green-e RECs is in addition to charges for your electricity. Green-e RECs is a Renewable Energy Certificate (REC) product and does not contain electricity. A Green-e REC represents the environmental benefits of 1 megawatt hour (MWh) of renewable energy that can be paired with electricity. For more information, see REC Disclosure Language; [www.green-e.org/rec](http://www.green-e.org/rec).



**Energy**  
CERTIFIED

This product is Green-e certified and meets the environmental and consumer protection standards set forth by the non-profit Center for Resource Solutions.

**Billing Contact Information:** All invoices to Customer for service under this Sales Confirmation shall be provided to the person and address specified in the chart following the signature block of this Sales Confirmation.

IN WITNESS WHEREOF, the Parties, by their respective duly authorized representatives, have executed this Sales Confirmation effective as of the Effective Date. This Sales Confirmation will not become effective as to either Party unless and until executed by both Parties.

| SIGNATURES                                                                                                                                                                                                  |                     |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------|
| Customer: CITY OF NEWBURGH                                                                                                                                                                                  | ENGIE Resources LLC |
| Signature: <i>[Signature]</i>                                                                                                                                                                               | Signature:          |
| Print Name: <i>Joseph P. Donat</i> <i>Per Resolution 193-2019</i>                                                                                                                                           | Print Name:         |
| Print Title: <i>City Manager</i>                                                                                                                                                                            | Print Title:        |
| Date: <i>AUG 14 2019</i>                                                                                                                                                                                    | Date:               |
| CUSTOMER DUNS NUMBER: _____                                                                                                                                                                                 |                     |
| CUSTOMER FEDERAL TAX ID NUMBER (EIN): _____                                                                                                                                                                 |                     |
| Customer: Please also sign the Attachment A. This Sales Confirmation will not be effective unless and until both documents (this Sales Confirmation and the Attachment A) are signed and returned to ENGIE. |                     |

|                      | BUSINESS NAME<br>CONTACT NAME | * BILLING CONTACT   | ENGIE Resources<br>CONTACT | CUSTOMER<br>PAYMENTS                                                                                                         |
|----------------------|-------------------------------|---------------------|----------------------------|------------------------------------------------------------------------------------------------------------------------------|
| NAME:<br>ATTN:       | Todd Venning                  | Todd Venning        | ENGIE Resources            | <u>Wire payments to:</u><br>Mellon Bank                                                                                      |
| STREET<br>ADDRESS:   | 83 BROADWAY                   | 83 BROADWAY         | 1990 Post Oak Blvd.        | <u>Account Title:</u><br>ENGIE<br>Resources                                                                                  |
| CITY, STATE,<br>ZIP: | NEWBURGH, NY, 12550           | NEWBURGH, NY, 12550 | Houston, TX 77056          | <u>Account No.</u><br>8-086-282                                                                                              |
| PHONE #:             | 8455697322                    | 8455697322          | 1-888-232-6206             | <u>ABA Number:</u><br>031000037                                                                                              |
| FAX #:               | 8455697490                    | 8455697490          | (713) 636-0927             | <u>For payment by<br/>check, please<br/>send to:</u><br>ENGIE Resources<br>P.O. Box 9001025<br>Louisville, KY 40290-<br>1025 |
| EMAIL:               |                               |                     | custserv@na.engie.com      |                                                                                                                              |

\*Required Information



ATTACHMENT A: AGREEMENT SUMMARY INFORMATION

Exhibit # 4 : Renewable Energy Certificates

Customer: CITY OF NEWBURGH  
 Effective Date: 8/14/2019  
 Agreement #: 1-JAU0ER  
 PR #: 1-MIXMS  
 Product Code: FP01-GE01A  
 Product: FP01

|                                             |                           |
|---------------------------------------------|---------------------------|
| Billing Term:                               | 1/1/2020 - 12/31/2021     |
| Contract Term {}                            | 1/1/2020 - 12/31/2021     |
| Contract Term Quantity (# of Certificates): | 3,091                     |
| Billing Term Quantity (Certificates/Mo):    | 129                       |
| Fixed Premium (\$/Billing Mo.)              | Included in Contract Rate |
| Product:                                    | National Any Source       |
| Type:                                       | Green-e Certified         |

Allocation Table

| # | Account Number           | % of Quantity |
|---|--------------------------|---------------|
| 1 | NYISO_CENTHUD_8120055000 | 100           |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |
|   |                          |               |

Contract Term Quantity per Year

| Year | Quantity of Certificates |
|------|--------------------------|
| 2020 | 1,548                    |
| 2021 | 1,543                    |
|      |                          |
|      |                          |
|      |                          |
|      |                          |

RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 394 LIBERTY STREET (SECTION 10, BLOCK 1, LOT 41)  
AT PRIVATE SALE TO ABEL SALAZAR, IRENE SALAZAR AND ALINA PRECIADO  
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 394 Liberty Street, being more accurately described as Section 10, Block 1, Lot 41 on the official tax map of the City of Newburgh; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said 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 December 13, 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> |
|-------------------------|----------------------------|------------------|-----------------------|
| 394 Liberty Street      | 10 - 1 - 41                | Abel Salazar     | \$50,000.00           |
|                         |                            | Irene Salazar    |                       |
|                         |                            | Alina Preciado   |                       |

**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

## 394 Liberty Street, City of Newburgh (SBL: 10-1-41)

### 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 **2019-2020**, 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 **2019-2020**, 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 receipt 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. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.
20. 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.
21. 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 **\$5,000.00** 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.

ACKNOWLEDGED AND AGREED

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(Purchaser Name)

\_\_\_\_\_  
(Purchaser Name)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Purchaser Name)



## Proposal Form

### **Contact Information:**

Name: Abel & Irene Salazar & Alina Preclado US  
ap  
 Business Name (If Applicable): \_\_\_\_\_  
 Address: 16206 Grand Avenue  
 City, State & Zip: Bellflower, CA 90706  
 Home phone: \_\_\_\_\_  
 Business Phone: \_\_\_\_\_  
 Mobile Phone: (562) 619-9068  
 E-mail: spi90706@gmail.com  
 Federal I.D. No. (If Applicable): \_\_\_\_\_

### **Property Ownership Information:**

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

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

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

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

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

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

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

**Individual Property Bid Sheet****Information on Bid Property:**

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

Property Address: 394 Liberty Street, Newburgh, NY 12550

S-B-L#: ~~044-000/0000~~ 10-1-41

**Type of Project:**

X Single Family (includes a condominium unit)

       Multi-Family (# of Units       )

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

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

       Commercial        Industrial

       Vacant Land (Proposed Use:       )

**Offer Purchase Price:** \$ \$50,000.

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

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

**Renovation Estimate (Pre-Qualifying)** - How much do you anticipate investing in this project for renovations? Please consider in your estimate that most vacant properties need *significant* repairs before they can be occupied again. This estimate can be revised once you have obtained entry to the property. *A more detailed repair cost estimate will be required after interior access.* Do not include renovation cost estimate in the "Offer Purchase Price" listed above: \$ \$50,000

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

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

General Contractor: Gilberto Construction

Architect: Thread Collective

Engineer:

**Examples of Purchaser's Previous Renovation or Development Experience:**

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

Property/Project No. 1      Property/Project No. 2

|                                                                                                                                        |                                             |                                              |
|----------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------|----------------------------------------------|
| <b>Property Address:</b><br>Please list all addresses (not merely project name). Include street number, street, city and zip code.     | 16206 Grand Avenue<br>Bellflower, Ca. 90706 | 23246 Barton Rd.<br>Grand Terrace, Ca. 92324 |
| <b>Role</b><br>(i.e. owner, partner, general contractor, architect, investor.)                                                         | Owner                                       | Owner                                        |
| <b>Type of Project:</b><br>(i.e. new construction, existing building requiring substantial rehabilitation or moderate rehabilitation.) | Moderate Rehabilitation                     | Moderate Rehabilitation                      |
| <b>Property Type:</b><br>(i.e. single-family, multi-family rental or commercial.)                                                      | Single Family Home                          | Single Family Home                           |
| <b>Number of Buildings in Project</b>                                                                                                  | 1                                           | 1                                            |
| <b>Total Number of Residential Units in Project/Building</b>                                                                           | 1                                           | 1                                            |
| <b>If commercial, total square footage of project</b>                                                                                  | 1400                                        | 5000                                         |
| <b>Total Estimated Development/Rehabilitation Costs</b>                                                                                | \$40,000                                    | \$60,000                                     |
| <b>Current Status of Building</b><br>(Pre-development, under construction/renovation or completed - include date completed.)           | Renovation Completed                        | Renovation Completed                         |
| <b>Government Program, if any</b><br>(Provide name of program and agency, name and current phone of reference.)                        | N/A                                         | N/A                                          |

**Finances:**

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

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

**What You Should Attach:**

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

**Business Relationship:**

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

**INFORMATION RELEASE:**

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

Abel Salazar & Irene Salazar

8/8/19

Signature

Date

Print Name

*Abel City Salazar*      *Irene Salazar*

DocuSigned by:

*[Signature]*  
7F834218B42B4FF...  
Alina Preciado

Submit Application to:

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

# Abel & Irene Salazar

16206 Grand Avenue • Bellflower, CA. 90706 • Phone: 562-619-9068  
E-Mail: spi90706@gmail.com

Date: August 8, 2019

To Whom This May Concern.

Re: Property Purchase in Newburgh, New York

Please be advised that we, the undersigned; Abel Salazar and Irene Salazar authorize our daughter, Alina Preciado, to act and sign on our behalf for the purchase of said property at 394 Liberty Street, Newburgh, New York 12550.

It is understood that we reside in Southern California at the above mentioned address and can not be present through all phases of this transaction and will be remotely available at any stages we are able to be, via Phone, Fax or Email. Please extend our Authorization for Alina Preciado to speak and make any pertinent decisions on our behalf.

We are looking forward to this transaction and purchase as we are retiring and will be able to use the residence for visits and retirement along with Alina Preciado, who will be spending a majority of her time at the house to live and work. We are happy to be part of Newburgh's rebirth and revitalization.

Sincerely,



---

Abel Salazar



---

Irene Salazar

PURCHASE AGREEMENT

Date: 8/9/19 Alina Preciado

I (We) ABEL SALAZAR  
IRENE SALAZAR propose to purchase 394 liberty street owned  
by CITY OF NEWBURGH Newburgh NY 12550

Terms of the offer as follows:

|                                      |                    |
|--------------------------------------|--------------------|
| Purchase Price:                      | <u>\$50,000.00</u> |
| Seller Concession (if applicable)    | <u>0</u>           |
| Amount due on contract signing:      | <u>5,000.00</u>    |
| Mortgage Down Payment (LTV _____ %): | <u>0 N/A</u>       |
| Amount due at closing:               | <u>\$45,000.00</u> |
| Contracts to be signed on or about:  | <u>ASAP</u>        |

Closing to be (\_\_\_\_\_ on or about) or (~~9/1~~ X on or before): 9/15/19

Personal Property included in sale: NONE

This sale is contingent upon (\_\_\_\_) attorney review of a formal contract, (\_\_\_\_) buyer to perform an engineer inspection within (\_\_\_\_) days, (\_\_\_\_) clear title, and as follows: \_\_\_\_\_.

The sale is contingent upon purchaser securing a \_\_\_\_\_ mortgage commitment in the amount of \_\_\_\_\_.

The parties hereby agree that RIVER REALTY SERVICES, INC. in cooperation with \_\_\_\_\_ is (are) the recognized broker (s) who affected this "meeting of the minds" and will be paid the brokerage commission of \_\_\_\_\_ by the seller on or before closing.

THE ABOVE TERMS AND CONDITIONS ARE AGREED UPON SUBJECT TO ATTORNEY REVIEW AND FORMAL CONTRACT OF SALE. RECEIPT OF A COPY OF THIS PRELIMINARY AGREEMENT IS HEREBY ACKNOWLEDGED BY ALL PARTIES:

[Signature]  
Purchaser \_\_\_\_\_

\_\_\_\_\_  
Seller \_\_\_\_\_

\_\_\_\_\_  
Purchaser \_\_\_\_\_

\_\_\_\_\_  
Seller \_\_\_\_\_

\_\_\_\_\_  
Purchaser Address

\_\_\_\_\_  
Seller Address

\_\_\_\_\_  
Purchaser Phone

\_\_\_\_\_  
Seller Phone

NYDIA BARHAM  
Purchaser Attorney

\_\_\_\_\_  
Seller Attorney

\_\_\_\_\_  
Purchaser Attorney Phone / E-mail

\_\_\_\_\_  
Seller Attorney Phone / E-mail:

Agent Name: \_\_\_\_\_ of River Realty Services, Inc.

Listing Agent: \_\_\_\_\_ of \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Email: \_\_\_\_\_





## New York State Disclosure Form for Buyer and Seller

function as the seller's agent representing the interests of and advocating on behalf of the seller in the negotiations between the buyer and seller. A designated sales agent cannot provide the full range of fiduciary duties to the landlord or tenant. A designated sales agent cannot provide full range of fiduciary duties to the buyer or seller. The designated sales agent must explain that like the dual agent

under whose supervision they function, they cannot provide undivided loyalty. A buyer or seller should carefully consider the possible consequences of a dual agency relationship with designated sales agents before agreeing to such representation. A seller or buyer provide advance informed consent to dual agency with designated sales agents by indicating the same on this form.

This form was provided to me by Kerly Scialpi of River Realty Services Inc.  
(Print Name of Licensee) (Print Name of Company, Firm or Brokerage)

a licensed real estate broker acting in the interest of the:

☒ Seller as a (check relationship below)

☐ Seller's Agent

☐ Broker's Agent

☐ Buyer as a (check relationship below)

☐ Buyer's Agent

☐ Broker's Agent

☐ Dual Agent

☐ Dual Agent with Designated Sales Agent

For advance informed consent to either dual agency or dual agency with designated sales agents complete section below:

☐ Advance Informed Consent Dual Agency

☐ Advance Informed Consent to Dual Agency with Designated Sales Agents

If dual agent with designated sales agents is indicated above: \_\_\_\_\_ is appointed to represent the buyer; and \_\_\_\_\_ is appointed to represent the seller in this transaction.

(I) (We) \_\_\_\_\_ acknowledge receipt of a copy of this disclosure form:

Signature of ☐ Buyer(s) and/or ☒ Seller(s):

[Signature]

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# QUOTE

## Gilberto Construction

INVOICE # NO. 190808A15  
DATE: 8/8/19

240 Broadway  
Newburgh NY 12550  
845-764-7909

RENOVATION ESTIMATE: Property at 394 Liberty Street, Newburgh, NY  
12550

TO Abel & Irene Salazar / Alina Preciado  
16206 Grand Avenue  
Bellflower, Ca. 90706  
917-674-5856

| SALESPERSON | JOB                | PAYMENT TERMS             | DUE DATE |
|-------------|--------------------|---------------------------|----------|
| Gilberto    | 394 Liberty Street | Upon Purchase of Property |          |

| JOB SECTION           | DESCRIPTION                       | UNIT PRICE | LINE TOTAL |
|-----------------------|-----------------------------------|------------|------------|
| Roof                  | Repair                            | 6000.00    | 6000.00    |
| Gutters/Downspouts    | Installation New                  | 510.00     | 510.00     |
| Windows               | Replacement                       | 2600.00    | 2600.00    |
| Doors                 | Replacement and Fixing            | 1300.00    | 1300.00    |
| Siding/Trim/Exterior  | Painting and repair               | 2500.00    | 2500.00    |
| Foundation            | Repair & Re-enforcement           | 2000.00    | 2000.00    |
| Steps Porches & Decks | Repair and structural Replacement | 1000.00    | 1000.00    |
| Fireplaces            | Repair and Pointing               | 1000.00    | 1000.00    |
| Remediation           | Lead/Asbestos                     | 6000.00    | 6000.00    |
| HVAC / Furnaces       | Replacement                       | 6000.00    | 6000.00    |
| Hot water Heater      | Replacement                       | 2000.00    | 2000.00    |
| SUBTOTAL              |                                   |            |            |
| SALES TAX             |                                   |            |            |
| TOTAL                 |                                   |            |            |

THANK YOU FOR YOUR BUSINESS!

# QUOTE

## Gilberto Construction

INVOICE # NO. 190808AIS

DATE: 8/8/19

240 Broadway  
Newburgh NY 12550  
845-764-7909

TO Abel & Irene Salazar / Alina Preciado  
16206 Grand Avenue  
Bellflower, Ca. 90706  
917-674-5856

| SALESPERSON | JOB                | PAYMENT TERMS             | DUE DATE |
|-------------|--------------------|---------------------------|----------|
| Gilberto    | 394 Liberty Street | Upon Purchase of Property |          |

| JOB SECTION       | DESCRIPTION             | UNIT PRICE | LINE TOTAL |
|-------------------|-------------------------|------------|------------|
| Domestic Plumbing | Repair & Replace        | 2000.00    | 2000.00    |
| Electric          | Repair & Update         | 2500.00    | 2500.00    |
| Bathroom          | Update & Repair         | 1000.00    | 1000.00    |
| Kitchen           | Update & Repair         | 1000.00    | 1000.00    |
| Insulation        | Through-out entire home | 4000.00    | 4000.00    |
| Interior Doors    | Replacement             | 1050.00    | 1050.00    |
| Flooring          | Refurbish and Refinish  | 2000.00    | 2000.00    |
|                   |                         |            |            |
|                   |                         |            |            |
|                   |                         |            |            |
|                   |                         |            |            |

SUBTOTAL

SALES TAX

TOTAL

44,460.00

THANK YOU FOR YOUR BUSINESS!



*Securing Your Tomorrows*

August 7, 2019

Mr. Abel A Salazar  
16206 Grand Avenue  
Bellflower, CA 90706

Eric Garcetti, Mayor of The City of Los Angeles  
William P. G. Helms, General Manager  
Todd Loney, Assistant General Manager  
John P. Loney, Assistant General Manager  
Rodney Jones, Chief Investment Officer

Dear Mr. Salazar:

This letter is to acknowledge your request for the attached form(s):

- ☐ Application to Purchase Previous City Service
- ☐ Application to Purchase Public Service
- ☐ Benefit Estimate
- ☐ Certification of Service
- ☐ Declaration of Domestic Partnership
- ☐ Designation of Beneficiary for Active Members
- ☐ Distribution Election Form and W-9 (Mail or Office)
  - Must be notarized unless delivered in person to LACERS
- ☐ Election to Participate in Family Death Benefit Plan
- ☐ Larger Annuity - Initiation or Change of Contribution Amount
- ☐ Larger Annuity - Request for Income Tax Withholding
- ☒ Member Statement
- ☐ Service Retirement Application
- ☐ Vested Retirement Application
- ☐ W-9 Request for Taxpayer Identification Number and Certification
- ☐ Other: \_\_\_\_\_

Forms can be submitted via: **Mail** P.O. Box 512218, Los Angeles, CA 90051-9861, **Email** [lacers.services@LACERS.org](mailto:lacers.services@LACERS.org), **Fax** (213) 473-7297, or **Office** M-F 7:00 a.m. – 3:45 p.m. 202 West 1<sup>ST</sup> St. Suite 500, Los Angeles, CA 90012-4401

Should you have any questions or require further information, please do not hesitate to contact Member Services Center at (800) 779-8328.

Sincerely,  
Member Services Center

Mailing Address: PO Box 512218, Los Angeles, CA 90051-0218  
(800) 779-8328 | TDD (888) 349-3996 | [www.lacers.org](http://www.lacers.org)  
Visit LACERS at 202 W. First Street, Los Angeles, CA 90012-4401



# LACERS

LOS ANGELES CITY EMPLOYEES'  
RETIREMENT SYSTEM

202 W. First Street, Suite 500  
Los Angeles, CA 90012-4404  
Mail Stop 175  
(800) 779-8328  
TDD (888) 349-3996  
Fax: (213) 687-4147  
www.lacers.org

*Securing Your Tomorrow*

## Member Statement for ABEL A. SALAZAR

Statement Period: 08/08/2018 - 08/07/2019

Statement Run Date: 08/07/2019

### MEMBER DEMOGRAPHIC INFORMATION

SSN:<sup>1</sup> [REDACTED]  
DOB:<sup>1</sup> [REDACTED]  
Address:<sup>1</sup> 16206 GRAND AVENUE  
BELLFLOWER, CA 90706

Marital Status:<sup>1</sup> [REDACTED]

Spouse Name:

Spouse DOB: [REDACTED]

Marriage Date:

Phone:<sup>1</sup> (562) 866-7947

Domestic Relations Order: Not on file

Email:

<sup>1</sup> Corrections for Active Members must be made through your employing department.

### MEMBERSHIP INFORMATION

Current Member Status: Active  
Plan/Tier: Tier 1  
Membership Begin Date: 06/03/1991

Reciprocity: No  
DWP Service: No  
Larger Annuity Participant: No  
FDBP Participant: No  
Service Purchase: No

### EMPLOYMENT INFORMATION

Employee ID: [REDACTED]  
Department: Dept. of Airports  
Biweekly Salary Last Reported: \$4,231.10

Hire Date: 07/01/1991  
Termination Date:  
Date Last Reported: 07/20/2019

### RETIREMENT CONTRIBUTION INFORMATION

| Total<br>Beginning<br>Balance as of<br>08/08/2018 | Pre-Tax<br>Contributions<br>During<br>Statement Period | Post-Tax<br>Contributions<br>During<br>Statement Period | Interest<br>Earned During<br>Statement<br>Period | Total<br>Ending<br>Balance as of<br>08/07/2019 |
|---------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------|--------------------------------------------------|------------------------------------------------|
| \$192,211.91                                      | \$11,635.50                                            | \$0.00                                                  | \$4,984.06                                       | \$208,831.47                                   |

## **Property Proposal Summary**

**Location:** 394 Liberty Street (east side between Broad and Clinton Streets)

**Tax Map Number:** 10-1-41

**Property Class:** 210—One Family Residential

**Zoning:** RL—Residential Low Density; EEHD—East End Historic District

**Description:** Detached single family home—Year built: 1870; 1364sf above-grade; walk-up attic; full basement; lot size: 36 x 97

**Condition:** Fair

**Assessed Value:** \$ 57,700

**Annual Taxes:** \$ 2,865+/-

**Selling Price:** \$ 54,900

**The city acquired this property: August 2018**

### **Offer Information:**

**Name:** Abel & Irene Salazar and Alina Preciado

**Offer Price:** **\$ 50,000**

**Construction Estimate:** \$ 44,460+/-

**Proof of Financing:** LACERS (Los Angeles City Employees' Retirement System) account.

**Comments:** Mr. & Mrs. Salazar currently reside in California but looking to relocate to Newburgh, at least on a part-time basis. Their daughter, Alina Preciado, will be the full-time owner occupant of this property. Ms. Preciado currently lives in Brooklyn but has been visiting on a regular basis. She plans to work remotely from her Newburgh house. The parents have the funds to purchase and rehabilitate the house.

The house is located in the East End Historic District, across the street from the Mount Saint Mary campus.

The house needs some significant repairs: roof, kitchen, bath, floors, walls, windows, etc. The repair estimate is felt to accurately reflect the work needed to bring this house back to life.







Interior Photos



RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 16 MAPLE STREET (SECTION 25, BLOCK 3, LOT 35)  
AT PRIVATE SALE TO KAREN CESTONI FOR THE 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 16 Maple Street, being more accurately described as Section 25, Block 3, Lot 35 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 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 December 13, 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> |
|-------------------------|----------------------------|------------------|-----------------------|
| 16 Maple Street         | 25 - 3 - 35                | Karen Cestoni    | \$10,000.00           |

**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

## 16 Maple Street, City of Newburgh (SBL: 25-3-35)

### 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 **2019-2020**, 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 **2019-2020**, 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 receipt 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. The property is sold subject to an owner-occupancy restriction. The purchaser has agreed to purchase the property subject to the five (5) year owner occupancy restriction shall, within 18 months of the delivery of the deed, establish his domicile and principal residence at said premises and maintain his domicile and principal residence at said premises for a period of at least five (5) years thereafter, provided that within said five (5) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms of Sale.

ACKNOWLEDGED AND AGREED

Date: \_\_\_\_\_

\_\_\_\_\_  
(Purchaser Name)

## Proposal Form

### Contact Information:

Name: Maren Cestoni  
Business Name (If Applicable): N/A  
Address: 94-30 Macnish St, Apt # LA  
City, State & Zip: Elmhurst NY 11373  
Home phone: \_\_\_\_\_  
Business Phone: \_\_\_\_\_  
Mobile Phone: 347-447-7856  
E-mail: estrellaluna2611@hotmail.com  
Federal I.D. No. (If Applicable): \_\_\_\_\_

### Property Ownership Information:

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

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

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

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

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

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

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







**Finances:**

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

I am providing:

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

**What You Should Attach:**

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

**Business Relationship:**

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

**INFORMATION RELEASE:**

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

*Wania CUB*

Signature

*08/20/2019*

Date

*Waren Cestoni*

Print Name

Submit Application to:

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

TO: City of Newburgh.  
From Nelson Gualpa.

I am Nelson Gualpa spouse of Karen Costone.

I will be in charge of the renovation of the property at  
116 Maple ST I know financial is all in my name but  
I will invest in the renovation and I will be in charge of  
the renovation and inspecting the entire process  
and I am still will be responsible in all matters with my  
wife Peste until finish and until move in. for  
life with my wife.

Please Hope you understand.

Thank you so much

Sincerely

Nelson A Gualpa 08-20-19



# Proposal

**G.G. Repairs & Maintenance Corp.**  
80-09 35th Ave. Jackson Heights, NY 11372  
(917) 217-4690

**DATE:** August 14, 2019  
**INVOICE #** 653  
**FOR:** Renovations

**Bill To:**  
**Nelson A. Gualpa**  
**16 Maple St**  
**Newburgh, NY 12550**

**Ship To:**  
**Nelson A. Gualpa**  
**16 Maple St**  
**Newburgh, NY 12550**

| DESCRIPTION                                                                                                                                                      | AMOUNT       |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| <b>Carting</b><br>Dispose of all the garbage in the property including demo work                                                                                 | \$ 7,000.00  |
| <b>Landscape and Backyard</b><br>Fix the backyard and remove the trees<br>make a new fence all around it.                                                        | \$ 3,500.00  |
| <b>Roof</b><br>new roof                                                                                                                                          | \$ 16,000.00 |
| <b>Exterior Work</b><br>Install all the windows<br>new siding<br>new porch                                                                                       | \$ 24,000.00 |
| <b>Built</b><br>new fremen in the entire property<br>new sheetrock 5/8"<br>compound/ tape all the new sheet rock and sand throught<br>Replaced the property bins | \$ 22,000.00 |
| <b>Electrical</b><br>New sub panels to each floor<br>New outlet and lights as per code<br>New hardwire smoke detectors in bedrooms and basement                  | \$ 17,000.00 |
| <b>TOTAL</b>                                                                                                                                                     |              |



# Proposal

**G.G. Repairs & Maintenance Corp.**  
80-09 35th Ave. Jackson Heights, NY 11372  
(718) 639-0646 (917) 217-4690

**DATE:** August 14, 2019  
**INVOICE #** 653  
**FOR:** Renovations

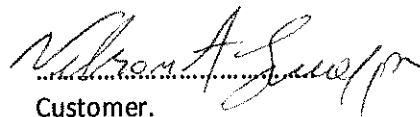
**Bill To:**  
**Nelson A. Gualpa**  
**16 Maple St**  
**Newburgh, NY 12550**

**Ship To:**  
**Nelson A. Gualpa**  
**16 Maple St**  
**Newburgh, NY 12550**

| DESCRIPTION                                                                                                                                                                                                                                                   | AMOUNT               |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| <b>Plumbing</b><br>New plumbing throughout the entire house for the exception of the main<br>Waste Raiser<br>New 3/4 water line raiser to feed bathrooms and kitchens<br>New shower body, tub, sink and toilets<br>Installation of all new plumbing fixtures. | \$ 10,000.00         |
| 2 hot water boiler tankLess                                                                                                                                                                                                                                   | \$ 6,000.00          |
| 2 new furnaces for heating                                                                                                                                                                                                                                    | \$ 8,500.00          |
| new 3/4" gas line for stove, boiler and furnace                                                                                                                                                                                                               | \$ 4,500.00          |
| <b>Finish</b><br>Install new flooring<br>Put molding in general<br>install new doors<br>Prime and paint entire house                                                                                                                                          | \$ 21,000.00         |
| <b>Licensed Electrician: Electircal Innovations</b><br><b>Licensed Plumber : Vitek Plumbing Inc</b>                                                                                                                                                           |                      |
| <b>TOTAL</b>                                                                                                                                                                                                                                                  | <b>\$ 139,500.00</b> |

GG Rrepairs& Maintenance Corp

Contractor

  
Customer.

**THANK YOU FOR YOUR BUSINESS!**

**Bank**

America's Most Convenient Bank®

T

STATEMENT OF ACCOUNT

NELSON GUALPA  
4430 MACNISHSTAPT LA  
ELMHURSTNY 11373-6600

Page: 1 of 3  
Statement Period: Jul 14 2019-Aug13 2019  
Cust Ref #: 7927149620-630-T-###  
Primary Account #: 792-7149620

**TD Convenience Checking**

NELSONGUALPA

Account # 792-7149620

**ACCOUNT SUMMARY**

|                                   |  |            |
|-----------------------------------|--|------------|
| Statement Balance as of 07/14     |  | 114,381.17 |
| Plus 5 Deposits and Other Credits |  | 101,528.35 |
| Less 9 Checks and Other Debits    |  | 3,725.71   |
| Less Service Charges              |  | 1.00       |
| Statement Balance as of 08/13     |  | 212,182.81 |

**ACCOUNT ACTIVITY****Transactions by Date**

| DATE  | DESCRIPTION                                                                                                        | DEBIT  | CREDIT    | BALANCE    |
|-------|--------------------------------------------------------------------------------------------------------------------|--------|-----------|------------|
| 07/16 | TD ATM DEBIT, *****30003559366<br>AUT041418 DDA WITHDRAW<br>7801 QUEENSBOULEVARD ELMHURST * NY                     | 200.00 |           | 114,181.17 |
| 07/16 | TD ATM DEBIT, *****30003559366<br>AUT041618 DDA WITHDRAW<br>7801 QUEENSBOULEVARD ELMHURST * NY                     | 200.00 |           | 113,981.17 |
| 07/17 | eTransfer Debit, Online Xfer<br>Transfer to CC 4839500330939149                                                    | 811.39 |           | 113,169.78 |
| 07/17 | Check #1047                                                                                                        | 800.00 |           | 112,369.78 |
| 07/18 | TD ATM DEBIT, *****30003559366<br>AUT041818 DDA WITHDRAW<br>7801 QUEENSBOULEVARD ELMHURST * NY                     | 600.00 |           | 111,769.78 |
| 07/20 | Check #1107                                                                                                        | 500.00 |           | 111,269.78 |
| 07/24 | CREDIT,<br>PENNYARCADECLASS ACTION.<br>WWW.PENNYARCADESETTLEMENT.COM<br>OR CALL 855-312-1974 FOR MORE INFORMATION. |        | 78.35     | 111,348.13 |
| 07/27 | NONTD ATM DEBIT, *****30003559366<br>AUT042718 DDA WITHDRAW<br>91 08 37TH AVE JACKSON HEIGH* NY                    | 21.99  |           | 111,326.14 |
| 07/27 | NONTD ATM FEE                                                                                                      | 3.00   |           | 111,323.14 |
| 08/01 | DEPOSIT                                                                                                            |        | 14,500.00 | 125,823.14 |
| 08/04 | DEPOSIT                                                                                                            |        | 67,750.00 | 193,573.14 |
| 08/07 | DEPOSIT                                                                                                            |        | 14,000.00 | 207,573.14 |
| 08/09 | ACH DEBIT,<br>TDAUTOFINANCE LOAN PYMT*****01102237391                                                              | 589.33 |           | 206,983.81 |
| 08/09 | DEPOSIT                                                                                                            |        | 5,200.00  | 212,183.81 |
| 08/11 | PAPERSTATEMENT FEE                                                                                                 | 1.00   |           | 212,182.81 |

**Checks Paid**

No. Checks: 2

\*Indicates break in serial sequence or check processed electronically and listed under Electronic Payments

| DATE  | SERIAL NO. | AMOUNT |
|-------|------------|--------|
| 07/17 | 1047       | 800.00 |

Call 1-800-937-0000 for 24 hour Bank by Phone service or connect to us online at tdbank.com

## Property Proposal Summary

|                                |                                                                               |
|--------------------------------|-------------------------------------------------------------------------------|
| <b>Location:</b>               | <b>16 Maple Street (north side between Fowler Avenue &amp; Wisner Avenue)</b> |
| <b>Tax Map Number:</b>         | 25-3-35                                                                       |
| <b>Property Class:</b>         | 220 – 2-Family Residence                                                      |
| <b>Zoning:</b>                 | RL— Residential Low Density                                                   |
| <b>Description:</b>            | 2-story frame building. Year built: 1920+/-; 1297sf; lot size—30 x 150.       |
| <b>Condition:</b>              | Poor                                                                          |
| <b>Assessed Value:</b>         | \$ 17,700                                                                     |
| <b>Estimated Annual Taxes:</b> | \$ 879 +/-                                                                    |
| <b>Selling Price:</b>          | \$ 8,850 @ 50%                                                                |

**The city acquired this property: August 2018**

### **Offer Information:**

|                        |                  |
|------------------------|------------------|
| Name:                  | Karen Cestoni    |
| Offer Price:           | <b>\$ 10,000</b> |
| Construction Estimate: | \$139,500 +/-    |
| Proof of Financing:    | TD Bank account  |

Comments: The City acquired this building in 2018. It was heavily damaged in a fire in 2011; it has been abandoned ever since. It is in poor condition and an eyesore for the neighborhood.

Ms. Cestoni has three other relatives that are living or plan to live in the City of Newburgh. One just completed a renovation; another is in the midst of a renovation, and another just was approved to purchase a property on William Street.

Ms. Cestoni and her husband Nelson Gualpa plan to reside in this property. They plan to live in one unit and possibly have other relatives occupy the other unit. Ms. Cestoni's brother-in-law has a construction company in Brooklyn. He will be working on the renovation of this property. He also intends to relocate to the City of Newburgh.







Interior Photos





RESOLUTION NO. \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING A TWELVE MONTH EXTENSION OF TIME  
TO REHABILITATE THE PREMISES KNOWN AS 92 OVERLOOK PLACE  
(SECTION 45, BLOCK 8, LOT 24) IN THE CITY OF NEWBURGH**

**WHEREAS**, the City of Newburgh did convey the premises located at 92 Overlook Place, more accurately described as Section 45, Block 8, Lot 24 on the Official Tax Map of the City of Newburgh, by deed dated February 1, 2017; and

**WHEREAS**, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about August 1, 2018; and

**WHEREAS**, Kurt Schreiber, the owner of property located at 92 Overlook Place 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 Kurt Schreiber be granted a twelve (12) month extension to rehabilitate the premises known as 92 Overlook Place in the City of Newburgh; and

**BE IT FURTHER RESOLVED**; that such rehabilitation must be completed on or before September 9, 2020, that being twelve (12) months from the date of this Resolution.

## Kaufman, Jeremy

---

**From:** Erin Cousins <cousins.erin@gmail.com>  
**Sent:** Monday, August 05, 2019 9:09 AM  
**To:** Diaz, Eliana; Talerico, Donna; Kaufman, Jeremy  
**Subject:** 92 Overlook Place Extension Request For Council

TO:  
City of Newburgh Office of the City Manager Joseph P. Donat  
And  
City of Newburgh Corporation Counsel

I am writing to request an extension of the restrictive covenant to complete renovations on 92 Overlook Place. My husband Kurt Schreiber and I purchased the building from the City in February of 2017 and have completed renovations to one of the apartment units and finished demo and preparation work to the other two units. When we acquired the building two of the units were occupied and in very bad condition. One of the tenants moved about 4 months after we took ownership of the building, and the other tenant (a single mother with 4 children) took a year before she was able to find another suitable apartment for her and her children. We were significantly delayed in starting our work as we could not do it while the units were occupied. However we did stabilize what we could while the second floor tenant was still there and addressed major issues like the mouse, roach and bed bug infestation. We replaced furniture that the second floor tenant had that was infested with bed bugs and fixed windows and doors that for years did not lock or close. We removed flooring that was soaked with urine and feces and made a huge impact on the quality of life in the building while we waited for our tenant to find another place to live so that we could make the major repairs needed. In March of 2018 we moved our family (we have two small children) to the finished apartment. And in May 2018 were finally able to begin to diagnose the renovation needs of the other apartments and began demo work and cleaning out. The money we had budgeted for the repair work was spent on the work mentioned above and the cost of heating, taxes, and other carrying costs while the tenant on the second floor did not pay rent. In order to move forward we need to apply for a renovation loan, but cannot do that until we have an extension. We have approached three different banks that would not agree to finance this project because restrictive covenant. We have now finally found a bank that has agreed to finance the project despite the restrictive covenant if we get an extension. Depending on when we get financing we will need at least another 6 months to schedule and complete the renovations. We have gotten multiple estimates and identified a contractor who has a good track record working in the City of Newburgh. We are very confident that we can complete the renovation within another 6 month period.  
Thank you for your time and consideration.

Sincerely,

Erin Cousins and Kurt Schreiber  
92 Overlook Place, Newburgh, NY 12550  
(845)728-2279



# CITY OF NEWBURGH

## Building Department

123 Grand Street Newburgh, New York 12550

(845) 569-7400/Fax (845) 569-0096

[www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)

TO: Michele Kelson, Corporation Counsel

FROM: William F. Horton, Assistant Fire Chief/Building Inspector

DATE: August 14,, 2019

SUBJECT: 92 Overlook Place

---

Following a review of the building file and speaking to the property owner as well as David Kohl, although progress was delayed by some setbacks with local contractors and difficulties securing financing, I feel that the owner has worked diligently to overcome the delays and the request for a one year extension is reasonable and highly supported by my office.

Thank you.

## Kaufman, Jeremy

---

**From:** Kohl, David  
**Sent:** Wednesday, August 14, 2019 2:39 PM  
**To:** Kaufman, Jeremy  
**Cc:** Horton, William  
**Subject:** FW: 92 Overlook Place Extension Request For Council

To All –

Kurt Schreiber purchased 92 Overlook Place -- a three-family home - from the City of Newburgh in February of 2017. He and his wife, Erin Cousins, completely renovated the top floor of the building. Slightly over one year later, they moved into that apartment with their two children.

They decided to do a quality renovation on the remaining two units. They have run into time delays and financial setbacks – as outlined in the most recent request submitted by Mr. Schreiber and Ms. Cousins - but now they have a contractor and have funding commitments in place to complete the project.

I would strongly recommend Mr. Schreiber a 12-month extension until August 31, 2020 to complete his project.

David Kohl

David Kohl  
Economic Development Specialist  
City of Newburgh  
Planning & Development  
123 Grand Street, 1st Floor  
Newburgh, NY 12550  
(845)-569-7387

**From:** Erin Cousins [mailto:cousins.erin@gmail.com]  
**Sent:** Wednesday, August 14, 2019 1:33 PM  
**To:** Kohl, David <DKohl@cityofnewburgh-ny.gov>  
**Subject:** Fwd: 92 Overlook Place Extension Request For Council

----- Forwarded message -----

**From:** Erin Cousins <cousins.erin@gmail.com>  
**Date:** Mon, Aug 5, 2019 at 9:09 AM  
**Subject:** 92 Overlook Place Extension Request For Council  
**To:** Eliana <EDiaz@cityofnewburgh-ny.gov>, Donna <DTalerico@cityofnewburgh-ny.gov>, Jeremy <jkaufman@cityofnewburgh-ny.gov>

**TO:**  
City of Newburgh Office of the City Manager Joseph P. Donat  
And  
City of Newburgh Corporation Counsel

RESOLUTION NO.: \_\_\_\_\_-2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO M & N NEWBURGH DEVELOPMENT, LLC TO THE  
PREMISES KNOWN AS 66 JOHNSTON STREET (SECTION 23, BLOCK 7, LOT 21)**

**WHEREAS**, on September 23, 2016, the City of Newburgh conveyed property located at 66 Johnston Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 23, Block 7, Lot 21, to M & N Newburgh Development, LLC; and

**WHEREAS**, the current owner, by his attorney, has requested a release of the restrictive covenants contained in said deed; and

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

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

**KNOWN ALL PERSONS BY THESE PRESENTS**, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 66 Johnston Street, Section 23, Block 7, Lot 21 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 September 23, 2016, from THE CITY OF NEWBURGH to M & N NEWBURGH DEVELOPMENT, LLC, recorded in the Orange County Clerk's Office on September 29, 2016, in Liber 14116 of Deeds at Page 979 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

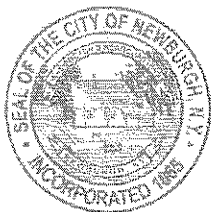
THE CITY OF NEWBURGH

By: \_\_\_\_\_  
Joseph Donat, City Manager  
Pursuant to Res. No.: \_\_\_\_-2019

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH DONAT, 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.





# CITY OF NEWBURGH

## Building Department

123 Grand Street Newburgh, New York 12550

(845) 569-7400/Fax (845) 569-0096

[www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)

Received  
8/5/19

**TO:** Michele Kelson, Corporation Counsel

**FROM:** William F. Horton, Assistant Fire Chief/Building Inspector

**MEETING DATE:** August 2, 2019

**SUBJECT:** 66 Johnston Street, Release of Restrictive Covenants

---

With regard to the request related to the release of the restrictive covenants for 66 Johnston Street owned by M & N Newburgh Dev. LLC., I conducted an inspection of the property on 2/8/2019 and reviewed the building file in the office. Below are my findings:

There are no open code violations on file in the building record.

I observed no violations either on the property or in the building during my most current inspection of the property.

There are no open permits.

There is a valid Certificate of Occupancy on file dated 2/8/2019 for a Four Family Dwelling.

Thank you.

## Kaufman, Jeremy

---

**From:** Horton, William  
**Sent:** Thursday, August 15, 2019 3:01 PM  
**To:** Kaufman, Jeremy  
**Subject:** RE: 66 Johnston Street

Jeremy,

I can confirm that the building completed and closed all permits.  
Obtained a New Certificate of Occupancy and passed the required Rental Inspection.  
Thank you

AC Horton

---

**From:** Kaufman, Jeremy  
**Sent:** Thursday, August 15, 2019 2:46 PM  
**To:** Horton, William <WHorton@cityofnewburgh-ny.gov>  
**Subject:** 66 Johnston Street

Bill,

Attorney for 66 Johnston Street claims that they filed appropriate paperwork for a rental license (4-family). I don't see anything in IPS, but that could be due to a lag in paperwork filing. Can you confirm if that property has a valid rental license for 2019? Thanks,

Jeremy Kaufman  
Assistant Corporation Counsel  
City of Newburgh  
83 Broadway  
Newburgh, NY 12550  
Phone: (845) 569-7335  
Fax: (845) 569-7338  
[jkaufman@cityofnewburgh-ny.gov](mailto:jkaufman@cityofnewburgh-ny.gov)



RESOLUTION NO.: \_\_\_\_\_-2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO BISESSAR A. MOONESAR TO THE PREMISES  
KNOWN AS 44 JOHNES STREET, UNIT 206-J (SECTION 58, BLOCK 1, LOT 1.-16)**

**WHEREAS**, on August 25, 2017, the City of Newburgh conveyed property located at 44 Johnes Street, Unit 206-J, being more accurately described on the official Tax Map of the City of Newburgh as Section 58, Block 1, Lot 1.-16, to Bisessar A. Moonesar; 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.

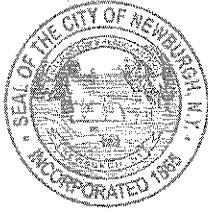
**KNOWN ALL PERSONS BY THESE PRESENTS**, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the 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 Johnes Street, Unit 206-J, (Section 58, Block 1, Lot 1.-16) 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 25, 2017 from THE CITY OF NEWBURGH to Bisessar A. Moonesar, recorded in the Orange County Clerk's Office on August 31, 2017, in Liber 14283 of Deeds at Page 1390 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

THE CITY OF NEWBURGH

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2019, before me, the undersigned, a Notary Public in and for said State, personally appeared JOSEPH DONAT, 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 &amp; RETURN TO:



# CITY OF NEWBURGH

## Building Department

123 Grand Street Newburgh, New York 12550

(845) 569-7400/Fax (845) 569-0096

[www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)

TO: Michele Kelson, Corporation Counsel

FROM: William F. Horton, Assistant Fire Chief/Building Inspector

DATE: August 23, 2019

SUBJECT: 44 Johnes Street #206, Release of Restrictive Covenants

---

With regard to the request related to the release of the restrictive covenants for 44 Johnes Street #206 owned by Bisessar Moonesar, I conducted an inspection of the property on 8/20/19 and reviewed the building file in the office. Below are my findings:

There are no open code violations on file for Unit #206 in the building records.

I observed no violations either in the unit during my most current inspection of the property.

There are no open permits.

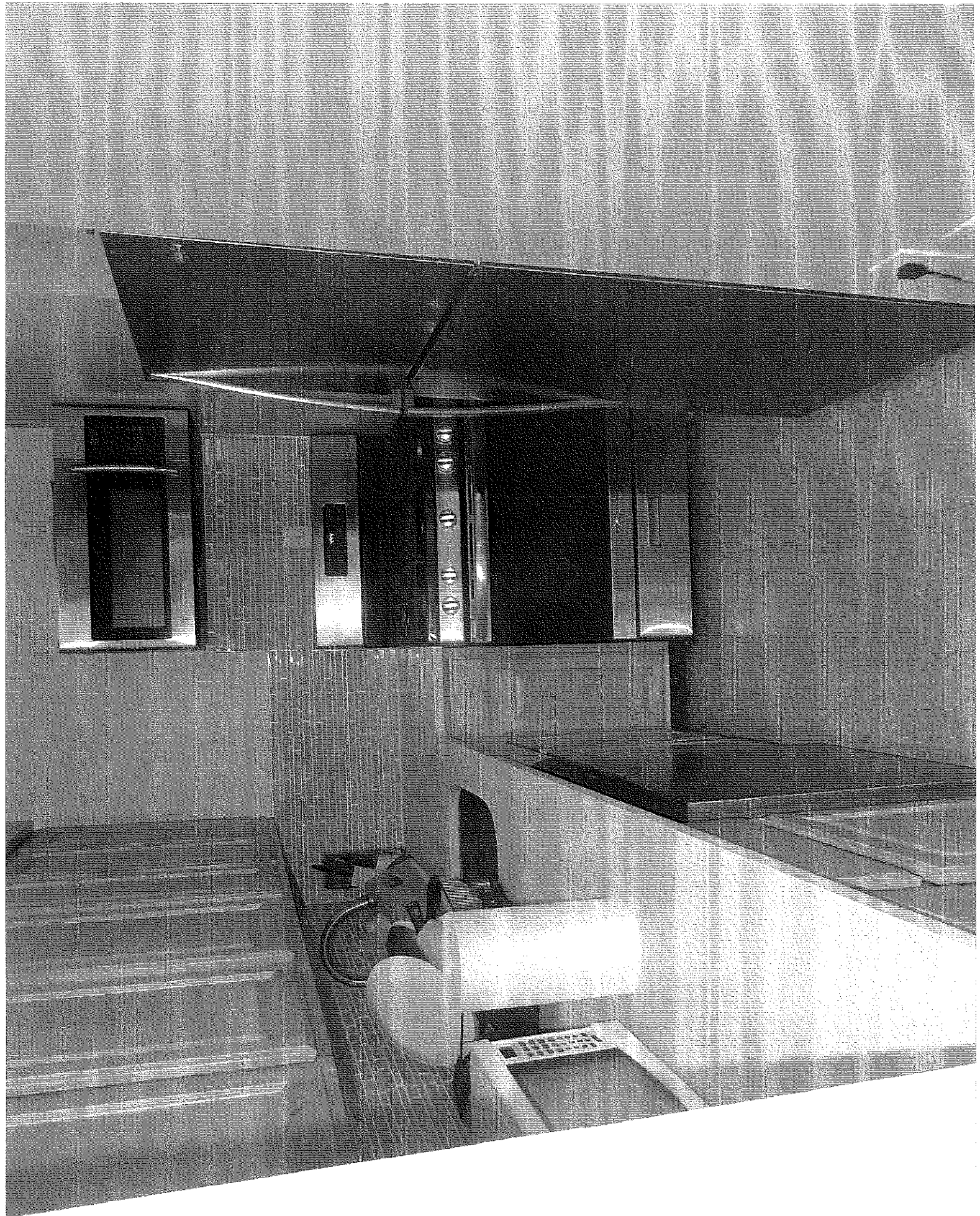
There is a valid Certificate of Occupancy on file dated 9/19/1988 for a Residential Condominium.

Thank you.



















RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION SCHEDULING A SECOND PUBLIC HEARING  
FOR SEPTEMBER 23, 2019 TO HEAR PUBLIC COMMENT REGARDING  
THE HOUSING AND COMMUNITY DEVELOPMENT NEEDS OF  
THE CITY OF NEWBURGH AND TO HEAR PUBLIC COMMENT ON  
THE CITY OF NEWBURGH'S PROPOSED ACTIONS CONCERNING  
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
FOR THE 2020-2024 FIVE YEAR CONSOLIDATED PLAN  
AND FISCAL YEAR 2020 ANNUAL ACTION PLAN**

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that there is hereby scheduled a second public hearing to receive comments regarding the housing and community development needs of the City of Newburgh and to hear public comment on the City of Newburgh's proposed actions concerning the Community Development Block Grant Program for the 2020-2024 Five Year Consolidated Plan and the FY 2020 Annual Action Plan; 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 23rd day of September, 2019, in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York.

The seal of the City of Newburgh is a circular emblem. The outer ring is yellow with the text "SEAL OF THE CITY OF NEWBURGH" in black. Inside this is a blue ring with "INCORPORATED 1784" in white. The center features a detailed illustration of a cityscape with a large building, a bridge, and a river, with the text "WASHINGTON'S HEADQUARTERS" above it.

# **Community Development Block Grant (“CDBG”) 5-Year Consolidated Plan (including FY2020 Annual Action Plan)**

**Department of Planning &  
Development  
April, 2019**



# “CDBG” - Brief Primer



- 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 new City of Newburgh Consolidated Plan: **FY2020-FY2024**
- 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 FY2020 - 2024 Consolidated Plan - Goals

The Consolidated Plan Goals are Identified from the Priority Needs in the City of Newburgh.



# City of Newburgh CDBG FY2020 - 2024 Consolidated Plan - Goals

Priority Needs Identified through (examples):

- “Visioning Plan” Community Meetings
- “Visioning Plan” Community Survey
- Community Feedback from previous CDBG Annual Action Plans
- Community Outreach Meetings

*“What’s missing from the current vision is ‘how’ to do these things. There is no shortage of plans for Newburgh. The issue is implementation and financing” – Comment from the 2018 City of Newburgh Vision Plan Public Workshop #1*



# City of Newburgh FY2020-2024 Consolidated Plan Goals Overview:

- Infrastructure Improvements
- Economic Development
- Quality of Life
- Housing
- CDBG Administration

*The “How” to do these things:  
The FY2020 -2024 Consolidated  
Plan will provide the City of  
Newburgh with five years of  
funding to implement priority  
needs projects.*



# City of Newburgh FY2020-2024 Consolidated Plan Goals:

Goal: Infrastructure Improvements

Project Examples:

- “Complete Streets” Safe Access Upgrades (ex. Bikes, Pedestrians, Motorists)
- Drinking Water Protections
- Sewer Upgrades



# City of Newburgh FY2020-2024 Consolidated Plan Goals:

Goal: Economic Development

Project Examples:

- Business Sign/Façade Program
- Workforce Development Assistance

# City of Newburgh FY2020-2024 Consolidated Plan Goals:

Goal: Quality of Life Improvements

Project Examples:

- Park Improvements
- National Night Out
- Summer Children's Film Festival



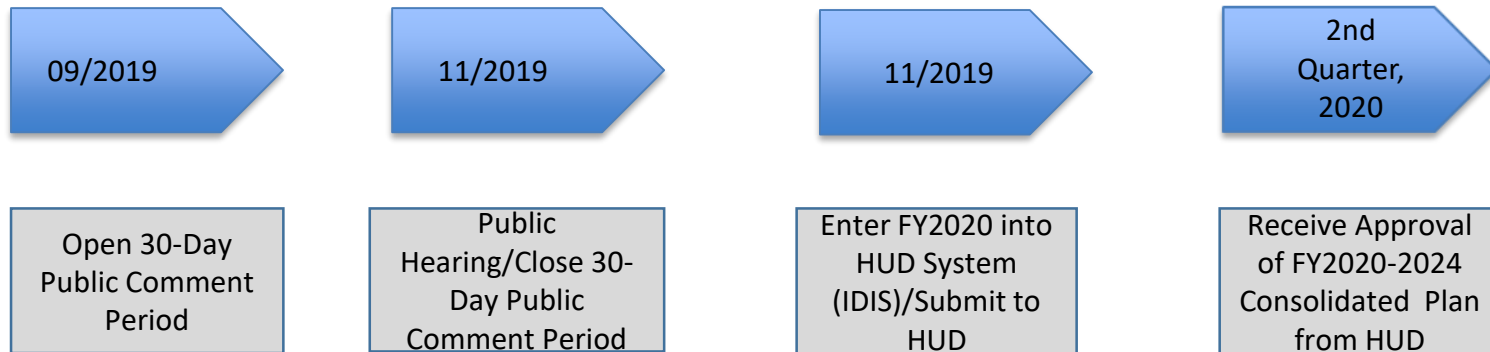
# City of Newburgh FY2020-2024 Consolidated Plan Goals:

Goal: Housing

Project Example:

- In Rem Property Program
- Homeowner Assistance

# City of Newburgh FY2020-2024 Consolidated Plan Timeline



**FY2020-2024 Consolidated Plan Timeline**



# City of Newburgh FY2020 Annual Action Plan (AAP)

The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.





# FY2020 Proposed CDBG Projects/Funding

|                                           | Project Name                             | Description (Examples of Activities)                                                                                 | Project Funding | % Project Inc (if allocation greater than proposed) |
|-------------------------------------------|------------------------------------------|----------------------------------------------------------------------------------------------------------------------|-----------------|-----------------------------------------------------|
| Projects Funded through Entitlement Grant |                                          |                                                                                                                      |                 |                                                     |
|                                           | In Rem Property Project                  | Salaries for 3 fulltime employees, In Rem Property Supplies, In Rem Training                                         | \$220,000.00    | 24%                                                 |
|                                           | Infrastructure Improvements              | Sidewalks, Business Façade Improvements, Infrastructure                                                              | \$225,000.00    | 26%                                                 |
|                                           | Park Improvements                        | Park Improvements                                                                                                    | \$200,000.00    | 24%                                                 |
|                                           | Community Policing/Neighborhood Services | 2020 National Night Out, 2020 Children's Summer Film Festival                                                        | \$20,000.00     | 2%                                                  |
|                                           | Homeowner Assistance Program             | Homeowner Assistance Program                                                                                         | \$50,000.00     | 7%                                                  |
|                                           | Administration                           | Program Administration, Staff Salary and Benefits, Program Operating Costs (including mailings), Training/Conference | \$130,000.00    | 17%                                                 |
|                                           |                                          | Estimated Total FY2020 Allocation                                                                                    | \$845,000.00    | 100%                                                |

Project: In Rem Property Program  
Budget: \$220,000.00

## 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: Infrastructure Improvements  
Budget: \$225,000.00

### Summary

Examples of projects include:

- “Complete Streets” Safe Access Upgrades
- Sidewalk improvements

Project: Park Improvements  
Budget: \$200,000.00

## Summary

Examples of projects include:

- Improvements to South St. Park, Newburgh Landing, The People's Park, Xavier Lunan Park



Project: Community Policing/Neighborhood Services  
Budget: \$20,000.00

## Summary

Examples of Projects include:

- 2020 National Night Out
- 2020 Children's Summer Film Festival





Project: Homeowner Resource Assistance  
Budget: \$50,000.00

## Summary

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



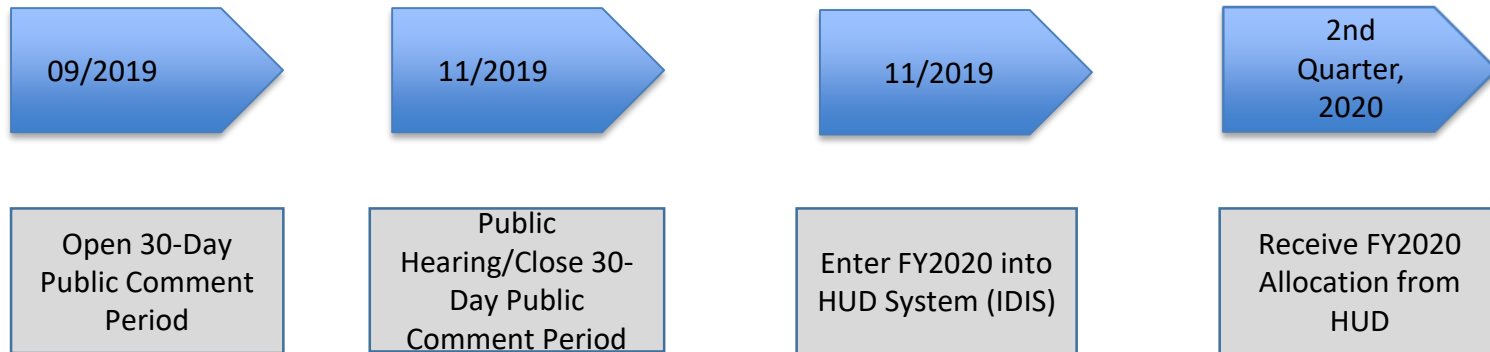
Project: Administration  
Project Funding: \$130,000.00

## Summary

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



# FY2020 CDBG AAP Timeline



## FY 2020 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS TIMELINE



RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR  
AND ACCEPT IF AWARDED A CITIES FOR RESPONSIBLE INVESTMENT AND  
STRATEGIC ENFORCEMENT PHASE III GRANT FROM  
ENTERPRISE COMMUNITY PARTNERS, INC.  
TO IMPROVE CODE ENFORCEMENT POLICY AND PRACTICES  
IN THE CITY OF NEWBURGH**

**WHEREAS**, by Resolution No. 121-2017 of May 8, 2017, the City of Newburgh was awarded a Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase I grant for a comprehensive asset management data platform and technical expertise to facilitate implementation from the Office of the New York State Attorney General through Local Initiatives Support Corporation; and

**WHEREAS**, by Resolution No. 228-2018 of August 13, 2018, the City of Newburgh was awarded a Cities RISE Phase II grant from Enterprise Community Partners, Inc. for technical assistance to facilitate capacity building in code enforcement strategies through the Office of the New York State Attorney General; and

**WHEREAS**, the City is eligible to apply for a Cities RISE Phase III grant from Enterprise Community Partners, Inc. in an amount not to exceed \$1,000,000.00 to provide new resources and training to leverage data into improved code enforcement practices and policy changes, through innovative strategies; and

**WHEREAS**, this Council has determined that making such application and accepting such grant if awarded is in the best interests of the City of Newburgh and its further development;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a Cities for Responsible Investment and Strategic Enforcement (“Cities RISE”) Phase III grant from Enterprise Community Partners, Inc. in an amount not to exceed \$1,000,000.00 to provide new resources and training to leverage data into improved code enforcement practices and policy changes, through innovative strategies through the Office of the New York State Attorney General; and that the City Manager is authorized to execute all such documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

## Enterprise Community Partners

### Cities RISE Innovation Grant Application

City of Newburgh / Erin Cousins  
83 Broadway  
Newburgh, NY 12550, United States  
845-569-7383  
Ecousins@cityofnewburgh-ny.gov

Submitted: August 16, 2019

#### Forms

### 2019 Cities RISE: 1. General Information

(\* = required)

#### 1. City Name\*

City of Newburgh

#### 2. Point of Contact Name and Position\*

Erin Cousins, Neighborhood Stabilization Coordinator

#### 3. Contact Email\*

ecousins@cityofnewburgh-ny.gov

#### 4. Contact Phone\*

(845) 569-7383

### 2019 Cities RISE: 2. City Challenge

(\* = required)

*Please make sure your responses do not exceed 250 words per question*

**1. What is the problem(s) or challenge(s) you are trying to overcome with this proposal?\***

Please do not exceed 250 words

The City of Newburgh has a housing crisis which can only be solved with targeted and proactive code enforcement. According to the 2017 American Community Survey 32% of housing units are owner occupied in the City of Newburgh. Approximately 10% of the building stock is vacant and in need of rehabilitation. The occupied building stock is in dangerously poor condition and the most vulnerable residents are not engaged with Codes Enforcement because they fear displacement. The City's only mechanism for the most egregious code violations is condemnation, which has the unintended consequence of increasing displacement. Buildings are frequently condemned for code deficiencies, rendering all occupants homeless until improvements are made. The City has worked hard to have progressive city ordinances, such as the Vacant Property Registry, and Rental Property Registry, however forcing compliance with these laws takes targeted and sustained efforts for which there is no capacity. Due to City-wide budget constraints the department is stretched thin with only 4 full-time code officers handling over 200 cases per month. Current software is not adequate to manage the data and work flow of Codes Department. As result open permits and open violations often linger without resolution with no mechanism to track progress. The department is also constrained without standardization of procedures and operations. 164 properties have current rental licenses but the total number of rental units is unknown.

**2.**

**What have you heard from residents and community members that supports the need to address this problem?**

\*

Please do not exceed 250 words

The City of Newburgh is engaged with the community in a variety of ways: in partnership with New York Civic Engagement Table, directly with the public at ongoing public Distressed Property Task Force meetings, and finally on a daily basis with the Occupied and Vacant Specialist who interacts and assists residents and property owners. Many live with inadequate heat, hot water and electricity in apartments infested with rodents, cockroaches, and bed bugs. Residents are reluctant to make complaints because they fear displacement if the building is condemned or evicted illegally by landlords as retaliation for complaining. The growing Spanish speaking immigrant population is reluctant to complain about living conditions for fear of eviction but also for fear of deportation or detention due to immigration status which is threatened by their land lords. Residents want more public access to information about the health and safety of the building before they make a housing choice. Many have complained about moving into an apartment that had an open condemnation that they were not aware of, which eventually lead to their displacement. Many tenants do not have leases and do not know their rights as tenants, nor do



they know where to go with housing related complaints and issues. Many people who have been evicted or displaced due to condemnation have had to travel to the County homeless shelter in Middletown, 30 miles away from the City of Newburgh.

### 3. What data supports the need to address this problem?\*

Please do not exceed 250 words

According to the Housing Profile published by Pattern for Progress in 2018, the combination of rising rents and low median income for renters has contributed to a severe affordability problem in the City. Although 39% of rental units have rents below \$1,000, the median rent in the city has risen rapidly since 2000, 65% of renter households are cost burdened (paying more than 30% of their income), and 41% who are severely cost burdened paying more than 50% of their income. There are currently a total of 5,060 residential structures in the City, and 587 of those buildings are vacant. Approximately 335 of those vacant buildings sit boarded up with no renovation work taking place. Roughly 163 vacant properties are in the process of being renovated, and the remaining 89 buildings are currently categorized as vacant but are most likely occupied.

At this time there are only 124 buildings have current rental licenses, 166 vacant buildings are compliant with the vacant registry out of approximately 2,286 two family and multi-unit buildings, and 2,774 single family buildings.

From July 1, 2018- July 1, 2019 there have been 42 condemnations. Overall compliance with building codes is extremely hard to quantify, as years of lax code enforcement has resulted in hundreds of illegally converted units. Also, we do not have a mechanism to capture accurate data when the interior of a building is accessed. These units, operating outside of their Certificate of Occupancy, make up a majority of the condemnations.

We have been able to put some of the pieces of the puzzle together but the current gaps and inaccuracies of the data prevent us from having a reliable housing unit count.

## 2019 Cities RISE: 3. Tweaks and Innovation

(\* = required)

*Please make sure your responses do not exceed 250 words per question*

### 1. Describe the innovation strategy to overcome the problem(s) or challenge(s).\*

Please do not exceed 250 words

Our long term strategy is a technology driven solution to build capacity to gather, synthesize and track municipal data. We plan to increase collaboration across Core City Departments, develop and implement clear Standard Operating Procedures in the Codes Department, upgrade to a municipal asset management software that can be used by Core City Departments, find innovative and safe ways to house persons displaced after a building is condemned, and make a more substantial connection to the Spanish speaking population with the addition of a Spanish speaking Rental Registry Expert. We are planning to launch a forward facing building blocks and install a

kiosk in a public building for easy access to the site. In order to make policy recommendations to address gaps in the emergency housing system we would like to follow individuals displaced after a condemnation as they navigate the emergency housing system. We have a plan to partner with a local landlord to maintain a 2 bedroom apartment to house a family or individuals for a week at a time after a condemnation. We have partnered with RECAP and Newburgh Ministry to develop up to 50 units of supportive housing and will help with site selection and make any necessary changes to the zoning to facilitate. We would like to develop an “access” form to gather basic information about the characteristics of building unit interiors. In the short term we will pilot a “code sweeps” program targeting a specific neighborhood or block we think a comprehensive sweep with multiple city department will make an impact on. We will continue to work to support the creation of a tenant advocacy organization that we can partner with.

## 2.

**After successful implementation of your strategy, explain how and why your operations will be more effective, efficient, and equitable.**

\*

- Effective operations:
- Efficient operations:
- Equitable operations:

Please do not exceed 250 words

New municipal software will help triage code complaints and streamline work, as well as provide mechanisms to measure and track work progress important to both improve efficacy and equity. Increasing collaboration and sharing information across departments will help us be more effective addressing nuisance properties as well as contributing to more efficient data collection. Two additional rental registry experts (one Spanish speaking) would give the department needed capacity to be more effective and equitable. Standard Operation Procedures for the Codes Department will help identify inefficiencies in the work flow of the department as well as increase transparency and equity. A forward facing Building Blocks and a robust tenants association will help provide more protections for tenants in the City and address the unequal balance of power between tenants and landlords. Having a community partner such as a tenants association will help us become a more proactive and equitable, and less a complaint-driven department. Supporting Community Based Organizations with their plans to develop up to 50 units of supportive housing will fill a housing need for the most vulnerable residents often disproportionately effected by displacement after condemnations. Our work will be more effective and equitable with by helping to create a legal pathway to develop micro-units and decrease reliance on illegal SROs. The creation of up to 50 additional supportive housing units is a solution that will bring more equity and efficacy to our work by better supporting the needs of the most vulnerable residents.

## 3. Please fill in the tweaks and innovations table\*

Please upload your tweaks and innovations table here. To download the form, please use the following link: <https://bit.ly/2KGpZtV>

2019.05.30\_Grant\_Idea\_Form\_Round2.docx

4.

**How will you run pilots, collect evidence, or conduct evaluations to learn if your tweak/innovation work?**

\*

Please do not exceed 250 words

Progressive City ordinances will be more effective with the addition of better data management, uniform work rules and SOPs, and additional Codes Officers. A comprehensive data management platform will allow the City to track the changes in code complaints, and the time it takes to resolve code violations. It will also allow us to measure the increase in compliance. We would like to be able to measure and track the proportion of work that is proactive versus complaint driven, and strive to dedicate more resources and time to proactive code enforcement over time.

With additional Codes Officers and we can cover more ground on a regular basis and have a better working inventory of the non-compliant and nuisance properties in the City. We need to have a Codes Department with the capacity to do a city wide sweep and inventory of the current conditions of the city in order to ensure code resources and activities are applied evenly and equitably.

Our street sweep pilot will help determine the code issues in each neighborhood and set benchmarks that we can measure progress.

Continued feedback from a tenants association is also a valuable mechanism to gauge our progress connecting and communicating with the residents of the City.

Our pilot for an emergency housing unit will help us gather information on the emergency housing needs for those displaced after a condemnation.

The "access" form will be a valuable tool for establishing a housing unit count and a better measurement of how many properties are currently operation outside of the Certificate of Occupancy.

5.

**What are the internal and external risks to executing your strategy, and how will you mitigate these risks?**

\*

Please do not exceed 250 words

The innovation strategies rely heavily on a good working relationship between the Building and Codes Department, the Planning and Development Department, the Corporation Counsel, the Assessor's Office, the Police Department and the Department of Public Works. To maintain this working relationship we need the continued support of the City Manager and the Mayor. Increased

collaboration should result in better information sharing for all involved and increase the capacity and efficacy of the work done by every department.

The current culture on “non-compliance” will be hard to change, however it is a key component to the future success of the City of Newburgh, and with proper communication and collaboration with external stakeholders we will be able to work together to protect tenants and improve the quality of life for all.

## 2019 Cities RISE: 4. Beneficiaries and Stakeholders

(\* = required)

*Please make sure your responses do not exceed 250 words per question*

1.

**Which residents and priority populations benefit if you are successful? And how will you measure that success? Please be specific about geography, race or other identifiers when identifying priority populations.**

\*

Please do not exceed 250 words

Our Innovation strategy is designed to target three specific groups: the very low income African American population, the chronic homeless population, and the low income immigrant population (Haitian, Jamaican, and Latino) who live in the most unsafe conditions such as illegal single room occupancies located predominantly in Ward 1. Our innovation strategy will target Ward 1, as it has the highest concentration of substandard rental housing, the highest levels of disinvestment and blight.

We plan to follow individuals through the emergency housing network following a condemnation that results in displacement. We do not know where people are sent in this situation nor do we know the time it takes to recover permanent housing. With this information we can strive to connect residents in that situation with safe emergency housing immediately within the City of Newburgh and in a reasonable amount of time find permanent housing. We can also make sure that the building conditions that contribute to this cycle of displacement are resolved in a reasonable amount of time and prevent new tenants from moving into units that have not been adequately repaired.

2.

**How will your internal operational capacity improve if you are successful? How will you measure that success?**

\*

Please do not exceed 250 words

With improvements made to internal capacity we will be able to move beyond focusing on the most urgent code problems in the City and move to operations that target neighborhoods with

higher proportions of nuisance properties with more frequent inspections. We will also be able to focus resources to stabilize vulnerable areas and keep them from slipping into more dangerous conditions.

With increase collaboration across core departments we will be able to gain more access to the interior of building and further our work collecting good data about the number of housing units in the city and better information about what the actual current uses are.

With more capacity we would be able to do have code officers regularly pass through the whole city. More comprehensive data collection by officers in the field and on inspections will help us achieve a better handle on the number of housing units in the city and other important data not being captured now.

Community outreach activity with sustained engagement with engagement with a tenants association to make more information about the pedigree of the building stock public will help foster public trust in the City and will help us collaborate better with the public on enforcement issues and help tenants in the city make more informed housing choices. We hope that making basic information about the pedigree of the building stock will prompt many owners to address outstanding violations and increase compliance with the rental registry.

## 2019 Cities RISE: 5. Funding and Sustainability

(\* = required)

*Please make sure your responses do not exceed 250 words per question*

1.

**What specific activities will be funded with the grant resources? Please refer to the table in 3.3, as necessary.**

\*

Please do not exceed 250 words

- Consulting Fees for SOPs
- Hire two Rental Registry Experts
- Pilot program for emergency housing unit in City
- Public Building Blocks and Kiosk
- Targeted neighborhood action plan to address code issues i.e. code sweeps
- Consulting fees to develop fillable forms that can be used with all departments and will work with new municipal asset management software
- Upgrade to better Municipal Asset Management software
- Tablets for 8 Code Officers
- Design Fees for Micro Units

**2. What are the internal and external resources required to execute your strategy?\***

Please do not exceed 250 words

The internal resources needed to execute our innovation strategy are continued support from the Building and Codes Department, Planning and Development, Police Department, Corporation Counsel, Assessors Office, and Department of Public Works. We need collaboration from these core city departments to effectively gather data on the in

Externally we need to continue to build communication and trust with residents and work closely with community based organizations working with vulnerable populations in the City. We need to maintain and continue our partnership with RECAP and Newburgh Ministries to develop more supportive housing.

Externally we need to contract with a consultant to develop a new set of SOPs for the Codes Department, and “access” forms.

### **3. How will these activities and resources be sustained beyond the grant funding?\***

Please do not exceed 250 words

We are confident that more proactive code enforcement will increase our ability to collect fees that will be able to cover the costs of our innovation strategy well past the grant funded period. In the past additional staff salary was easily covered by the increase in fees collected.

Software and forms are start-up costs mostly and ongoing maintenance costs are similar to existing costs. In the future we also hope to also share some of the costs of this work with other municipal departments.

4.

### **How will you sustain community partnerships and incorporate stakeholder input throughout implementation and beyond?**

\*

Please do not exceed 250 words

We are working to change a deeply ingrained culture from one of non-compliance and neglect to one of voluntary compliance and cooperation from the public. Regular engagement with residents and property owners and creating linkages to community based organizations will be necessary to make this shift. Improvements to Code Enforcement capacity are essential to changing this culture to and will allows the department to apply resources equitably throughout the City.

We believe that Code Enforcement is a foundational part of the community moving forward and as the culture begins to shift we will have more willing allies and partners to insure everyone's success moving forward.

### **5. Upload your estimated budget and work plan.\***

Please upload your estimated budget and work plan for the innovation grant here. To download the form, please use the following link: <https://bit.ly/2YDMKDC>

[Newburgh budget worksheet.xlsx](#)



**6. Use this section to upload supporting/supplemental documents.**

Please upload any supporting documents all as a single file.

---

Printed August 22, 2019 08:59 CST/CDT



## City of XXXXX

**Directions:** Please provide a rough breakdown of your innovation strategy and associated components. The innovation components here should be aligned with your response to question 3.3. Please list the team or person who will be responsible for each, along with a time frame for it's undertaking. Information that you provide can (and will likely be subject to) change, so this does not constitute final or contractual dates. This work plan is intended to provide the reviewers with an idea of your proposed implementation plan, innovation component prioritization and how you will ensure that money will obligated by June 2020.

[illegible]

## Cities RISE Innovation Budget

City of Newburgh

**Reminder that all funds should be obligated by June 2020**

**Directions:** The form and detail should adequately explain how you plan to spend money in each component of your innovation strategy. As with the work plan, this budget will change based upon your actual award, so this does not constitute final amounts or figures. This will primarily be used as a means help evaluate your proposal, and will aid in understanding how you would allocate monetary resources. This is intended to be a rough estimate of your expenditures and will be adjusted based upon the final award amount. There is no minimum or maximum threshold for the detail required for this budget.

| Fill in details below                |                   |                                                                                      |
|--------------------------------------|-------------------|--------------------------------------------------------------------------------------|
| Strategy Component 1                 | Expenditures      |                                                                                      |
| Two Rental Registry Code Officers    | \$ 320,576        | pay and benefits for 2 years (including family health insurance -\$14,000 if Single) |
| Consulting Fees for SOPs             | 200,000           |                                                                                      |
| Tablets for # Code Officers          | \$ 5,600          | \$700 per unit for 8 users                                                           |
| Municipality Software for Codes      | \$ 200,000        | first 2 years                                                                        |
| Strategy Component 2                 |                   |                                                                                      |
| 2 BR apartment for 1 year            | \$ 14,400         |                                                                                      |
| Design Fees for Micro Units          | \$ 100,000        |                                                                                      |
| Public Building Blocks Kiosk         | \$ 8,000          |                                                                                      |
| Code Sweeps                          | \$ 70,000         |                                                                                      |
| Consulting to develop fillable forms | \$ 50,000         |                                                                                      |
| <b>Total</b>                         | <b>\$ 968,576</b> |                                                                                      |

RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH  
MITCHELL ASSOCIATES ARCHITECTS FOR ARCHITECTURAL SERVICES  
FOR THE CITY OF NEWBURGH FACILITIES MASTER PLAN PHASE I  
AT A COST OF \$98,500.00 AND AMENDING RESOLUTION NO: 364-2018,  
THE 2019 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO TRANSFER FUNDS FROM HEALTH INSURANCE TO  
EXECUTIVE OFFICE - CONSULTANT SERVICES

WHEREAS, the City of Newburgh has undertaken the development of a Facilities Master Plan to examine its options in determining whether to renovate existing government offices and other facilities, to consolidate offices and facilities, or to build new offices and facilities; and

WHEREAS, the City wishes to accept a proposal and execute an agreement with Mitchell Associates Architects for architectural services for phase I of the Facilities Master Plan; and

WHEREAS, the phase I services will be comprised of an existing conditions and needs assessment; and

WHEREAS, the cost for the phase I services will be \$98,500.00 and funding will be transferred from A.3120.0860-Health Insurance and A.3412.0860-Health Insurance to A.1230.0455.0001-Consultant Services \_ Newburgh Facilities Master Plan; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement with Mitchell Associates Architects for architectural services for phase I of the City of Newburgh Facilities Master Plan at a cost of \$98,500.00; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newburgh that Resolution No. 364-2018, the 2019 Budget of the City of Newburgh, is hereby amended as follows:

|                                                       | <u>Decrease</u>    | <u>Increase</u>    |
|-------------------------------------------------------|--------------------|--------------------|
| A.3120.0860 Health Insurance                          | \$55,579.00        |                    |
| A.3412.0860 Health Insurance                          | \$42,921.00        |                    |
|                                                       | <u>\$98,500.00</u> |                    |
| <br>A.1230.0455.0001                                  |                    |                    |
| Consultant Services _ Newburgh Facilities Master Plan |                    | <u>\$98,500.00</u> |
| <br>TOTALS:                                           | <br>\$98,500.00    | <br>\$98,500.00    |

**AGREEMENT** made as of the \_\_\_\_\_ day of September, 2019

**BETWEEN** the Owner:

City of Newburgh  
83 Broadway  
Newburgh, NY 12550

and the Architect:

Mitchell Associates Architects, PLLC  
29 Thacher Park Road  
Voorheesville, NY 12186

for the following Project:

Phase One architectural and engineering services for a facilities master plan as described in the attached exhibit "A" titled "Newburgh Project Understanding," and

The Owner and Architect agree as follows.

#### **ARTICLE 1 ARCHITECT'S RESPONSIBILITIES**

§ 1.1 The Architect shall provide the professional services described in exhibit "A," attached hereto.

§ 1.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.3 Peter Signorelli, Ken Gale and Robert Mitchell are each authorized to act on behalf of the Architect with respect to the Project.

§ 1.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost for any additional coverages:

- .1 General Liability: \$1,000,000 each occurrence, \$2,000,000 general aggregate
- .2 Automobile Liability: \$1,000,000 combined single limit
- .3 Workers' Compensation: \$1,000,000
- .4 Professional Liability: \$1,000,000

29 Thacher Park Road  
Voorheesville, NY 12186  
(518) 765-4571  
[www.Mitchell-Architects.com](http://www.Mitchell-Architects.com)  
[Bob@Mitchell-Architects.com](mailto:Bob@Mitchell-Architects.com)





## ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written response to the program template provided by M-A which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 2.2 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

## ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 3.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 3.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Sections 4.4 and 4.5, the license granted in this Section 3.3 shall terminate.

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses, except for those caused by gross negligence of the author. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1, except for those caused by gross negligence of the author. To the extent the Owner provides the Architect with drawings, specifications, or other documents, the Owner shall defend, indemnify and hold harmless the Architect for any expense, loss, damages, or claims, including reasonable attorney's fees arising out of a copyright or related claim against the Architect or its Consultants.

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

#### ARTICLE 4 TERMINATION OR SUSPENSION

§ 4.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 4.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 4.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 4.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 4.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 4.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 4.7.

§ 4.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect. Termination expenses shall be computed as follows:

- .1 For services provided on the basis of stipulated sum, 10 percent of the stipulated sum at Section 5.1.1 of this Agreement irrespective of the services provided by the Architect.

§ 4.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 3 and Section 5.3.

#### ARTICLE 5 COMPENSATION

§ 5.1.1 The Owner shall compensate the Architect for services described in Exhibit "A," attached.

§ 5.1.2 For additional services not described in Exhibit "A" that may arise during the course of the Project the Owner shall compensate the Architect in accordance with the fee schedule in Exhibit "A".

§ 5.1.3 Compensation for City authorized Additional Services of the Architect's consultants when not specifically included in any other section of this Agreement, shall be the amount invoiced to the Architect plus 15%.

§ 5.1.4 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth in Exhibit "A," attached.

## **§ 5.2 COMPENSATION FOR REIMBURSABLE EXPENSES**

**§ 5.2.1** Reimbursable Expenses are in addition to compensation for the Architect's professional services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 City authorized special printing, reproductions, plots, standard form documents, outsourced printing, and photography will be billed at 115% of cost without markup defined in 5.2.1.1;
- .2 Outsourced postage, handling and delivery will be billed at cost without markup defined in 5.2.1.1;
- .3 City authorized renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner in addition to that provided in Exhibit "A" as part of the base services will be billed at 115% of cost, without markup defined in 5.2.1.1;
- .4 Transportation and authorized out-of-town travel and subsistence will be billed at cost. Mileage will be billed at the current federally recognized;
- .5 Fees paid for securing approval of authorities having jurisdiction over the Project; and
- .6 Other similar Project-related expenditures.

## **§ 5.3 PAYMENTS TO THE ARCHITECT**

**§ 5.3.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid sixty (60) days after the invoice date shall bear interest at the rate of eight (8) percent per annum. Invoices shall clearly identify the tasks performed and the applicable percentage completed within the billing period.

**§ 5.3.2** The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

**§ 5.3.3** Records of Reimbursable Expenses, expenses related to additional services, and services performed on the basis of hourly rates shall be submitted with each invoice where reimbursement is claimed.

## **ARTICLE 6 MISCELLANEOUS PROVISIONS**

**§ 6.1** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

**§ 6.2** Unless otherwise expressly required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

**§ 6.3** The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

**§ 6.4** If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

## ARTICLE 7 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

**§7.1** To the fullest extent permitted by law, the Owner shall defend, indemnify and hold harmless the Architect, Architect's Consultants, its agents and employees for all expenses, loss, damages and claims, including reasonable attorney's fees arising out of the negligent acts, errors, or omissions of the Owner, its consultants, contractors, or anyone acting on their behalf. To the fullest extent permitted by law, the Architect shall defend, indemnify and hold harmless the Owner, its officers, employees, volunteers and agents for all expenses, damages and claims, including reasonable attorneys' fees, loss, damages, or claims arising out of the negligent acts, errors, or omissions of the Architect, its agents, employees, consultants or contractors.

**§7.2** To the extent the Owner provides the Architect with drawings, specifications, or other documents, the Owner shall defend, indemnify and hold harmless the Architect for any expense, loss, damages, or claims, including reasonable attorney's fees arising out of a copyright or related claim against the Architect or its Consultant's.

**§7.3** The Architect and the Owner waive consequential damages for claims, disputes or other matters in question arising out of the services and work, or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with this Agreement.

**§7.4** Limitation of Liability: The liability of the Architect and the Architect's Consultants for actions, damages, claims, demands, judgments, losses, costs or expenses arising out of or resulting from the Architect's or its Consultants' negligent acts, errors, or omissions, is limited to the Architect's fee collected pursuant to this Agreement, as defined on page 10 of Exhibit "A," attached hereto.

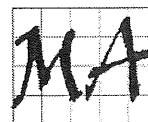
**§ 7.5** Hazardous Materials: The Owner shall be responsible for the detection of any and all toxic or hazardous substances which may be encountered on the site. However, if the Architect reasonably believes that a substance is either toxic or hazardous, the Owner shall be notified immediately. The Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance and, in the event such material or substances are found to be present to verify that it has been rendered harmless. The Owner shall furnish in writing to the Architect the names and qualifications of the persons or entities who are to perform tests verifying the presence or absence of such materials or substances or who are to perform the task(s) of removal or safe containment of such material or substance. To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Architect, the Architect's Consultants, its agents and employees from any expense, loss, damage, and/or claim, including reasonable attorney's fees, arising out of the presence of such toxic or hazardous substance, provided that such damage, loss, or expense, is not due to the sole negligence of the Architect.

**§ 7.6** If the Architect or its consultants determine that physical testing or selective demolition is required to verify existing conditions, the Owner shall bear the costs of such testing. Services of the Architect or its consultants related to such testing is an additional service.

**§7.7** It is expressly understood that the evaluation of existing conditions requires that certain assumptions be made by the Architect and that certain assumptions cannot be verified without expending additional sums of money or otherwise destroying portions of the building. As such, the Owner agrees that the Architect shall not be liable for assumptions made in connection with existing conditions. Furthermore, to the extent that the Architect is provided with any information, including but not limited to, drawings, specifications, or studies, the Architect may reasonably rely on said information in the performance of services. To the extent that the information provided to the Architect is inaccurate, contains errors or omissions, the Architect shall have no liability in connection with the information provided or for any damages resulting therefrom. The Owner further agrees, to the fullest extent permitted by law, that the Owner shall indemnify and hold harmless, the Architect, the Architect's consultants, its agents and employees for any expense, loss, damage, and/or claim, including reasonable attorney's fees arising out of the Architect's reliance of this information.

**§7.8** If a court having jurisdiction over the subject matter of this Agreement shall determine that any one or more of the provisions are illegal, void, or otherwise unenforceable as a matter of law, that such provision(s) shall be severed

29 Thacher Park Road  
Voorheesville, NY 12186  
(518) 765-4571  
[www.Mitchell-Architects.com](http://www.Mitchell-Architects.com)  
[Bob@Mitchell-Architects.com](mailto:Bob@Mitchell-Architects.com)



**Mitchell  
Associates  
Architects**

from this Agreement and the balance of this Agreement shall be given full force and effect to accomplish the intention of the parties.

#### ARTICLE 8 SCOPE OF THE AGREEMENT

§ 8.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 8.2 This Agreement incorporates the following documents attached hereto:

.1 Exhibit "A"

This Agreement entered into as of the day and year first written above.

OWNER

ARCHITECT

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Print, Name & Title

Robert Mitchell, President

\_\_\_\_\_  
Print, Name & Title

29 Thacher Park Road  
Voorheesville, NY 12186  
(518) 765-4571  
[www.Mitchell-Architects.com](http://www.Mitchell-Architects.com)  
[Bob@Mitchell-Architects.com](mailto:Bob@Mitchell-Architects.com)



# Exhibit A

## Newburgh Project Understanding

The City of Newburgh is looking to examine possibilities of whether to renovate existing facilities, to consolidate facilities, or to build new. The facilities that the city is looking to evaluate are the city government offices (excluding city courts), the fire headquarters, the police headquarters, the West End Fire Station, the public works facilities, activity/recreational centers, and functions located at 123 Grand Street. The findings of this study will be Newburgh's **Facilities Master Plan**. Our understanding of this project is outlined below, and our approach to the project can be found in Project Approach, below.

### Goals:

1. Evaluation of Facilities Consolidation that examines the following possibilities:
  - a. One Building- City Government, Fire & Police HQ's will be in a new consolidated facility.
  - b. Two Buildings - City Government in one facility, with Fire and Police headquarters together in a second facility.
  - c. Three Buildings - City Government, Fire and Police headquarters all in separate facilities.
2. Evaluation of West End Fire Station will be brought back online to improve response time to the West End, either as a renovation/addition, or a new building.
3. Analysis of DPW for renovation or reconstruction, with evaluation of alternative sites.
4. Determination of future goals for Activity Center and determine their implications for the physical plant.

### Seven existing facilities to be evaluated:

- City Government (excluding city courts which will remain as-is at 300 Broadway)
- Fire HQ
- Police HQ
- West End Fire Station (currently shut)
- DPW
- Activity Center
- 123 Grand Street

### Steps to be taken:

#### Phase One – Existing Conditions and Needs Assessment

1. Existing conditions
  - a. Gather up and report all information about conditions of the existing facilities (structural, envelope, mold, lead, asbestos, site, ADA compliance, etc.). This would include visually inspecting all interior/exterior areas of City Government (excluding City Courts), Fire HQ, Police HQ, West End Fire



Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

Station, DPW, Activity Center & 123 Grand Street, photo log of environmental conditions encountered during the visual inspection, written narrative of our findings with associated cost estimate per building relating to mold, lead and asbestos to allow for continued municipal use. This work will be performed by Quality Environmental Solutions & Technologies, Inc. (Quest).

- b. Evaluate cost implications to allow these building to be have continuing municipal use
- 2. Inventory of current spaces for each facility
  - a. Tabular "programmatic" format report
- 3. Determine program requirements for the future for each City function
  - a. Tabular "programmatic" format report by department
  - b. Determine implications for size of building(s)
  - c. Determine preferred locations within the city
  - d. Early sq ft cost budgets

**Phase 2 – Logical Combinations of Services – NOT INCLUDED IN THE CURRENT COST PROPOSAL**

- 4. Determine preferred combinations of services
- 5. Make preliminary assessment as to whether existing sites could accommodate additions of the size needed to meet proposed program(s)
- 6. Develop initial project budget numbers based on the required spaces as defined by the program/needs assessment
  - a. For any existing sites that can accommodate additions, compare renovation/addition to new construction
  - b. For new sites, include acquisition, demolition, etc. costs

**Phase 3 – Prioritize Tasks – NOT INCLUDED IN THE CURRENT COST PROPOSAL**

- 7. Consolidated Facility for City, Fire and Police
  - a. Selection of prospective sites
  - b. Schematic plans & elevations for one building, two buildings and three building solutions
- 8. West End fire station
  - a. Determination of best solution (renovation vs. new)
  - b. Locate new site if needed
  - c. Schematic plans and elevations
- 9. DPW
  - a. Determination of best solution (renovation vs. new)
  - b. Locate new site if needed
  - c. Schematic plans and elevations
- 10. Activity Center
  - a. Determination of best solution (renovation vs. new)
  - b. Locate new site if needed
  - c. Schematic plans and elevations
- 11. 123 Grand Street
  - a. Determine best use
  - b. Address records management/archive issue
- 12. Set Priorities

## Project Approach

### *Mitchell Associates Architects*

*Proposer, Project Lead and Management, Fire Program, Fire Design, Overall Design Integration*

MITCHELL ASSOCIATES ARCHITECTS (MA) is the lead firm for the proposed team. We are focused exclusively on public safety design and committed to assisting communities to develop cost-effective, durable, state-of-the-art facilities. Robert Mitchell has provided architectural services to the emergency response community for more than twenty-five years and has been directly involved in over 150 projects addressing 270+ public safety facilities. He is a speaker at emergency service conferences and authored the chapter on renovation/addition for the International Association of Fire Chiefs' Station Design Manual. We have expertise and a notable history in completing feasibility studies that include review of existing building and site conditions, evaluation of renovations/additions versus demolition and reconstruction, cost analysis, consolidation of services, shared facilities, and site reviews and recommendations.

### *Williams Architects*

*City Government Offices & DPW, Programming and Design; Police Design*

Williams Architects is a recognized leader in municipal architecture and has completed projects for more than 150 municipalities, park agencies, and local government. For over 44 years, Williams Architects has demonstrated an in-depth understanding of the requirements for municipal facilities by developing innovative design solutions that incorporate the components necessary while introducing the most cutting-edge technology to the final design. Combined with wide-ranging expertise in City Hall and Public Safety facility architecture, this results in superb, custom-designed facilities that reflect the needs of their clients and their communities. Tedd Stromswold is a Williams' architect with family ties to Newburgh, and who lives and works in Danbury, CT; he is experienced in designing government office facilities and justice centers and has worked with Mitchell Associates conducting program/needs evaluations for municipal facilities for the City of Beacon and the Town of Poughkeepsie.

### *Kaestle Boos Associates, Inc.*

*Police Programming*

Kaestle Boos Associates, Inc., (KBA) has fifty years of experience in designing award-winning public safety facilities. Over the past decade KBA has completed more than 50 police, fire and public safety projects including the design and construction of more than 15 police headquarters. MAA and KBA have worked together on more than 25 projects, including 12 combined public safety facilities and have presented at a national conference on fire and police in a shared facility.

Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

***Dierdre Glenn***

***Planning Consultant***

Deirdre will assist the team through her thorough understanding of city processes and needs. A native of Newburgh, Deirdre holds sincere empathy with City staff and Council. Her professional background is in architectural and art history and she holds a Master's Degree in Public Administration from Carnegie Mellon's School of Urban and Public Affairs. Deirdre will work closely with MA to fully understand the interrelations of the City's departments and personnel to provide a comprehensive and successful programming solution for this Study.

***Huston Engineering, LLC***

***Mechanical, Electrical Plumbing, and Fire Protection***

Our mechanical/ electrical/ plumbing/ fire protection engineer is Huston Engineering, LLC (Huston). Huston has done numerous buildings including the SUNY Orange, Middletown Campus Center of Science and Engineering; SUNY Orange Newburgh Branch Campus, Tower Building; and, SUNY Orange, Newburgh Branch Campus, Kaplan Hall. Huston has worked with us on four fire stations.

***Craig Maloney, P.E***

***Structural Engineer***

Craig Maloney is a New York State licensed structural engineer with more than 25 years' experience in structural design. He has provided structural design services for more than 50 fire stations for Mitchell Associates and its predecessor firm.

***NASCO Construction***

***Services, Inc.***

***Cost Estimating***

NASCO is a cost consulting firm with over 38 years of experience in all areas of construction including renovation, rehabilitation and new construction. They generally provide approximately 200 estimates per year. NASCO has worked with us since 2005, completing more than 28 of our projects.

Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

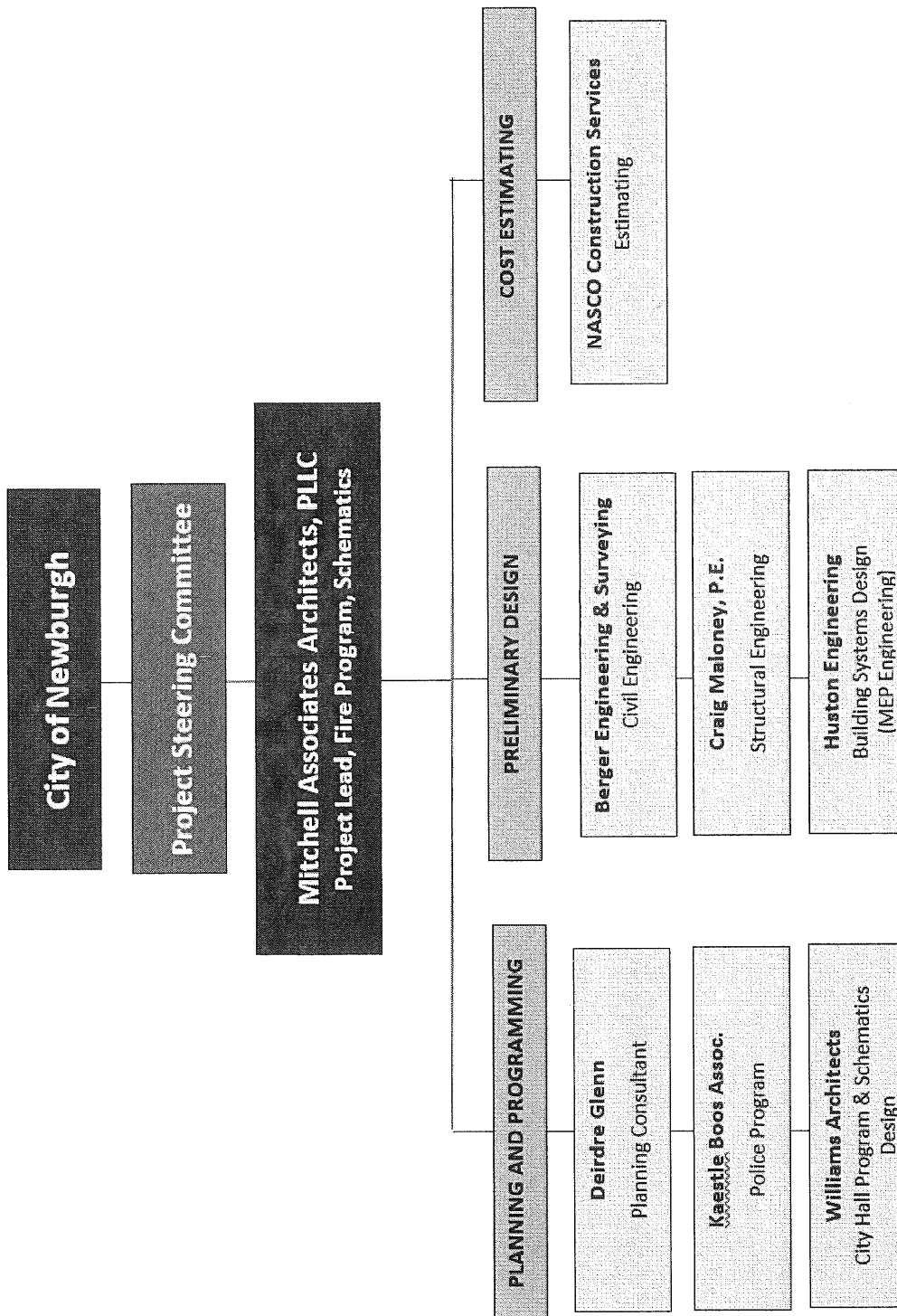


Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

## *Project Steps*

The scope of the proposed project requires a step-by-step process that includes careful analysis of current facilities, a thorough understanding of each department's operational and physical needs, and an understanding of how City administration, Fire, Police, and City government function, and how personnel can effectively share a new facility while maintaining their unique functions and identities. Candidate sites are evaluated in terms of best location, space and site needs, buildability, response

time, accessibility and estimated cost. Once a site or sites are identified as possible options, each with a profile of pros & cons, preliminary building designs and cost estimates can be presented to the Committee for their consideration. The Final Report should make a clear case for the recommended site (or sites) so that the City and the Community can be assured that there is an evidence-based and cost-conscious rationale for the site and facility design selected.

## **PHASE ONE – The Subject of the Current Agreement**

### **PROJECT STEP 1 – EVALUATE CURRENT CITY FACILITIES (and advise re: Potential Renovations)**

We will conduct a review of existing conditions at your current buildings including a review of code issues, building envelope, structural, mechanical, electrical and plumbing systems, and contamination by mold, lead and asbestos. The analysis is not intended to be comprehensive, but rather for the purpose of obtaining general recommendations for possible reuse or disposition. An inventory of current spaces will be provided in tabular form (space usage analysis spreadsheets). Information about the sites will be compiled in anticipation of addressing any potential for building or mission expansion. The results will be provided in a report on our findings and recommendations.

Buildings to be evaluated include:

- City Hall
- Fire HQ
- Police HQ
- West End Fire Station
- DPW
- Activity Center
- 123 Grand Street

Each site will be evaluated for possible additions to meet expanded space requirements that may be determined during programming. An initial rough budget will be developed for each building to correct the deficiencies that would allow it to be as code compliant as economically feasible and remain in use. This will not address costs associated with any expansion of these buildings, which will be addressed later in the Facilities Master Plan.

Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

**PROJECT STEP 2 - PROGRAMMING TO DETERMINE CURRENT & FUTURE SPACE NEEDS**

Correct programming is the single most important step in the design of your facility. Our team will bring to the table our deep knowledge of operations, building/site issues, equipment, training, and personnel needs based on our years of experience working closely with Municipal and Emergency Services. Programming is a needs assessment process that is based on actively listening to you and assisting you to define the needs and goals for your facility, as well as offering our expert advice. We use proprietary programming tools and techniques developed by us specifically for our projects. The program for your project will be developed from a series of in-depth meetings with stakeholders – staff and leaders of each department. These meetings will be conducted by Project Team members, each of whom has special expertise to ensure that the end-users will have their operational and personnel needs met in the future facilities.

Be aware that current space usage and current space needs are not the same thing. Code and ADA compliance, gender equity, the provision of proper workspaces, etc., all mandate more space per occupant than what is typical in existing older facilities. This will demand a larger building before added space for additional staff or program is considered.

The result of this phase is a set of detailed program documents that describe current operations and personnel. For example, the Police program will describe current and future personnel figures; shift information including complements and working hours; current and future fleet size; number of detention cells; storage needs; communications and dispatch equipment; and community needs. This process identifies your priorities, the building's potential impact on response and operational issues, training opportunities, necessary adjacencies, storage, administrative space, shared and multi-use areas, living space, security needs, and areas of economy.

The evolution of each departments program will follow from our experience with similar clients, and your guidance regarding what is important and unique to Newburgh.

After determining the net required areas for your current and future operations, assumptions regarding calculated areas for corridors & walls will be validated against a database of similar facilities. Based on the program, space usage analysis spreadsheets will be created that identify individual rooms and the size of stand-alone buildings. For each building being considered for renovation and additions, spreadsheets will identify those areas. Additional spreadsheets will identify probable building sizes for the following possible merged facilities:

1. One Building- City Government, Fire & Police HQ's will be in a new consolidated facility
2. Two Buildings - City Government in one facility, with Fire and Police headquarters together in a second facility



Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

Thorough programming reassures all participants and the public that the decisions made are valid. It also:

1. Confirms the initial budget, or clearly identifies any required compromises between wishes and affordability before the building is designed.
2. Informs and simplifies the design process.
3. Minimizes the possibilities to look back and say, "I wish we had thought of that."

The final output of the program will be a document that you will be able to refer to and use to help educate the community, financing institutions, and potential funding sources about the decision-making process and the validity of your conclusions. A PowerPoint presentation can be made of the program document to enhance public education.

#### **PROJECT STEP 3 - EVALUATION OF EXISTING SITES**

Using the program data, site requirements will be determined for each of the facilities. Diagrams will be developed to explore how the needs defined in the program can be met at the existing sites. We will explore the possibility of acquisition of adjacent sites and provide site diagrams.

#### **PROJECT STEP 4 - EVALUATION OF POTENTIAL SITES FOR STAND-ALONE FACILITIES**

Using the site requirements for each of the facilities, site-fit diagrams will be developed to determine the minimum required site size. Specific sites identified by the City will be evaluated based on site-fit diagrams.

#### **STEP 5 - EVALUATION OF POTENTIAL SITES FOR MERGED FACILITIES**

Site requirements will be determined for two and three-story solutions for:

1. One Building- City Government, Fire & Police HQ's in a new consolidated facility
2. Two Buildings - City Government in one facility, with Fire and Police headquarters together in a second facility

Site-fit diagrams will be developed to determine the minimum required site size. Specific sites identified by the City will be evaluated based on site-fit diagrams. Site fit diagrams are not schematic floor plans, they are building footprint diagrams based on the data from the building programs.

Site layout diagrams will address such critical items as:

- Site security
- Separation of parking for public, employees, and public safety responders
- Appropriate separation of exiting apparatus, entering responders, and the public
- Safe public access in light of emergency vehicle response
- On-site training
- The role of the facility to be accessible and inviting to the public

Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

Given the level of activity on the site(s) during an emergency, and the need to keep in mind public and employee safety, it will be essential to have an easily understood site traffic circulation plan for pedestrians (visitors and employees) as well as responding vehicles, service and delivery vehicles, and employee and visitor vehicles. A well-thought-out plan for each type of vehicle entry will be included. Contours, drainage, road access, zoning and neighborhood relations are evaluated at this time.

#### STEP 6 - BUDGET SUMMARY AND SELECTION OF PROJECT DIRECTION

For each of the seven facilities being studied, and for each of their renovation/addition alternatives, and for each combination of merged facilities, conceptual hard and soft cost budgets will be determined. Site related costs (acquisition, demolition, cleanup, etc.) will be specifically detailed.

The resultant data will be the tool that will allow the determination of a correct Project direction; one that allows selecting construction options that can be achieved within an acceptable budget prior to starting any drawings. It will allow for planning how a shared facility can meet the unique requirements of departments with differing missions, while designing opportunities for shared space and community access.

At the end of Phase One, the City will need to determine which of the following 21 possibilities to continue to analyze with conceptual designs and estimates.

| Matrix of Possible Outcomes | Reno - No Addition | Reno - With Addition | New Stand Alone | New Merged 3 | New Merged 2 |
|-----------------------------|--------------------|----------------------|-----------------|--------------|--------------|
| City Hall                   |                    |                      |                 |              |              |
| Fire HQ                     |                    |                      |                 |              |              |
| Police HQ                   |                    |                      |                 |              |              |
| West End Fire Station       |                    |                      |                 |              |              |
| DPW                         |                    |                      |                 |              |              |
| Activity Center             |                    |                      |                 |              |              |
| 123 Grand Street            |                    |                      |                 |              |              |

At the completion of the work described above, we will make a presentation to City Council summarizing the key findings of Phase 1.

Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

## Fee for Services

Mitchell Associates Architects, PLLC will furnish the scope of services described above for a lump sum of **Ninety-Eight Thousand Dollars & Five Hundred Dollars (\$98,500.00)**.

|                                                                                                                                                              | Hours Expended Per Task |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|--------------|--------------|---------------------|--------------|--------------|--------------|--------------|--------------|---------------|-----------|--------------|-----------|---------|-----------|
|                                                                                                                                                              | Mitchell Associates     |              |              | Williams Associates |              |              | Kaestle Boos |              |              | Huston Eng    |           | QUEST        |           | Maloney |           |
|                                                                                                                                                              | Principal               | Senior Staff | Junior Staff | Principal           | Senior Staff | Junior Staff | Principal    | Senior Staff | Junior Staff | Deirdre Glenn | Principal | Senior Staff | Principal | Staff   | Principal |
| Steps to be taken:                                                                                                                                           |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| Phase One – Existing Conditions and Needs Assessment                                                                                                         |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| 1.0 Existing conditions                                                                                                                                      |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| a. Gather up and report all information about conditions of the existing facilities (structural, envelope, mold, lead, asbestos, site, ADA compliance, etc.) |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| b. Evaluate cost implications to allow these building to be have continuing municipal use                                                                    |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| 2.0 Inventory of current spaces for each facility                                                                                                            |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| a. Tabular “programmatic” format report                                                                                                                      |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| 3.0 3. Determine program requirements for the future for each City function                                                                                  |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| a. 3a. Tabular “programmatic” format report by department                                                                                                    |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| b. 3b. Determine implications for size of building(s)                                                                                                        |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| c. 3c. Determine preferred locations within the city                                                                                                         |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |
| d. 3d. Early sq ft cost budgets                                                                                                                              |                         |              |              |                     |              |              |              |              |              |               |           |              |           |         |           |

|                                                                                                                                                              | Cost Per Task & Per Phase |              |          |          |            |           |          |           |           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|--------------|----------|----------|------------|-----------|----------|-----------|-----------|
|                                                                                                                                                              | Sub MAA                   | Sub Williams | Sub KBA  | Glenn    | Sub Huston | Sub Quest | Maloney  | By Task   | By Phase  |
| <b>Steps to be taken:</b>                                                                                                                                    |                           |              |          |          |            |           |          |           |           |
| <b>Phase One – Existing Conditions and Needs Assessment</b>                                                                                                  |                           |              |          |          |            |           |          |           |           |
| 1.0 Existing conditions                                                                                                                                      |                           |              |          |          |            |           |          |           |           |
| a. Gather up and report all information about conditions of the existing facilities (structural, envelope, mold, lead, asbestos, site, ADA compliance, etc.) | \$ 14,325                 | \$ 1,440     | \$ -     | \$ 1,200 | \$ 8,000   | \$ 22,500 | \$ 6,120 | \$ 53,585 | \$ 98,514 |
| b. Evaluate cost implications to allow these building to be have continuing municipal use                                                                    | \$ 7,040                  | \$ -         | \$ -     | \$ 400   | \$ -       | \$ -      | \$ -     | \$ 7,440  |           |
| 2.0 Inventory of current spaces for each facility                                                                                                            |                           |              |          |          | \$ -       |           |          |           |           |
| a. Tabular "programmatic" format report                                                                                                                      | \$ 1,450                  | \$ 720       | \$ -     | \$ 400   | \$ -       | \$ -      | \$ -     | \$ 2,570  |           |
| 3.0 3. Determine program requirements for the future for each City function                                                                                  |                           |              |          |          | \$ -       |           |          |           |           |
| a. 3a. Tabular "programmatic" format report by department                                                                                                    | \$ 9,660                  | \$ 6,864     | \$ 7,930 | \$ 400   | \$ -       | \$ -      | \$ -     | \$ 24,854 |           |
| b. 3b. Determine implications for size of building(s)                                                                                                        | \$ 840                    | \$ 2,035     | \$ -     | \$ -     | \$ -       | \$ -      | \$ -     | \$ 2,875  |           |
| c. 3c. Determine preferred locations within the city                                                                                                         | \$ 2,920                  | \$ -         | \$ -     | \$ 600   | \$ -       | \$ -      | \$ -     | \$ 3,520  |           |
| d. 3d. Early sq ft cost budgets                                                                                                                              | \$ 2,080                  | \$ -         | \$ -     | \$ 400   | \$ 1,190   | \$ -      | \$ -     | \$ 3,670  |           |

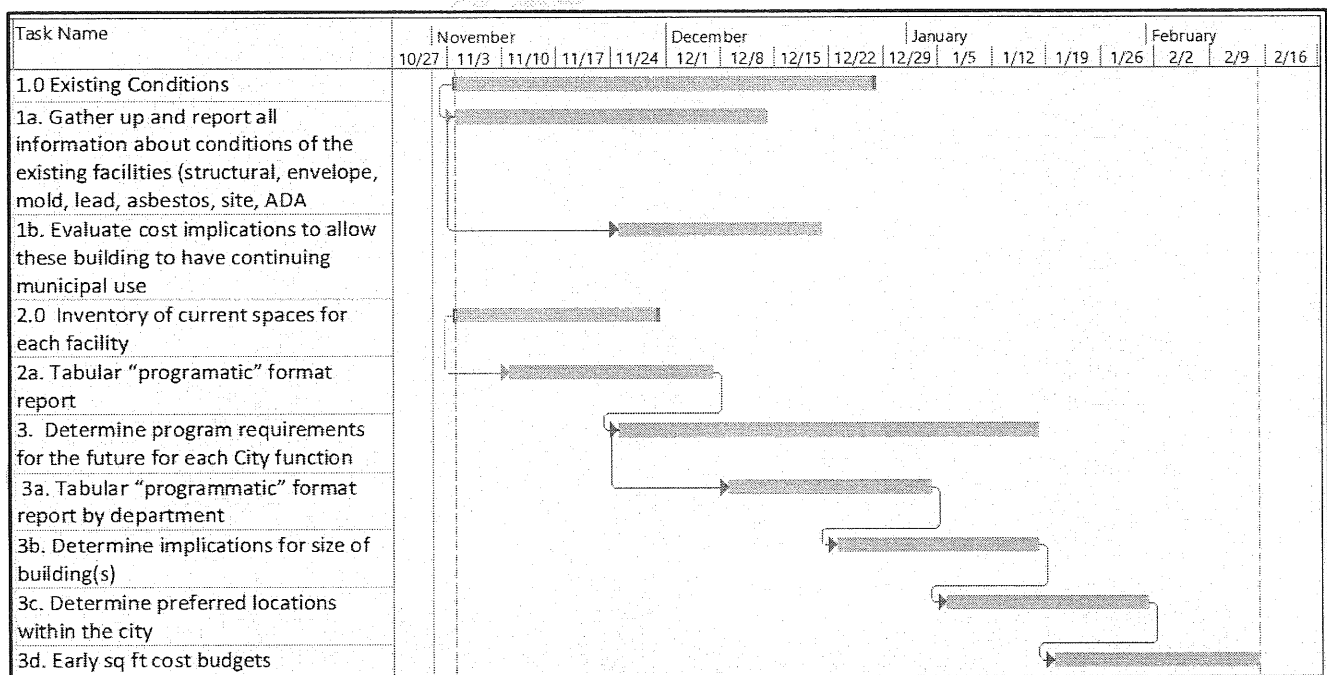
Exhibit "A"  
Between City of Newburgh (City) and Mitchell Associates Architects (M-A)

## Additional Services Fees

Additional services provided will be based on the hourly rates in the Rate Table below. Hourly rates will increase automatically on January 1, 2021 and each January thereafter at a rate of \$5.00/ hour for each category as listed above.

| Rate Table |                     |        |                    |
|------------|---------------------|--------|--------------------|
| 1          | Mitchell Associates | \$ 210 | Principal          |
| 2          |                     | \$ 155 | Senior Staff       |
| 3          |                     | \$ 110 | Junior Staff       |
| 4          | Williams Associates | \$ 227 | Principal          |
| 5          |                     | \$ 180 | Senior Staff       |
| 6          |                     | \$ 110 | Junior Staff       |
| 7          | Kaestle Boos        | \$ 230 | Principal          |
| 8          |                     | \$ 175 | Senior Staff       |
| 9          |                     | \$ 130 | Junior Staff       |
| 10         | Glenn               | \$ 50  | Principal          |
| 11         | Huston Eng          | \$ 140 | Principal          |
| 12         |                     | \$ 90  | Senior Staff       |
| 13         |                     | \$ 95  | Junior Staff       |
| 14         | QUEST               | \$ 175 | Cert Ind Hygienist |
| 15         |                     | \$ 150 | Project Designer   |
| 16         |                     | \$ 75  | Technician         |
| 17         | Maloney             | \$ 120 | Principal          |

## Project Schedule





RESOLUTION NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND  
ACCEPT IF AWARDED A U.S. DEPARTMENT OF JUSTICE  
EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE PROGRAM GRANT  
IN THE AMOUNT OF \$30,787.00 WITH  
A CITY MATCH IN THE AMOUNT OF \$9,184.25  
TO PURCHASE A VEHICLE FOR THE CITY OF NEWBURGH POLICE DEPARTMENT**

**WHEREAS**, the City of Newburgh wishes to apply for a U.S. Department of Justice Edward Byrne Memorial Justice Assistance Program grant in the amount of \$30,787.00 with a City match in the amount of \$9,184.25; and

**WHEREAS**, such grant funding will be used to purchase a vehicle to be used by the Police Department; and

**WHEREAS**, this Council has determined that applying for and accepting such grant if awarded would be in the best interests of the City of Newburgh and its residents, and the City of Newburgh Police Department;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a U.S. Department of Justice Edward Byrne Memorial Justice Assistance Program Grant in the amount of \$30,787.00 to purchase a vehicle for the City of Newburgh Police Department with a City match in the amount of \$9,184.25; and that the City Manager is 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 program funded thereby.





**U.S. Department of Justice**  
Office of Justice Programs  
*Bureau of Justice Assistance*

---

## **Edward Byrne Memorial Justice Assistance Grant (JAG) Program Fiscal Year 2019 Local Solicitation**

**CFDA #: 16.738**

**Solicitation Release Date: July 25, 2019**

**Application Deadline: 8:00 p.m. eastern time on August 23, 2019**

The [U.S. Department of Justice](#) (DOJ), [Office of Justice Programs](#) (OJP), [Bureau of Justice Assistance](#) (BJA) is seeking applications for the Edward Byrne Memorial Justice Assistance Grant (JAG) Program. This program furthers the Department's mission by assisting state, local, and tribal law enforcement efforts to prevent or reduce crime and violence.

This solicitation incorporates the [OJP Grant Application Resource Guide](#) by reference. The OJP Grant Application Resource Guide provides guidance to applicants for the preparation and submission to OJP of applications for funding. **If this solicitation expressly modifies any provision in the OJP Grant Application Resource Guide, the applicant is to follow the guidelines in this solicitation as to that provision.**

This solicitation expressly modifies the OJP Grant Application Resource Guide by not incorporating the "Limitation on Use of Award Funds for Employee Compensation; Waiver" provisions in the "Financial Information" section of the OJP Grant Application Resource Guide.

### **Eligibility**

Only units of local government may apply under this solicitation. By law, for purposes of the JAG Program, the term "unit of local government" includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes; for example, in Louisiana, a unit of local government means a district attorney or parish sheriff.

A JAG application is not complete, and a unit of local government may not access award funds, unless the chief executive of the applicant unit of local government (e.g., a mayor)

properly executes, and the unit of local government submits, the “Certifications and Assurances by Chief Executive of Applicant Government” attached to this solicitation as [Appendix A](#).

Eligible allocations under JAG are posted annually on the [JAG web page](#).

All recipients and subrecipients (including any for-profit organization) must forgo any profit or management fee.

### **Contact Information**

For technical assistance with submitting an application, contact the Grants Management System (GMS) Support Hotline at 888–549–9901, option 3, or via email at [GMS.HelpDesk@usdoj.gov](mailto:GMS.HelpDesk@usdoj.gov). The GMS Support Hotline operates 24 hours a day, 7 days a week, including on federal holidays.

An applicant that experiences unforeseen GMS technical issues beyond its control that prevent it from submitting its application by the deadline must email the National Criminal Justice Reference Service (NCJRS) Response Center at [grants@ncjrs.gov](mailto:grants@ncjrs.gov) **within 24 hours after the application deadline** in order to request approval to submit its application after the deadline. For information on reporting technical issues, see “Experiencing Unforeseen GMS Technical Issues” under **How to Apply (GMS)** in the [OJP Grant Application Resource Guide](#).

For assistance with any other requirement of this solicitation, applicants may contact the NCJRS Response Center by telephone at 1–800–851–3420; via TTY at 301–240–6310 (hearing impaired only); by email at [grants@ncjrs.gov](mailto:grants@ncjrs.gov); by fax to 301–240–5830, or by web chat at <https://webcontact.ncjrs.gov/ncjchat/chat.jsp>. The NCJRS Response Center hours of operation are 10:00 a.m. to 6:00 p.m. eastern time, Monday through Friday, and 10:00 a.m. to 8:00 p.m. eastern time on the solicitation close date. Applicants also may contact the appropriate BJA [State Policy Advisor](#).

### **Post-Award Legal Requirements Notice**

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with all award conditions, and all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed in connection with award acceptance). OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application.

For additional information on these legal requirements, see the “Administrative, National Policy, and Other Legal Requirements” section in the [OJP Grant Application Resource Guide](#).

### **Deadline details**

Applicants must register in the OJP Grants Management System (GMS) at <https://grants.ojp.usdoj.gov/> prior to submitting an application under this solicitation. All applicants must register, even those that previously registered in GMS. Select the “Apply Online” button associated with the solicitation title. All registrations and applications are due by 8 p.m. eastern time on August 23, 2019.

For additional information, see the “**How to Apply (GMS)**” section in the [OJP Grant Application Resource Guide](#).

# Contents

|                                                                                       |    |
|---------------------------------------------------------------------------------------|----|
| A. Program Description .....                                                          | 5  |
| Overview .....                                                                        | 5  |
| Program-specific Information .....                                                    | 5  |
| Permissible uses of JAG Funds – In general .....                                      | 5  |
| Limitations on the use of JAG funds .....                                             | 6  |
| Requirements specific to “disparate” jurisdictions .....                              | 10 |
| Required compliance with applicable federal laws .....                                | 10 |
| BJA Areas of Emphasis .....                                                           | 12 |
| Objectives .....                                                                      | 14 |
| Evidence-based Programs or Practices .....                                            | 14 |
| Information Regarding Potential Evaluation of Programs and Activities .....           | 14 |
| B. Federal Award Information .....                                                    | 15 |
| Type of Award .....                                                                   | 15 |
| Financial Management and System of Internal Controls .....                            | 16 |
| Budget and Financial Information .....                                                | 16 |
| Cost Sharing or Match Requirement .....                                               | 16 |
| Pre-agreement Costs (also known as Pre-award Costs) .....                             | 16 |
| Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs .....    | 16 |
| Costs Associated with Language Assistance (if applicable) .....                       | 17 |
| C. Eligibility Information .....                                                      | 17 |
| D. Application and Submission Information .....                                       | 17 |
| What an Application Should Include .....                                              | 17 |
| How to Apply .....                                                                    | 22 |
| E. Application Review Information .....                                               | 22 |
| Review Process .....                                                                  | 22 |
| F. Federal Award Administration Information .....                                     | 22 |
| Federal Award Notices .....                                                           | 22 |
| Administrative, National Policy, and Other Legal Requirements .....                   | 22 |
| Information Technology (IT) Security Clauses .....                                    | 22 |
| Statutory and Regulatory Requirements; Award Conditions .....                         | 23 |
| General Information about Post-federal Award Reporting Requirements .....             | 24 |
| G. Federal Awarding Agency Contact(s) .....                                           | 24 |
| H. Other Information .....                                                            | 24 |
| Freedom of Information Act and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a) ..... | 24 |
| Provide Feedback to OJP .....                                                         | 24 |

Appendix A: Certifications and Assurances by the Chief Executive..... 25

Appendix B: Certain relevant federal laws, as in effect on April 8, 2019..... 27

Appendix C: Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)..... 33

Appendix D: Additional Award Purposes..... 34

Appendix E: Application Checklist..... 37

# Edward Byrne Memorial Justice Assistance Grant (JAG) Program FY 2019 Local Solicitation CFDA #16.738

## A. Program Description

### Overview

The Edward Byrne Memorial Justice Assistance Grant (JAG) Program is the primary provider of federal criminal justice funding to states and units of local government. BJA will award JAG Program funds to eligible units of local government under this FY 2019 JAG Program Local Solicitation. (A separate solicitation will be issued for applications to BJA directly from states.)

**Statutory Authority:** The JAG Program is authorized by Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law No. 90-351 (generally codified at 34 U.S.C. 10151-10726), including subpart 1 of part E (codified at 34 U.S.C. 10151 - 10158); see also 28 U.S.C. 530C(a).

### Program-specific Information

#### Permissible uses of JAG Funds – In general

In general, JAG funds awarded to a unit of local government under this FY 2019 solicitation may be used to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for **criminal justice**, including any one or more of the following:

- Law enforcement programs
- Prosecution and court programs
- Prevention and education programs
- Corrections and community corrections programs
- Drug treatment and enforcement programs
- Planning, evaluation, and technology improvement programs
- Crime victim and witness programs (other than compensation)
- Mental health programs and related law enforcement and corrections programs

Additionally, JAG funds awarded to a unit of local government under this FY 2019 solicitation may be used for any purpose indicated [Appendix D](#).

In connection with all of the above purposes (including those indicated in the appendix), it should be noted that the statute defines “criminal justice” as “activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend

criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control, or reduction of narcotic addiction and juvenile delinquency.”

### **Limitations on the use of JAG funds**

Prohibited uses of funds – JAG funds may not be used (whether directly or indirectly) for any purpose prohibited by federal statute or regulation, including those purposes specifically prohibited by the JAG Program statute as set out at 34 U.S.C. § 10152.

JAG funds may not be used (directly or indirectly) for security enhancements or equipment for nongovernmental entities not engaged in criminal justice or public safety. Additionally, **JAG funds may not be used (directly or indirectly) to pay for any of the following items unless the BJA Director certifies that extraordinary and exigent circumstances exist, making them essential to the maintenance of public safety and good order:**

- Vehicles, vessels, or aircraft\*
- Luxury items
- Real estate
- Construction projects (other than penal or correctional institutions)
- Any similar items

\*Police cruisers, police boats, and police helicopters are allowable vehicles under JAG and do not require BJA certification.

**For information about requesting BJA certification for a listed prohibited item (including Unmanned Aircraft, Unmanned Aerial Vehicles and/or Unmanned Aerial System purchases) or for examples of allowable vehicles that do not require BJA certification, refer to the [JAG FAQs](#).**

**Cap on use of JAG award funds for administrative costs** – Up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award.

**Prohibition of supplanting; no use of JAG funds as match** – JAG funds may not be used to supplant state or local funds but must be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities. See the [JAG FAQs](#) for examples of supplanting.

Although supplanting is prohibited, as discussed under [What An Application Should Include](#), leveraging of federal funding is encouraged.

Absent specific federal statutory authority to do so, JAG award funds may not be used as a match for the purposes of other federal awards.

**Other restrictions on use of funds** – If a unit of local government chooses to use its FY 2019 JAG funds for particular, defined types of expenditures, it must satisfy certain preconditions.

- **Body-Worn Cameras (BWC)** - A unit of local government that proposes to use FY 2019 JAG award funds to purchase BWC equipment, or to implement or enhance BWC programs, must provide OJP with a certification(s) that each unit of local government law enforcement agency receiving the equipment or implementing the program has policies and procedures in place related to BWC equipment usage, data storage and access, privacy considerations, and training. The certification form related to BWC policies and procedures can be found at: <https://www.bja.gov/Funding/BodyWornCameraCert.pdf>.

A unit of local government that proposes to use JAG funds for BWC-related expenses will have funds withheld until the required certification is submitted and approved by OJP. If the unit of local government proposes to change project activities to utilize JAG funds for BWC-related expenses after the award is accepted, the unit of local government must submit the signed certification to OJP at that time.

Further, before making any subaward for BWC-related expenses, the unit of local government JAG recipient must collect a completed BWC certification from the proposed subrecipient. Any such certifications must be maintained by the unit of local government JAG recipient, and made available to OJP upon request.

**The BJA [BWC Toolkit](#) provides model BWC policies and best practices to assist departments in implementing BWC programs.**

Apart from the JAG Program, BJA provides funds under the Body-Worn Camera Policy and Implementation Program (BWC Program). The BWC Program allows jurisdictions to develop and implement policies and practices required for effective program adoption and address program factors, including the purchase, deployment, and maintenance of camera systems and equipment; data storage and access; and privacy considerations. Interested units of local government may wish to refer to the [BWC web page](#) for more information. Units of local government should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BWC Program.

- **Body Armor** - Body armor purchased with JAG funds may be purchased at any threat level, make, or model from any distributor or manufacturer, as long as the following requirements are met: The body armor must have been tested and found to comply with the latest applicable National Institute of Justice (NIJ) ballistic or stab standards. In addition, body armor purchased must be made in the United States. Finally, body armor purchased with JAG funds must be "uniquely fitted vests," which means protective (ballistic or stab-resistant) armor vests that conform to the individual wearer to provide the best possible fit and coverage, through a combination of: 1) correctly-sized panels and carrier, determined through appropriate measurement, and 2) properly adjusted straps, harnesses, fasteners, flaps, or other adjustable features. The requirement that body armor be "uniquely fitted" does not necessarily require body armor that is individually manufactured based on the measurements of an individual wearer. In support of OJP's efforts to improve officer safety, the American Society for Testing and Materials (ASTM) International has made available the [Standard Practice for Body Armor Wearer Measurement and Fitting of Armor](#) (Active Standard ASTM E3003) available at no cost. The [Personal Armor Fit Assessment checklist](#) is excerpted from ASTM E3003.

A unit of local government that proposes to use FY 2019 JAG award funds to purchase body armor must provide OJP with a certification(s) that each unit of local government



law enforcement agency receiving body armor has a written “mandatory wear” policy in effect. See 34 U.S.C. § 10202(c). The certification form related to mandatory wear can be found at: [www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf](http://www.bja.gov/Funding/BodyArmorMandatoryWearCert.pdf). There are no requirements regarding the nature of the policy other than it specify when mandatory wear is required for uniformed officers on duty. FAQs related to the mandatory wear policy requirement can be found at [ojp.gov/bvpbasi/docs/FAQsBVPMandatoryWearPolicy.pdf](http://ojp.gov/bvpbasi/docs/FAQsBVPMandatoryWearPolicy.pdf). A mandatory wear concept and issues paper and a model policy are available at the BVP Customer Support Center, at [vests@usdoj.gov](mailto:vests@usdoj.gov) or toll free at 1-877-758-3787.

A unit of local government that proposes to use JAG funds to purchase body armor will have funds withheld until the required certification is submitted and approved by OJP. If the unit of local government proposes to change project activities to utilize JAG funds to purchase body armor after the award is accepted, the unit of local government must submit the signed certification to OJP at that time.

Further, before making any subaward for the purchase of body armor, the unit of local government JAG recipient must collect a completed mandatory wear certification from the proposed subrecipient. Any such certifications must be maintained by the local government JAG recipient, and made available to OJP upon request.

Apart from the JAG program, BJA provides funds under the Bulletproof Vest Partnership (BVP) Program. The BVP Program is designed to provide a critical resource to state and local law enforcement agencies for the purchase of ballistic-resistant and stab-resistant body armor. For more information on the BVP Program, including eligibility and application, refer to the [BVP web page](#). Units of local government should note, however, that JAG funds may not be used as any part of the 50 percent match required by the BVP Program. It is also important to note that **pursuant to the BVP program statute, at 34 U.S.C. § 10532(c), the use of JAG funding by a unit of local government may impact its eligibility for funding under the BVP program. If a unit of local government uses JAG funds to purchase armor vests, that unit of local government cannot also receive funding under the BVP program in the same fiscal year.** For additional information on the BVP Program and eligibility restrictions related to receipt of JAG funding, review the [BVP FAQs](#).

- **Interoperable Communications** - Units of local government (and any subrecipients) that use FY 2019 JAG funds to support emergency communications activities (including the purchase of interoperable communications equipment and technologies such as Voice over Internet Protocol bridging or gateway devices, or equipment to support the build out of wireless broadband networks in the 700 MHz public safety band under the Federal Communications Commission [FCC] Waiver Order) should review current SAFECOM guidance at: <https://www.dhs.gov/safecom>. This guidance is updated annually to provide current information on emergency communications policies, eligible costs, best practices, and technical standards for state, local, tribal, and territorial grantees investing federal funds in emergency communications projects. Additionally, emergency communications projects funded with FY 2019 JAG funds should support the Statewide Communication Interoperability Plan (SCIP) and be coordinated with the full-time statewide interoperability coordinator (SWIC) in the state of the project. As the central coordination point for a state’s interoperability effort, the SWIC plays a critical role and can serve as a valuable resource. SWICs are responsible for the implementation of SCIP through coordination and collaboration with the emergency response community. The U.S. Department of Homeland Security Office

of Emergency Communications maintains a list of SWICs for each of the states and territories. Contact [OEC@hq.dhs.gov](mailto:OEC@hq.dhs.gov) for more information. All communications equipment purchased with FY 2019 JAG Program funding should be identified during quarterly performance metrics reporting.

Further, information-sharing projects funded with FY 2019 JAG funds must comply with DOJ's [Global Justice Information Sharing Initiative](#) guidelines, as applicable, in order to promote information sharing and enable interoperability among disparate systems across the justice and public safety community. Recipients (and subrecipients) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: [https://it.ojp.gov/gsp\\_grantcondition](https://it.ojp.gov/gsp_grantcondition). Recipients (and subrecipients) will be required to document planned approaches to information sharing and describe compliance with GSP and an appropriate privacy policy that protects shared information or provide detailed justification for why an alternative approach is recommended.

For JAG applicants considering implementing communications technology projects, it is worthwhile to consider the First Responder Network Authority (FirstNet) Program. The Middle Class Tax Relief and Job Creation Act of 2012 (47 U.S.C. §§ 1401 *et seq.*) established FirstNet as an independent authority within the National Telecommunications and Information Administration (NTIA). FirstNet's statutory mission is to take all actions necessary to ensure the establishment of a nationwide public safety broadband network (NPSBN). NPSBN will use the 700 MHz D block spectrum to provide Long-Term Evolution (LTE)-based broadband services and applications to public safety entities. The network is based on a single, national network architecture that will evolve with technological advances and initially consist of a core network and radio access network. While mission-critical voice communications will continue to occur on land mobile radio (LMR), in time, FirstNet is expected to provide public safety entities with mission-critical broadband data capabilities and services including, but not limited to: messaging, image sharing, video streaming, group text, voice, data storage, applications, location-based services, and quality of service, priority, and preemption. This reliable, highly secure, interoperable, and innovative public safety communications platform will bring 21st century tools to public safety agencies and first responders, allowing them to get more information quickly and helping them to make faster and better decisions. For more information on FirstNet services, the unique value of the FirstNet network to public safety, and how to subscribe for the FirstNet service, should your state or territory opt in, visit [www.FirstNet.gov](http://www.FirstNet.gov). To learn about FirstNet's programs and activities, including its consultation and outreach with public safety, the state planning process, FirstNet's history and promise and how it plans to ensure that the FirstNet network meets the needs of public safety, visit [www.FirstNet.gov](http://www.FirstNet.gov) or contact [info@firstnet.gov](mailto:info@firstnet.gov).

- DNA Testing of Evidentiary Materials and Upload of DNA Profiles to a Database - If JAG Program funds will be used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System (CODIS, the national DNA database operated by the Federal Bureau of Investigation (FBI) by a government DNA lab with access to CODIS. No profiles generated with JAG funding may be entered into any other non- governmental DNA database without prior express written approval from BJA.

In addition, funds may not be used for purchase of DNA equipment and supplies when the resulting DNA profiles from such technology are not acceptable for entry into CODIS.

Entry of Records into State Repositories - As appropriate and to the extent consistent with law, a condition will be imposed that would require the following: with respect to any “program or activity” that receives federal financial assistance under this solicitation that is likely to generate or upgrade court dispositions or other records that are relevant to National Instant Background Check System (NICS) determinations (which includes any dispositions or records whatsoever that involve any “alien [who] is illegally or unlawfully in the United States” (18 U.S.C. § 922(g)(5)(A) (generally prohibiting any such alien to possess any firearm or ammunition)), a system must be in place to ensure that all such NICS-relevant dispositions or records that are generated or upgraded are made available in timely fashion to state repositories/databases that are accessed by NICS.

### **Requirements specific to “disparate” jurisdictions**

According to the JAG program statute, a “disparity” may exist between the funding eligibility of a county and its associated municipalities. See 34 U.S.C. § 10156(d)(4). Three different types of disparities may exist:

- The first type is a zero-county disparity. This situation exists when one or more municipalities within a county are eligible for a direct award but the county is not, yet the county is responsible for providing criminal justice services (such as prosecution and incarceration) for the municipality. In this case, the county is entitled to part of the municipality’s award because it shares the cost of criminal justice operations, although it may not report crime data to the FBI. This is the most common type of disparity.
- A second type of disparity exists when both a county and a municipality within that county qualify for a direct award, but the award amount for the municipality exceeds 150 percent of the county’s award amount.
- The third type of disparity occurs when a county and multiple municipalities within that county are all eligible for direct awards, but the sum of the awards for the individual municipalities exceeds 400 percent of the county’s award amount.

Jurisdictions identified by BJA as disparate must identify a fiscal agent that will submit a joint application for the aggregate eligible allocation to all disparate municipalities. The joint application must determine and specify the award distribution to each unit of local government and the purposes for which the funds will be used. A memorandum of understanding (MOU) that identifies which jurisdiction will serve as the applicant or fiscal agent for joint funds must be completed and signed by the authorized representative for each participating jurisdiction. The signed MOU should be attached to the application. For a sample MOU, see: [www.bja.gov/Funding/JAGMOU.pdf](http://www.bja.gov/Funding/JAGMOU.pdf).

Once an award is made, the fiscal agent will be responsible for distributing award funds to the other jurisdictions in the disparate group through subawards that include all appropriate award conditions. Unless specified differently, any reference in this solicitation to “applicant” or “recipient” includes each fiscal agent applying on behalf of a disparate group. Further, “subrecipients” includes those disparate jurisdictions that receive award funding from the fiscal agent, rather than directly from OJP.

### **Required compliance with applicable federal laws**

By law, the chief executive (e.g., the mayor) of each unit of local government that applies for an FY 2019 JAG award must certify that the unit of local government will “comply with all

provisions of [the JAG Program statute] and all other applicable Federal laws.” To satisfy this requirement, each unit of local government applicant must submit a properly executed Certifications and Assurances by the Chief Executive of the Applicant Government using the form shown in [Appendix A](#).

All applicants should understand that OJP awards, including certifications provided in connection with such awards, are subject to review by DOJ, including by OJP and by the DOJ Office of the Inspector General. Applicants also should understand that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in a certification submitted to OJP in support of an application may be the subject of criminal prosecution, and also may result in civil penalties and administrative remedies for false claims or otherwise. Administrative remedies that may be available to OJP with respect to an FY 2019 award include suspension or termination of the award, placement on the DOJ high risk grantee list, disallowance of costs, and suspension or debarment of the recipient.

### **National Incident-Based Reporting System (NIBRS) 3 percent set-aside**

In FY 2016, the Federal Bureau of Investigation (FBI) formally announced its intention to sunset the Uniform Crime Reporting (UCR) Program’s traditional Summary Reporting System (SRS) and replace it with the UCR Program’s National Incident-Based Reporting System (NIBRS). By January 1, 2021, the FBI intends for NIBRS to be the law enforcement crime data reporting standard for the nation.

By statute, JAG Program awards are calculated using summary Part 1 violent crime data from the FBI’s UCR Program. See 34 U.S.C. § 10156. Once SRS has been replaced by NIBRS, JAG award amounts will be calculated using NIBRS data. In preparation for the FBI’s 2021 NIBRS compliance deadline, beginning in FY 2018, BJA requires, through the application of a special condition, that direct JAG award recipients not certified by their state (or, as applicable, the FBI) as NIBRS compliant to dedicate 3 percent of their JAG award toward achieving full compliance with the FBI’s NIBRS data submission requirements under the UCR Program. The 3 percent requirement will assist state and local jurisdictions in working toward compliance to ensure they continue to have critical criminal justice funding available through JAG when SRS is replaced by NIBRS in FY 2021.

The requirement for a NIBRS set-aside will be applicable to all jurisdictions in a disparate group, but will not otherwise be applied to subawards. That is, the unit of local government serving as fiscal agent for a disparate group will be required by special condition to require each of the other jurisdictions in the disparate group to set aside 3 percent of FY 2019 JAG funds received by that jurisdiction to be used for NIBRS compliance activities, unless that jurisdiction has had the requirement waived by BJA, as described below. Units of local government must clearly indicate in their application narratives and budgets what projects will be supported with this 3 percent set-aside.

The following are examples of costs and projects that relate to NIBRS implementation at the state or local level that could be funded under the JAG Program: software, hardware, and labor that directly support or enhance a state or agency’s technical capacity for collecting, processing, and analyzing data reported by local law enforcement (LE) agencies and then submitting NIBRS data to the FBI; training personnel responsible for the state’s Incident Based Reporting (IBR) program on receiving, processing, analyzing, and validating incident-based data from local LE agencies in their state; training local agencies in how to collect and submit NIBRS data; and technical assistance for LE agency personnel responsible for (1) managing

the agency's crime incident data, (2) processing and validating the data, and (3) extracting and submitting IBR data to the state UCR Program, according to the states, and/or directly to the FBI, according to the NIBRS standard.

BJA will waive the set-aside requirement for units of local government that have been certified as NIBRS compliant by their state, or directly by the FBI, as of the posting date of this solicitation. Units of local government that achieve full compliance with NIBRS after receiving an award should email evidence of NIBRS compliance (certification of NIBRS compliance from their state or the FBI) to their State Policy Advisor listed in OJP's Grants Management System (GMS). Upon review of the documentation submitted, BJA will confirm the NIBRS compliance and then issue a Grant Adjustment Notice (GAN) to clear any withholding special condition associated with the NIBRS set-aside requirement. Units of local government must retain documentation on file that demonstrates the certification of NIBRS compliance. Such documentation must be made available for BJA review, upon request. Please note that in order for a state to certify NIBRS compliance of a unit of local government, that state must first be certified as NIBRS compliant by the FBI. In FY 2019 and forward, this requirement is applicable to all JAG recipients, meaning tribal jurisdictions must set aside the 3 percent for NIBRS compliance.

### **BJA Areas of Emphasis**

BJA recognizes that many state and local criminal justice systems currently face challenging fiscal environments, and that an important, cost-effective way to relieve those pressures is to share or leverage resources through cooperation between federal, state, and local law enforcement. BJA intends to focus much of its work on the areas of emphasis described below, and encourages each recipient of an FY 2019 JAG award to join federal law enforcement agencies in addressing these challenges.

Reducing Violent Crime – Recognizing that crime problems, including felonious possession and use of a firearm and/or gang violence, illegal drug sales and distribution, human trafficking, and other related violent crime, vary from community to community, BJA encourages units of local government to tailor their programs to the local crime issues, and to be data-informed in their work. Units of local government should consider investing JAG funds in programs to combat illegal gun violence, and to improve the process for ensuring that persons prohibited from purchasing guns (see, e.g., 18 U.S.C. § 922(g)) are prevented from doing so, by utilizing technology such as eTrace and NIBIN to analyze evidence as well as by enhancing complete, accurate, and timely reporting to the FBI's NICS. Units of local government are also encouraged to coordinate with United States Attorneys Offices and Project Safe Neighborhood (PSN) grantees in order to leverage funding for violence reduction projects, and to coordinate their law enforcement activities with those of federal law enforcement agencies, such as the FBI, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, the Drug Enforcement Administration, the United States Marshals Service, and the Department of Homeland Security.

Officer Safety and Wellness – The issue of law enforcement safety and wellness is an important priority for BJA and DOJ. According to the [2018 Preliminary End-of-Year Law Enforcement Fatalities Report](#), released by the National Law Enforcement Officers Memorial Fund (NLEOMF), 2018 saw 144 law enforcement law enforcement line-of-duty deaths nationwide. This is a 12 percent increase over 2017, which had 129 line-of-duty deaths. Firearms-related deaths were the leading cause of law enforcement deaths (52) – a



13 percent increase when compared to 2017. Among those deaths, 14 occurred during an attempt to arrest a suspect, 8 while conducting an investigative activity, 6 while responding to a domestic or public disturbance, and 5 as a result of being ambushed. Additionally, there were 50 traffic-related deaths. Forty-two officers died due to circumstances other than firearms or traffic, the majority being job-related illnesses.

Based on the latest report (2017) from the [FBI's Law Enforcement Officers Killed and Assaulted \(LEOKA\) data](#), there appeared to be a continuing increase in assaults against law enforcement officers between 2016 and 2017. In 2017 there were 60,211 assaults versus 57,180 assaults in 2016. Of those assaulted, 17,476 were injured compared to 16,535 injured in 2016. The 2017 LEOKA data show that 21 officers died as a result of investigative or enforcement duties, 6 during pursuits, and 5 were ambushed.

BJA sees a vital need to continue to focus on tactical officer safety concerns as well as on the health and wellness of law enforcement as that may have a direct effect on officer performance and safety. It is important for law enforcement to have the tactical skills necessary, and also to be physically and mentally well, to perform, survive, and be resilient in the face of the demanding duties of the profession. BJA encourages units of local government to use JAG funds to address these needs by providing training, and paying for tuition and travel expenses related to attending trainings such as those available through the [BJA VALOR Initiative](#) and soon to be available through the National Officer Safety Initiative program, as well as funding for health and wellness programs for law enforcement officers.

Southwest Border Rural Law Enforcement – Securing U.S. borders (and internationally accessible waterways and airports) is critically important to the reduction, intervention, and prevention of transnational drug-trafficking networks, gangs, and combating all forms of human trafficking and related sexual assaults within the United States (including sex and labor trafficking of foreign nationals and U.S. citizens of all sexes and ages). Smuggling and trafficking operations to, from, and within the United States contribute to a significant increase in violent crime and U.S. deaths, to include law enforcement. BJA encourages units of local government using JAG funds to support law enforcement hiring, training, and technology enhancement, as well as information sharing, cooperation, and coordination among federal, state, local, tribal, and territorial law enforcement agencies to help address these problems.

Responding to the Opioid Crisis – The opioid crisis is a public health emergency and responding to the crisis is one of DOJ's top priorities. In 2017, more than 72,000 Americans lost their lives to drug overdoses, according to the Centers for Disease Control and Prevention (CDC). In 2016, 63,632 Americans died from fatal drug overdoses and 52,404 died in 2015 (CDC). The majority of these deaths can be attributed to opioids. Law enforcement plays a vital role in efforts to stem overdoses, save lives, and fight illegal opioid distribution and abuse. BJA encourages local governments to use JAG funds to support law enforcement actions to fight the opioid epidemic such as addressing the supply of both diverted prescription drugs and illegal drugs, and supporting first responders when encountering overdoses. JAG funds can also be used for training and safety measures to prepare for potential encounters with synthetic opioids such as fentanyl. This may include covering the cost of providing naloxone to all officers and the cost of fentanyl detection testing.

## Objectives

In general, the FY 2019 JAG Program is designed to provide additional personnel, equipment, supplies, contractual support, training, technical assistance, and information systems for criminal justice. Although the JAG Program provides assistance directly to states, through pass-through (and similar) requirements, the JAG Program also is designed to assist units of local government with respect to criminal justice.

As discussed in more detail in the [General Information about Post-federal Award Reporting Requirements](#) discussion, a unit of local government that receives an FY 2019 JAG award will be required to produce various types of reports and to submit data related to performance measures and accountability. The objectives are directly related to the JAG Program accountability measures at <https://bjapmt.ojp.gov/help/jagdocs.html>.

The Objectives are directly related to the performance measures that demonstrate the results of the work completed, as discussed under [What an Application Should Include](#).

## Evidence-based Programs or Practices

OJP strongly emphasizes the use of data and evidence in policy making and program development in criminal justice, juvenile justice, and crime victim services. For additional information and resources on evidence-based programs or practices, see the [OJP Grant Application Resource Guide](#).

A useful matrix of evidence-based policing programs and strategies is available through BJA's [Matrix Demonstration Project](#). BJA offers a number of program models designed to effectively implement promising and evidence-based strategies through the BJA "Innovation Suite" of programs including Innovations in Policing, Prosecution, Supervision, Reentry, and others (see <https://www.bja.gov/Programs/CRPPE/innovationssuite.html>). BJA encourages units of local government to use JAG funds to support these "crime innovation" strategies, including effective partnerships with universities and research partners and with non-traditional criminal justice partners.

## Information Regarding Potential Evaluation of Programs and Activities

Applicants should note OJP may conduct or support an evaluation of the programs and activities funded under this solicitation. For additional information, see the [OJP Grant Application Resource Guide](#) section, entitled, "Information Regarding Potential Evaluation of Programs and Activities."

## BJA Success Stories

The BJA-sponsored [Success Stories](#) web page features projects that have demonstrated success or shown promise in reducing crime and positively impacting communities. This web page is a valuable resource for states, localities, territories, tribes, and criminal justice professionals who seek to identify and learn about JAG and other successful BJA-funded projects linked to innovation, crime reduction, and evidence-based practices. **BJA strongly encourages the recipient to submit success stories annually (or more frequently).**

If a unit of local government has a success story it would like to submit, it may be submitted through [My BJA account](#), using "Add a Success Story" and the Success Story Submission form. Register for a My BJA account using this [registration](#) link.



## B. Federal Award Information

BJA estimates that it will make up to 1,147 local awards totaling an estimated \$84,500,000.

Awards of at least \$25,000 are 4 years in length, and performance periods will be from October 1, 2018 through September 30, 2022. Extensions beyond this period may be made on a case-by-case basis at the discretion of BJA and must be requested via GMS no fewer than 30 days prior to the grant end date.

Awards of less than \$25,000 are 2 years in length, and performance periods will be from October 1, 2018 through September 30, 2020. Extensions of up to 2 years can be requested for these awards via GMS no fewer than 30 days prior to the grant end date, and will be automatically granted upon request.

All awards are subject to the availability of appropriated funds and to any modifications or additional requirements that may be imposed by statute.

### Type of Award

BJA expects that any award under this solicitation will be in the form of a grant. See the “Administrative, National Policy, and Other Legal Requirements” section of the [OJP Grant Application Resource Guide](#) for a brief discussion of important statutes, regulations, and award conditions that apply to many (or in some cases, all) OJP grants.

JAG awards are based on a statutory formula as described below:

Once each fiscal year’s overall JAG Program funding level is determined, BJA works with the Bureau of Justice Statistics (BJS) to begin a four-step grant award calculation process, which, in general, consists of:

- (1) Computing an initial JAG allocation for each state, based on its share of violent crime and population (weighted equally).
- (2) Reviewing the initial JAG allocation amount to determine if the state allocation is less than the minimum award amount defined in the JAG legislation (0.25 percent of the total). If this is the case, the state is funded at the minimum level, and the funds required for this are deducted from the overall pool of JAG funds. Each of the remaining states receives the minimum award plus an additional amount based on its share of violent crime and population.
- (3) Dividing each state’s final award amount (except for the territories and District of Columbia) between the state and its units of local governments at a rate of 60 and 40 percent, respectively.
- (4) Determining unit of local government award allocations, which are based on their proportion of the state’s 3-year violent crime average. If the “eligible award amount” for a particular unit of local government, as determined on this basis, is \$10,000 or more, then the unit of local government is eligible to apply directly to OJP (under the JAG Local solicitation) for a JAG award. If the “eligible award amount” to a

particular unit of local government, as determined on this basis, is less than \$10,000, however, the funds are not made available for a direct award to that particular unit of local government, but instead are added to the amount that otherwise would have been awarded to the state. (Additional requirements related to “disparate” jurisdictions are summarized [above](#)).

### **Financial Management and System of Internal Controls**

Award recipients and subrecipients (including recipients or subrecipients that are pass-through entities<sup>1</sup>) must, as described in the Part 200 Uniform Requirements<sup>2</sup> as set out at 2 C.F.R. 200.303, comply with standards for financial and program management. See [OJP Grant Application Resource Guide](#) for additional information.

### **Budget Information**

Trust Fund – Units of local government may draw down JAG funds either in advance or on a reimbursement basis. Non-federal entities must maintain advance payments of federal awards in interest-bearing accounts, unless regulatory exclusions apply (2 CFR 200.305(b)(8)). Subrecipients that draw down JAG funds in advance are subject to the same requirement and must first establish an interest-bearing account.

Tracking and reporting regarding JAG funds used for administrative costs – As indicated earlier, up to 10 percent of a JAG award, including up to 10 percent of any earned interest, may be used for costs associated with administering the award. Administrative costs (when utilized) must be tracked separately; a recipient must report in separate financial status reports (SF-425) those expenditures that specifically relate to each particular JAG award during any particular reporting period.

No commingling – Both the unit of local government recipient and all subrecipients of JAG funds are prohibited from commingling funds on a program-by-program or project-by-project basis.

**For this purpose, use of the administrative JAG funds to perform work across all active awards in any one year is not considered commingling.**

### **Cost Sharing or Match Requirement**

The JAG Program does not require a match. However, if a successful application proposes a voluntary match amount, and OJP approves the budget, the total match amount incorporated into the approved budget becomes mandatory and subject to audit.

For additional cost sharing and match information, see the DOJ Grants Financial Guide at <https://ojp.gov/financialguide/DOJ/index.htm>.

### **Pre-agreement Costs (also known as Pre-award Costs)**

Pre-agreement costs are costs incurred by the applicant prior to the start date of the period of performance of the grant award.

OJP does **not** typically approve pre-agreement costs. An applicant must request and obtain the prior written approval of OJP for any such costs. All such costs incurred prior to award and prior to approval of the costs are incurred *at the sole risk* of the applicant. (Generally, no applicant should incur project costs *before* submitting an application requesting federal funding for those costs.) Should there be extenuating circumstances that make it appropriate for OJP to consider approving pre-agreement costs, the applicant may contact the point of contact listed on the title page of this solicitation for the requirements concerning written requests for approval. If approved in advance by OJP, award funds may be used for pre-agreement costs, consistent

with the recipient's approved budget and applicable cost principles. See the section on "Costs Requiring Prior Approval" in the DOJ Grants Financial Guide at <https://ojp.gov/financialguide/DOJ/index.htm> for more information.

### **Prior Approval, Planning, and Reporting of Conference/Meeting/Training Costs**

OJP strongly encourages every applicant that proposes to use award funds for any conference-, meeting-, or training-related activity (or similar event) to review carefully—before submitting an application—the OJP and DOJ policy and guidance on approval, planning, and reporting of such events. See the [OJP Grant Application Resource Guide](#) for information.

### **Costs Associated with Language Assistance (if applicable)**

See the [OJP Grant Application Resource Guide](#) for information on costs associated with language assistance that may be allowable.

## **C. Eligibility Information**

For information on eligibility, see the title page.

For information on cost sharing or match requirements, see [Section B. Federal Award Information](#).

## **D. Application and Submission Information**

### **What an Application Should Include**

See the "Application Elements and Formatting Instructions" section of the [OJP Grant Application Resource Guide](#) for information on, among other things, what happens to an application that does not contain all the specified elements. (This solicitation expressly modifies the "Application Elements and Formatting Instructions" section of the OJP Grant Application Resource Guide by not incorporating paragraph two of that section (referring to nonresponsive applications or applications missing critical elements not "[proceeding] to peer review").)

#### **1. Application for Federal Assistance (Standard Form (SF)-424)**

The SF-424 is a required standard form used as a cover sheet for submission of pre-applications, applications, and related information. See the [OJP Grant Application Resource Guide](#) for additional information on completing the SF-424.

**Intergovernmental Review:** This solicitation ("funding opportunity") is subject to [Executive Order 12372](#). An applicant may find the names and addresses of State Single Points of Contact (SPOCs) at the following website: [https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental\\_-Review-\\_SPOC\\_01\\_2018\\_OFFM.pdf](https://www.whitehouse.gov/wp-content/uploads/2017/11/Intergovernmental_-Review-_SPOC_01_2018_OFFM.pdf). If the applicant's State appears on the SPOC list, the applicant must contact the State SPOC to find out about, and comply with, the State's process under E.O. 12372. In completing the SF-424, an applicant whose State appears on the SPOC list is to make the appropriate selection in response to question 19, once the applicant has complied with its State E.O. 12372 process. (An applicant whose State does not appear on the SPOC list should answer question 19 by selecting the response that the: "Program is subject to E.O. 12372, but has not been selected by the State for review.").

## 2. Project Identifiers

Applications should identify at least three and no more than ten project identifiers that would be associated with proposed project activities. The list of identifiers can be found at [www.bja.gov/funding/JAGIdentifiers.pdf](http://www.bja.gov/funding/JAGIdentifiers.pdf).

## 3. Program Narrative

The following sections **should** be included as part of the program narrative<sup>1</sup>:

- (a) Description of the Issues – Identify the unit of local government’s strategy/funding priorities for the FY 2019 JAG funds, the subgrant award process and timeline, and a description of the programs to be funded over the grant period. Units of local government are strongly encouraged to prioritize the funding on evidence-based projects.
- (b) Project Design and Implementation – Describe the unit of local government’s strategic planning process, if any, that guides its priorities and funding strategy. This should include a description of how the local community is engaged in the planning process and the data and analysis utilized to support the plan; it should identify the stakeholders currently participating in the strategic planning process, the gaps in the needed resources for criminal justice purposes, and how JAG funds will be coordinated with state and related justice funds.
- (c) Capabilities and Competencies – Describe any additional strategic planning/coordination efforts in which the units of local government participates with other criminal justice juvenile justice agencies in the state.
- (d) Plan for Collecting the Data Required for this Solicitation’s Performance Measures – OJP will require each successful applicant to submit specific performance data that demonstrate the results of the work carried out under the award. The performance data directly relate to the objectives identified under "Objectives" in [Section A. Program Description](#).

Post award, recipients will be required to submit quarterly performance metrics through BJA’s Performance Measurement Tool (PMT), located at: <https://bjapmt.ojp.gov>. The application should describe the applicant's plan for collection of all of the performance measures data listed in the JAG Program accountability measures at: <https://bjapmt.ojp.gov/help/jagdocs.html>.

Applicants should visit OJP’s performance measurement page at [www.ojp.gov/performance](http://www.ojp.gov/performance) for an overview of performance measurement activities at OJP.

The application should demonstrate the applicant’s understanding of the performance data reporting requirements for this grant program and detail how the applicant will gather the

---

<sup>1</sup> For information on subawards (including the details on proposed subawards that should be included in the application), see "Budget and Associated Documentation" under [Section D. Application and Submission Information](#).

required data should it receive funding.

Please note that applicants are **not** required to submit performance data with the application. Performance measures information is included as an alert that successful applicants will be required to submit performance data as part of the reporting requirements under an award.

#### **Note on Project Evaluations**

An applicant that proposes to use award funds through this solicitation to conduct project evaluations should follow the guidance under Note on Project Evaluations in the [OJP Grant Application Resource Guide](#).

#### **4. Budget and Associated Documentation**

See the Budget Preparation and Submission Information section of the [OJP Grant Application Resource Guide](#) for details on the Budget Detail Worksheet, and on budget information and associated documentation, such as information on proposed subawards, proposed procurement contracts under awards, and pre-agreement costs. **Please note that the budget narrative should include a full description of all costs, including funds set aside for NIBRS project(s) and administrative costs (if applicable).**

General requirement for federal authorization of any subaward; statutory authorizations of subawards under the JAG Program statute. Generally, a recipient of an OJP award may not make subawards (“subgrants”) unless the recipient has specific federal authorization to do so. Unless an applicable statute or DOJ regulation specifically authorizes (or requires) particular subawards, a recipient must have authorization from OJP before it may make a subaward.

**JAG subawards that are required or specifically authorized by statute (see 34 U.S.C. § 10152(a) and 34 U.S.C. § 10156) do not require prior approval to authorize subawards. This includes subawards made by states under the JAG Program.**

A particular subaward may be authorized by OJP because the recipient included a sufficiently detailed description and justification of the proposed subaward in the application as approved by OJP. If, however, a particular subaward is not authorized by federal statute or regulation, and is not sufficiently described and justified in the application as approved by OJP, the recipient will be required, post-award, to request and obtain written authorization from OJP before it may make the subaward.

If an applicant proposes to make one or more subawards to carry out the federal award and program, and those subawards are not specifically authorized (or required) by statute or regulation, the applicant should: (1) identify (if known) the proposed subrecipient(s), (2) describe in detail what each subrecipient will do to carry out the federal award and federal program, and (3) provide a justification for the subaward(s), with details on pertinent matters such as special qualifications and areas of expertise. Pertinent information on subawards should appear not only in the Program Narrative but also in the Budget Detail Worksheet and budget narrative.

#### **5. Indirect Cost Rate Agreement (if applicable)**

See the Budget Preparation and Submission Information section of the [OJP Grant Application Resource Guide](#) for information.

## **6. Tribal Authorizing Resolution (if applicable)**

The following two paragraphs in this solicitation expressly modify the “Tribal Authorizing Resolution” provisions in the [OJP Grant Application Resource Guide](#). An applicant is to follow the guidance in these two paragraphs instead of the guidance stated under the “Tribal Authorizing Resolution” heading in the Guide.

An application in response to the solicitation may require inclusion of information related to a tribal authorizing resolution. A tribe, tribal organization, or third party that proposes to provide direct services or assistance to residents on tribal lands should include in its application a resolution, letter, affidavit, or other documentation, as appropriate, that demonstrates (as a legal matter) that the applicant has the requisite authorization from the tribe(s) to implement the proposed project on tribal lands. In those instances when an organization or consortium of tribes applies for an award on behalf of a tribe or multiple specific tribes, the application should include appropriate legal documentation, as described above, from all tribes that would receive services or assistance under the award. A consortium of tribes for which existing consortium bylaws allow action without support from all tribes in the consortium (i.e., without an authorizing resolution or comparable legal documentation from each tribal governing body) may submit, instead, a copy of its consortium bylaws with the application.

An applicant unable to submit an application that includes a fully executed (i.e., signed) copy of legal appropriate documentation, as described above, consistent with the applicable tribe’s governance structure, should submit an unsigned, draft version of such legal documentation as part of its application (except for cases in which, with respect to a tribal consortium applicant, consortium bylaws allow action without the support of all consortium member tribes). If selected for funding, OJP will make use of and access to award funds contingent on receipt of the fully executed legal documentation.

## **7. Financial Management and System of Internal Controls Questionnaire (including applicant disclosure of high-risk status)**

Every OJP applicant (other than an individual applying in his or her personal capacity) is required to download, complete, and submit the OJP Financial Management and System of Internal Controls Questionnaire (Questionnaire) at <https://ojp.gov/funding/Apply/Resources/FinancialCapability.pdf> as part of its application. See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this Questionnaire.

## **8. Disclosure of Lobbying Activities**

Each applicant must complete and submit this information. See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this disclosure.

## **9. Certifications and Assurances by the Chief Executive of the Applicant Government**

A JAG application is not complete, and a unit of local government may not access award funds, unless the chief executive of the applicant unit of local government (e.g., the mayor) properly executes, and the unit of local government submits, the “Certifications and Assurances by the Chief Executive of the Applicant Government” attached to this solicitation as [Appendix A](#).



Please note that this certification takes the place of the review narrative attachment and contains assurances that the governing body notification and public comment requirements, which are required under the JAG statute (at 34 U.S.C. § 10153(a)(2)), have been satisfied. More specifically, this certification documents that the JAG application was made available for review by the governing body of the unit of local government, or by an organization designated by that governing body, for a period that was not fewer than 30 days before the application was submitted to BJA and that that an opportunity to comment on this application was provided to citizens prior to the application submission to the extent applicable law or established procedures make such opportunity available.

OJP will not deny an application for an FY 2019 award for failure to submit these “Certifications and Assurances by the Chief Executive of the Applicant Government” by the application deadline, but a unit of local government will not be able to access award funds (its award will include a condition that withholds funds) until it submits these certifications and assurances, properly-executed by the chief executive of the unit of local government (e.g., the mayor).

#### **10. Applicant Disclosure of Pending Applications**

Each applicant is to disclose whether it has (or is proposed as a subrecipient under) any pending applications for federally funded grants or cooperative agreements that (1) include requests for funding to support the same project being proposed in the application under this solicitation, and (2) would cover any identical cost items outlined in the budget submitted to OJP as part of the application under this solicitation. For additional information on the submission requirements for this disclosure, see the [OJP Grant Application Resource Guide](#).

#### **11. Applicant Disclosure and Justification – DOJ High Risk Grantees<sup>2</sup>(if applicable)**

An applicant that is designated as a DOJ High Risk Grantee is to submit in GMS, as a separate attachment to its application, information that OJP will use, among other pertinent information, to determine whether it will consider or select the application for an award under this solicitation. The file should be named “DOJ High Risk Grantee Applicant Disclosure and Justification.” (See, also, “Review Process,” below, under Section E. Application Review Information, for a brief discussion of how such information may be considered in the application review process.) See the [OJP Grant Application Resource Guide](#) for additional information and submission instructions for this disclosure.

#### **12. Research and Evaluation Independence and Integrity**

If an application proposes research (including research and development) and/or evaluation, the applicant must demonstrate research/evaluation independence and integrity, including appropriate safeguards, before it may receive award funds. For additional information regarding demonstrating research/evaluation independence and integrity, including appropriate safeguards, see the [OJP Grant Application Resource Guide](#).

#### **13. Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)**

Each applicant must provide responses to the following questions as an attachment to the application:

---

<sup>2</sup> A “DOJ High Risk Grantee” is a recipient that has received a DOJ High-Risk designation based on a documented history of unsatisfactory performance, financial instability, management system or other internal control deficiencies, or noncompliance with award terms and conditions on prior awards, or that is otherwise not responsible.

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?
- (3) If yes to either:
  - Please provide a copy of each law or policy.
  - Please describe each practice.
  - Please explain how the law, policy, or practice complies with 8 U.S.C. § 1373.

See [Appendix C](#) for a template that applicants may use to prepare this attachment.

## How to Apply

An applicant must submit its application through the [Grants Management System \(GMS\)](#), which provides support for the application, award, and management of awards at OJP. Find information, registration and submission steps on how to apply in GMS in response to this solicitation under **How to Apply (GMS)** in the [OJP Grant Application Resource Guide](#).

## E. Application Review Information

### Review Process

OJP is committed to ensuring a fair and open process for making awards. BJA reviews the application to make sure that the information presented is reasonable, understandable, measurable, and achievable, as well as consistent with the solicitation. See the [OJP Grant Application Resource Guide](#) for information on the application review process for this solicitation.

In addition, if OJP anticipates that an award will exceed \$250,000 in federal funds, OJP also must review and consider any information about the applicant that appears in the non-public segment of the integrity and performance system accessible through SAM (currently, the Federal Awardee Performance and Integrity Information System, FAPIIS).

**Important note on FAPIIS:** An applicant, at its option, may review and comment on any information about itself that currently appears in FAPIIS and was entered by a federal awarding agency. OJP will consider any such comments by the applicant, in addition to the other information in FAPIIS, in its assessment of the risk posed by the applicant.

Absent explicit statutory authorization or written delegation of authority to the contrary, the Assistant Attorney General will make all final award decisions.

## F. Federal Award Administration Information

### Federal Award Notices

See the [OJP Grant Application Resource Guide](#) for information on award notifications and instructions.

### Administrative, National Policy, and Other Legal Requirements

OJP strongly encourages prospective applicants to review information on post-award legal requirements and common OJP award conditions **prior** to submitting an application. See the [OJP Grant Application Resource Guide](#) for additional information on administrative, national policy, and other legal requirements.

## Information Technology (IT) Security Clauses

An application in response to this solicitation may require inclusion of information related to information technology security. See the [OJP Grant Application Resource Guide](#) for information on information technology security.

## Statutory and Regulatory Requirements; Award Conditions

If selected for funding, in addition to implementing the funded project consistent with the OJP-approved application, the recipient must comply with award conditions, as well as all applicable requirements of federal statutes and regulations (including applicable requirements referred to in the assurances and certifications executed at the time of award acceptance).

OJP strongly encourages prospective applicants to review information on post-award legal requirements generally applicable to FY 2019 OJP awards and common OJP award conditions **prior** to submitting an application.

Individual FY 2019 awards made pursuant to this solicitation will, as appropriate and to the extent consistent with law, include conditions that will require the recipient (and any subrecipient) that accepts the award to do various things, with respect to the “program or activity” that would receive federal financial assistance thereunder. **Although the specific terms of each of those conditions are what will govern the awards**, included among such conditions will be some that, **generally speaking**, will require the recipient (and any subrecipient) that accepts the award to do some or all of the following:

- Not to violate 8 U.S.C. § 1373 (prohibiting restrictions on—
  - (1) communication to/from the Department of Homeland Security (DHS) of information regarding the citizenship or immigration status of any individual; and
  - (2) maintaining, or exchanging with any government entity, information regarding the immigration status of any individual).
- Not to violate 8 U.S.C. § 1644 (prohibiting restrictions on communication to/from DHS of information regarding the immigration status of an alien).
- Not to publicly disclose federal law enforcement information in an attempt to conceal, harbor, or shield certain individuals from detection, including in violation of 18 U.S.C. §§ 1071 or 1072, or 8 U.S.C. § 1324(a).
- Not to impede the exercise of the authority of the federal government under 8 U.S.C. § 1266(a) & (c) (authorizing arrest and detention of certain aliens and providing that the federal government “shall take into custody” certain criminal aliens “when the alien is released”) and 8 U.S.C. § 1231(a)(4) (relating to removal from the United States of aliens after detention/confinement at the federal, state, and local level), specifically by requiring such recipients to provide (where feasible) at least 48 hours’ advance notice to DHS regarding the scheduled release date and time of an alien in the recipient’s custody when DHS requests such notice in order to take custody of the alien pursuant to the Immigration and Nationality Act.
- Not to impede the exercise by DHS agents, “anywhere in or outside the United States” (8 C.F.R. § 287.5(a)(1)), of their authority under 8 U.S.C. § 1357(a)(1) to “interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States,” specifically by requiring such recipients to permit DHS agents to have access to any

correctional facility in order to meet with an alien (or an individual believed to be an alien) and inquire as to his right to be or remain in the United States.

The reasonable costs (to the extent not reimbursed under any other federal program) of complying with these conditions, including honoring any duly authorized request from DHS that is encompassed by these conditions, will be allowable costs under the award.

### **General Information about Post-federal Award Reporting Requirements**

In addition to the deliverables described in [Section A. Program Description](#), any recipient of an award under this solicitation will be required to submit the following reports and data.

Required reports. Recipients typically must submit quarterly financial status reports, semi-annual progress reports, final financial and progress reports, and, if applicable, an annual audit report in accordance with the Part 200 Uniform Requirements or specific award conditions. Future awards and fund drawdowns may be withheld if reports are delinquent. (In appropriate cases, OJP may require additional reports.)

See the [OJP Grant Application Resource Guide](#) for additional information on specific post-award reporting requirements, including performance measures data.

Accountability metrics data must be submitted through BJA's Performance Measurement Tool (PMT), available at <https://bjapmt.ojp.gov>. The accountability measures are available at: <https://bjapmt.ojp.gov/help/jagdocs.html>. (Note that if a law enforcement agency receives JAG funds from a state, the state must submit quarterly accountability metrics data related to training that officers have received on use of force, racial and ethnic bias, de-escalation of conflict, and constructive engagement with the public.)

OJP may restrict access to award funds if a recipient of an OJP award fails to report required performance measure data in a timely manner.

## **G. Federal Awarding Agency Contact(s)**

For OJP contact(s), see the title page of this solicitation.

For contact information for GMS, see the title page.

## **H. Other Information**

### **Freedom of Information and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a)**

All applications submitted to OJP (including all attachments to applications) are subject to the federal Freedom of Information Act (FOIA) and to the Privacy Act. See the [OJP Grant Application Resource Guide](#) for information on DOJ and OJP processes with regard to application information requested pursuant to FOIA.

### **Provide Feedback to OJP**

To assist OJP in improving its application and award processes, OJP encourages applicants to provide feedback on this solicitation, the application submission process, and/or the application review process. See the [OJP Grant Application Resource Guide](#) for information on providing solicitation feedback to OJP.

## **Appendix A**

### **Certifications and Assurances by the Chief Executive of the Applicant Government**

**Template for use by the chief executive of the applicant unit of local government.**

Visit <https://www.bja.gov/Funding/FY2019LocalJAGCEOCertification.pdf> to download the most up-to-date version.

**Note:** By law, for purposes of the JAG Program, the term “states” includes the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, Guam, and American Samoa.

**U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS**

**Edward Byrne Justice Assistance Grant Program FY 2019 Local Solicitation**

**Certifications and Assurances by the Chief Executive of the Applicant Government**

On behalf of the applicant unit of local government named below, in support of that locality's application for an award under the FY 2019 Edward Byrne Justice Assistance Grant ("JAG") Program, and further to 34 U.S.C. § 10153(a), I certify to the Office of Justice Programs ("OJP"), U.S. Department of Justice ("USDOJ"), that all of the following are true and correct:

1. I am the chief executive of the applicant unit of local government named below, and I have the authority to make the following representations on my own behalf as chief executive and on behalf of the applicant unit of local government. I understand that these representations will be relied upon as material in any OJP decision to make an award, under the application described above, to the applicant unit of local government.
2. I certify that no federal funds made available by the award (if any) that OJP makes based on the application described above will be used to supplant local funds, but will be used to increase the amounts of such funds that would, in the absence of federal funds, be made available for law enforcement activities.
3. I assure that the application described above (and any amendment to that application) was submitted for review to the governing body of the unit of local government (e.g., city council or county commission), or to an organization designated by that governing body, not less than 30 days before the date of this certification.
4. I assure that, before the date of this certification— (a) the application described above (and any amendment to that application) was made public; and (b) an opportunity to comment on that application (or amendment) was provided to citizens and to neighborhood or community-based organizations, to the extent applicable law or established procedure made such an opportunity available.
5. I assure that, for each fiscal year of the award (if any) that OJP makes based on the application described above, the applicant unit of local government will maintain and report such data, records, and information (programmatic and financial), as OJP may reasonably require.
6. I have carefully reviewed 34 U.S.C. § 10153(a)(5), and, with respect to the programs to be funded by the award (if any), I hereby make the certification required by section 10153(a)(5), as to each of the items specified therein.

\_\_\_\_\_  
Signature of Chief Executive of the Applicant Unit of  
Local Government

\_\_\_\_\_  
Date of Certification

\_\_\_\_\_  
Printed Name of Chief Executive

\_\_\_\_\_  
Title of Chief Executive

\_\_\_\_\_  
Name of Applicant Unit of Local Government



## **Appendix B**

### **Certain relevant federal laws, as in effect on April 8, 2019**

#### **8 U.S.C. § 1373**

##### **Communication between government agencies and the Immigration and Naturalization Service**

###### **(a) In general**

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

###### **(b) Additional authority of government entities**

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1)** Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2)** Maintaining such information.
- (3)** Exchanging such information with any other Federal, State, or local government entity.

###### **(c) Obligation to respond to inquiries**

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

#### **8 U.S.C. § 1644**

##### **Communication between State and local government agencies and Immigration and Naturalization Service**

Notwithstanding any other provision of Federal, State, or local law, no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

#### **8 U.S.C. § 1226(a) & (c)**

##### **Apprehension and detention of aliens**

###### **(a) Arrest, detention, and release**

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General--

- (1) may continue to detain the arrested alien; and
- (2) may release the alien on--
  - (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or
  - (B) conditional parole; but
- (3) may not provide the alien with work authorization (including an "employment authorized" endorsement or other appropriate work permit), unless the alien is lawfully admitted for permanent residence or otherwise would (without regard to removal proceedings) be provided such authorization.

\*\*\*

(c) Detention of criminal aliens

(1) Custody

The Attorney General shall take into custody any alien who--

- (A) is inadmissible by reason of having committed any offense covered in section 1182(a)(2) of this title,
- (B) is deportable by reason of having committed any offense covered in section 1227(a)(2)(A)(ii), (A)(iii), (B), (C), or (D) of this title,
- (C) is deportable under section 1227(a)(2)(A)(i) of this title on the basis of an offense for which the alien has been sentence<sup>1</sup> to a term of imprisonment of at least 1 year, or
- (D) is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title,

when the alien is released, without regard to whether the alien is released on parole, supervised release, or probation, and without regard to whether the alien may be arrested or imprisoned again for the same offense.

(2) Release

The Attorney General may release an alien described in paragraph (1) only if the Attorney General decides pursuant to section 3521 of Title 18 that release of the alien from custody is necessary to provide protection to a witness, a potential witness, a person cooperating with an investigation into major criminal activity, or an immediate family member or close associate of a witness, potential witness, or person cooperating with such an investigation, and the alien satisfies the Attorney General that the alien will not pose a danger to the safety of other persons or of property and is likely to appear for any scheduled proceeding. A decision relating to such release shall take place in accordance with a procedure that considers the severity of the offense committed by the alien.

**8 U.S.C. § 1231(a)(4)**

(a) Detention, release, and removal of aliens ordered removed

\*\*\*

**4) Aliens imprisoned, arrested, or on parole, supervised release, or probation**

**(A) In general**

Except as provided in section 259(a) of title 42 and paragraph (2), the Attorney General may not remove an alien who is sentenced to imprisonment until the alien is released from imprisonment. Parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason to defer removal.

**(B) Exception for removal of nonviolent offenders prior to completion of sentence of imprisonment**

The Attorney General is authorized to remove an alien in accordance with applicable procedures under this chapter before the alien has completed a sentence of imprisonment-

- i. in the case of an alien in the custody of the Attorney General, if the Attorney General determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense related to smuggling or harboring of aliens or an offense described in section 1101(a)(43)(B), (C), (E), (I), or (L) of this title and (II) the removal of the alien is appropriate and in the best interest of the United States; or
- ii. in the case of an alien in the custody of a State (or a political subdivision of a State), if the chief State official exercising authority with respect to the incarceration of the alien determines that (I) the alien is confined pursuant to a final conviction for a nonviolent offense (other than an offense described in section 1101(a)(43)(C) or (E) of this title), (II) the removal is appropriate and in the best interest of the State, and (III) submits a written request to the Attorney General that such alien be so removed.

**(C) Notice**

Any alien removed pursuant to this paragraph shall be notified of the penalties under the laws of the United States relating to the reentry of deported aliens, particularly the expanded penalties for aliens removed under subparagraph (B).

**(D) No private right**

No cause or claim may be asserted under this paragraph against any official of the United States or of any State to compel the release, removal, or consideration for release or removal of any alien.

**8 U.S.C. § 1324(a)**

**Bringing in and harboring certain aliens**

**(a) Criminal penalties**

**(1)(A) Any person who—**

- i. knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;
- ii. knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;
- iii. knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

- iv. encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or
  - v. (v)(I) engages in any conspiracy to commit any of the preceding acts, or
  - vi. (II) aids or abets the commission of any of the preceding acts, shall be punished as provided in subparagraph (B).
- (B) A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—
- I. in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under title 18, imprisoned not more than 10 years, or both;
  - II. in the case of a violation of subparagraph (A)(ii), (iii), (iv), or (v)(II), be fined under title 18, imprisoned not more than 5 years, or both;
  - III. in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18) to, or places in jeopardy the life of, any person, be fined under title 18, imprisoned not more than 20 years, or both; and
  - IV. in the case of a violation of subparagraph (A)(i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, or both.
- (C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs-

(A) be fined in accordance with title 18 or imprisoned not more than one year, or both; or

(B) in the case of-

(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,

(ii) an offense done for the purpose of commercial advantage or private financial gain, or

(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined under title 18 and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of

subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years.

(3)(A) Any person who, during any 12-month period, knowingly hires for employment at least 10 individuals with actual knowledge that the individuals are aliens described in subparagraph (B) shall be fined under title 18 or imprisoned for not more than 5 years, or both.

(B) An alien described in this subparagraph is an alien who-

- (i) is an unauthorized alien (as defined in [section 1324a\(h\)\(3\) of this title](#)), and
- (ii) has been brought into the United States in violation of this subsection.

(4) In the case of a person who has brought aliens into the United States in violation of this subsection, the sentence otherwise provided for may be increased by up to 10 years if-

- (A) the offense was part of an ongoing commercial organization or enterprise;
- (B) aliens were transported in groups of 10 or more; and
- (C)(i) aliens were transported in a manner that endangered their lives; or
- (ii) the aliens presented a life-threatening health risk to people in the United States.

## **8 U.S.C. § 1357(a)**

### **Powers of immigration officers and employees**

(a) Any officer or employee of the Service authorized under regulations prescribed by the Attorney General shall have power without warrant—

- (1) to interrogate any alien or person believed to be an alien as to his right to be or to remain in the United States;
- (2) to arrest any alien who in his presence or view is entering or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission, exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;
- (3) within a reasonable distance from any external boundary of the United States, to board and search for aliens any vessel within the territorial waters of the United States and any railway car, aircraft, conveyance, or vehicle, and within a distance of twenty-five miles from any such external boundary to have access to private lands, but not dwellings, for the purpose of patrolling the border to prevent the illegal entry of aliens into the United States;
- (4) to make arrests for felonies which have been committed and which are cognizable under any law of the United States regulating the admission, exclusion, expulsion, or removal of aliens, if he has reason to believe that the person so arrested is guilty of such felony and if there is likelihood of the person escaping before a warrant can be obtained for his arrest, but the person arrested shall be taken without unnecessary delay before the nearest available officer empowered to commit persons charged with offenses against the laws of the United States; and
- (5) to make arrests-
- (6) for any offense against the United States, if the offense is committed in the officer's or employee's presence, or

- (7) for any felony cognizable under the laws of the United States, if the officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony,
- (8) if the officer or employee is performing duties relating to the enforcement of the immigration laws at the time of the arrest and if there is a likelihood of the person escaping before a warrant can be obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or employee of the Service may carry a firearm and may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States. The authority to make arrests under paragraph (5)(B) shall only be effective on and after the date on which the Attorney General publishes final regulations which (i) prescribe the categories of officers and employees of the Service who may use force (including deadly force) and the circumstances under which such force may be used, (ii) establish standards with respect to enforcement activities of the Service, (iii) require that any officer or employee of the Service is not authorized to make arrests under paragraph (5)(B) unless the officer or employee has received certification as having completed a training program which covers such arrests and standards described in clause (ii), and (iv) establish an expedited, internal review process for violations of such standards, which process is consistent with standard agency procedure regarding confidentiality of matters related to internal investigations.

## **8 U.S.C. § 1366(1) & (3)**

### **Annual report on criminal aliens**

Not later than 12 months after September 30, 1996, and annually thereafter, the Attorney General shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report detailing—

- (1) the number of illegal aliens incarcerated in Federal and State prisons for having committed felonies, stating the number incarcerated for each type of offense;

\*\*\*

- (3) programs and plans underway in the Department of Justice to ensure the prompt removal from the United States of criminal aliens subject to removal;

\*\*\*



## **Appendix C**

### **Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE)**

Each applicant must provide responses to the following questions as an attachment to the application:

- (1) Does your jurisdiction have any laws, policies, or practices related to whether, when, or how employees may communicate with DHS or ICE?
- (2) Is your jurisdiction subject to any laws from a superior political entity (e.g., a state law that binds a city) that meet the description in question 1?
- (3) If yes to either:
  - Please provide a copy of each law or policy;
  - Please describe each practice; and
  - Please explain how the law, policy, or practice complies with section 1373.

Note: Responses to these questions must be provided by the applicant to BJA as part of the JAG application. Further, the requirement to provide this information applies to all tiers of JAG funding, for all subawards made to state or local government entities, including public institutions of higher education. All subrecipient responses must be collected and maintained by the direct recipient of JAG funding and must be made available to DOJ upon request. Responses to these questions are not required from subrecipients that are either a tribal government/organization, a nonprofit organization, or a private institution of higher education.

## Appendix D

### Additional purposes for which JAG funds awarded to a unit of local government under this FY 2019 solicitation may be used:

(a) To enforce state and local laws that establish offenses similar to offenses established in 21 U.S.C. § 801 et seq., to improve the functioning of the **criminal justice** system, with emphasis on violent crime and serious offenders, by means including providing additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, detention, and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

(1) demand-reduction education programs in which law enforcement officers participate;

(2) multi-jurisdictional task-force programs that integrate federal, state, and local drug-law-enforcement agencies and prosecutors for the purpose of enhancing inter-agency co-ordination and intelligence, and facilitating multi-jurisdictional investigations;

(3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

(4) providing community and neighborhood programs that assist citizens in preventing and controlling crime, including special programs that address the problems of crimes committed against the elderly and special programs for rural jurisdictions;

(5) disrupting illicit commerce in stolen goods and property;

(6) improving the investigation and prosecution of white-collar crime, organized crime, public-corruption crimes, and fraud against the government, with priority attention to cases involving drug-related official corruption;

(7)(A) improving the operational effectiveness of law enforcement through the use of crime-analysis techniques, street-sales enforcement, schoolyard-violator programs, and gang-related and low-income-housing drug-control programs; and

(B) developing and implementing anti-terrorism plans for deep-draft ports, international airports, and other important facilities;

(8) career-criminal prosecution programs, including the development of proposed model drug-control legislation;

(9) financial investigative programs that target the identification of money-laundering operations and assets obtained through illegal drug trafficking, including the development of proposed model legislation, financial investigative training, and financial information-sharing systems;

(10) improving the operational effectiveness of the court process, by expanding prosecutorial, defender, and judicial resources, and implementing court-delay-reduction programs;

(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive-supervision programs, and long-range corrections and sentencing strategies;

(12) providing prison-industry projects designed to place inmates in a realistic working and training environment that will enable them to acquire

marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

(13) providing programs that identify and meet the treatment needs of adult and juvenile drug-dependent and alcohol-dependent offenders;

(14) developing and implementing programs that provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

(15)(A) developing programs to improve drug-control technology, such as pretrial drug-testing programs, programs that provide for the identification, assessment, referral to treatment, case-management and monitoring of drug-dependent offenders, and enhancement of state and local forensic laboratories; and

(B) developing programs to improve **criminal justice** information systems (including automated fingerprint identification systems) to assist law enforcement, prosecution, courts, and corrections organizations;

(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes;

(17) addressing the problems of drug trafficking and the illegal manufacture of controlled substances in public housing;

(18) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly;

(19) drug-control evaluation programs that the state and units of local government may utilize to evaluate programs and projects directed at state drug-control activities;

(20) providing alternatives to prevent detention, jail, and prison for persons who pose no danger to the community;

(21) programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street drug sales;

(22) programs for the prosecution of driving while intoxicated charges and the enforcement of other laws relating to alcohol use and the operation of motor vehicles;

(23) programs that address the need for effective bindover systems for the prosecution of violent 16- and 17-year-old juveniles, in courts with jurisdiction over adults, for the crimes of—

(A) murder in the first degree;

(B) murder in the second degree;

(C) attempted murder;

(D) armed robbery when armed with a firearm;

(E) aggravated battery or assault when armed with a firearm;

(F) criminal sexual penetration when armed with a firearm; and

(G) drive-by shootings as described 18 U.S.C. § 36;

(24) law-enforcement and prevention programs relating to gangs or to youth who are involved or at risk of involvement in gangs;

(25) developing or improving, in a forensic laboratory, a capability to analyze DNA for identification purposes; and

(26) developing and implementing anti-terrorism training programs and procuring equipment for use by local law-enforcement authorities; and

- (b) To reduce crime and improve public safety, including but not limited to, the following:
- (1)(A) hiring, training, and employing on a continuing basis new, additional law enforcement officers and necessary support personnel;
  - (B) paying overtime to presently-employed law enforcement officers and necessary support personnel for the purpose of increasing the number of hours worked by such personnel; and
  - (C) procuring equipment, technology, and other material directly related to basic law-enforcement functions;
  - (2) enhancing security measures—
    - (A) in and around schools; and
    - (B) in and around any other facility or location that is considered by the unit of local government to have a special risk for incidents of crime;
  - (3) establishing crime-prevention programs that may, though not exclusively, involve law-enforcement officials and that are intended to discourage, disrupt, or interfere with the commission of criminal activity, including neighborhood-watch and citizen-patrol programs, sexual-assault and domestic-violence programs, and programs intended to prevent juvenile crime;
  - (4) establishing or supporting drug courts;
  - (5) establishing early-intervention and -prevention programs for juveniles, in order to reduce or eliminate crime;
  - (6) enhancing the adjudication process of cases involving violent offenders, including violent juvenile offenders;
  - (7) enhancing programs under (a), above;
  - (8) establishing co-operative task forces between adjoining units of local government to work co-operatively to prevent and combat criminal activity, particularly criminal activity that is exacerbated by drug- or gang-related involvement; and
  - (9) establishing a multi-jurisdictional task force, particularly in rural areas, composed of law-enforcement officials representing units of local government, that works with Federal law-enforcement officials to prevent and control crime.

## Appendix E Application Checklist

### Edward Byrne Memorial Justice Assistance Grant (JAG) Program: FY 2019 Local Solicitation

This application checklist has been created as an aid in developing an application.

#### What an Applicant Should Do:

##### *Prior to Registering in GMS:*

- \_\_\_\_\_ Acquire a DUNS Number (see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Acquire or renew registration with SAM (see the [OJP Grant Application Resource Guide](#))

##### *To Register with GMS:*

- \_\_\_\_\_ For new users, acquire a GMS username and password\*  
(see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ For existing users, check GMS username and password\* to ensure account access  
(see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Verify SAM registration in GMS (see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Search for correct funding opportunity in GMS  
(see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Select correct funding opportunity in GMS (see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Register by selecting the “Apply Online” button associated with the funding opportunity title  
(see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ Read OJP policy and guidance on conference approval, planning, and reporting  
available at [ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm](http://ojp.gov/financialguide/DOJ/PostawardRequirements/chapter3.10a.htm)  
(see the [OJP Grant Application Resource Guide](#))
- \_\_\_\_\_ If experiencing technical difficulties in GMS, contact the NCJRS Response Center  
(see page 2)

\*Password Reset Notice – GMS users are reminded that while password reset capabilities exist, this function is only associated with points of contact designated within GMS at the time the account was established. Neither OJP nor the GMS Help Desk will initiate a password reset unless requested by the authorized official or a designated point of contact associated with an award or application.

#### Overview of Post-Award Legal Requirements:

- \_\_\_\_\_ Review the “[Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements - FY 2019 Awards](#)” in the OJP Funding Resource Center at <https://ojp.gov/funding/index.htm>.

#### Scope Requirement:

- \_\_\_\_\_ The federal amount requested is within the allowable limit(s) of the FY 2019 JAG Allocations List as listed on BJA’s [JAG web page](#).

**Eligibility Requirement:** Only units of local government may apply under this solicitation. By law, for purposes of the JAG Program, the term “units of local government” includes a town, township, village, parish, city, county, borough, or other general purpose political subdivision of a state; or, it may be a federally recognized Indian tribal government that performs law enforcement functions (as determined by the Secretary of the Interior). A unit of local government also may be any law enforcement district or judicial enforcement district established under applicable state law with authority to independently establish a budget and impose taxes.

**What an Application Should Include:**

|                                                                                                                                           |                  |
|-------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| _____ Application for Federal Assistance (SF-424)                                                                                         | (see page 17)    |
| _____ Intergovernmental Review                                                                                                            | (see page 17)    |
| _____ Project Identifiers                                                                                                                 | (see page 18)    |
| _____ Program Narrative                                                                                                                   | (see page 18)    |
| _____ Budget and Associated Documentation                                                                                                 | (see page 19)    |
| _____ Indirect Cost Rate Agreement (if applicable)                                                                                        | (see page 19)    |
| _____ Tribal Authorizing Resolution (if applicable)                                                                                       | (see page 20)    |
| _____ Financial Management and System of Internal Controls Questionnaire                                                                  | (see page 20)    |
| _____ Disclosure of Lobbying Activities ( <a href="#">SF-LLL</a> ) (if applicable)                                                        | (see page 20)    |
| _____ Certifications and Assurances by Chief Executive                                                                                    | (see Appendix A) |
| _____ Information regarding Communication with the Department of Homeland Security (DHS) and/or Immigration and Customs Enforcement (ICE) | (see Appendix C) |
| _____ OJP Certified Standard Assurances                                                                                                   | (see page 20)    |
| _____ Applicant Disclosure of Pending Applications                                                                                        | (see page 21)    |
| _____ Applicant Disclosure and Justification – DOJ High Risk Grantees (if applicable)                                                     | (see page 21)    |
| _____ Research and Evaluation Independence and Integrity (if applicable)                                                                  | (see page 21)    |



# City of Newburgh

## GRANT APPLICATION FORM

### Grant Requestor:

Please complete the following form and submit the form along with either a hard copy of the grant announcement or the grant announcement website address to the City of Newburgh Grants Administrator for processing. You will be notified when your grant request has been approved to be sent for City Council Resolution.

**NOTE: All fields are required unless marked "OPTIONAL."**

### SECTION A. COMPLETED BY GRANT REQUESTOR

|                                                                                                                                                                                                    |                                                        |                                                                     |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------------|
| NAME OF PROJECT FOR GRANT:<br>2019 Edward Byrne Memorial Justice Assistance Grant (JAG) Program                                                                                                    | NAME OF DEPARTMENT REQUESTING GRANT:<br>Police Dept.   | NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT:<br>Chief Solomon |
| NAME OF GRANT/NAME OF AWARDING AGENCY:<br>US Dept. of Justice                                                                                                                                      | GRANT SUBMITTAL DATE:<br>8/23/19                       | AMOUNT OF AWARD:<br>\$30,787                                        |
| MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND)<br>Yes, cash(seizure funds)                                                                                                           | AMOUNT REQUIRED BY THE CITY OF NEWBURGH:<br>\$9,184.25 | (OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS:                         |
| PROJECT PLAN:<br><br>Scope of Project: <b>to purchase 1 Police Vehicle</b><br><div style="text-align: right;"><b>Total: \$39,971.25</b></div><br>Project Timeline: (ex. Dates) 10/1/2018-9/30/2022 |                                                        |                                                                     |
|                                                                                                                                                                                                    |                                                        |                                                                     |





# City of Newburgh

## GRANT APPLICATION FORM

### SECTION B. FOR REVIEW BY CITY COMPTROLLER

GRANT MATCH REQUIREMENT REVIEWED? YES/NO:

COMMENTS:

IN-KIND SERVICES REQUIREMENT REVIEWED? YES/NO

COMMENTS:

STAFFING ISSUES REVIEWED? YES/NO:

COMMENTS:

ANY ADDITIONAL COMMENTS:

→ APPROVED BY CITY COMPTROLLER? YES/NO

CITY COMPTROLLER

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF GRANT APPROVED, CITY COMPTROLLER WILL FORWARD TO CITY MANAGER FOR REVIEW. IF GRANT NOT APPROVED, CITY COMPTROLLER TO RETURN TO GRANTS COORDINATOR FOR FURTHER REVIEW BY PROJECT SPONSOR.

### SECTION C: FOR REVIEW BY CITY MANAGER

→ APPROVED BY CITY MANAGER? YES/NO

CITY MANAGER

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_



# City of Newburgh

## GRANT APPLICATION FORM

### SECTION D: FOR REVIEW BY CORPORATION COUNSEL

→ APPROVED BY CORPORATION COUNSEL FOR RESOLUTION? YES/NO

CORPORATION COUNSEL

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE RESOLUTION TO BE SENT TO CITY COUNCIL MEETING:

\_\_\_\_\_



DODGE

Jeep



# BEYER CHRYSLER DODGE JEEP RAM

Quote

200 Ridgedale Ave.  
Morristown, NJ 07960

|     |            |                                |
|-----|------------|--------------------------------|
| To: | From:      | Brooks Buxton                  |
|     | Phone/Fax: | (973) 319-7009/ (973) 884-2650 |
|     | Vehicle    | Beyer Fleet                    |
|     | Pick Up    | 31 Williams Parkway            |
|     | Location   | East Hanover, NJ 07936         |

## 2020 DODGE CHARGER POLICE AWD PA COSTARS CONTRACT -013

Engine: 5.7L V8 HEMI MDS VVT  
Transmission: 5-Speed Automatic (W5A580)  
50 State Emissions  
Transmission w/ Sequential Shift Control  
Automatic Full-Time All-Wheel Drive  
3.07 Axle Ratio  
Engine Oil Cooler  
220 Amp Alternator  
800CCA Maintenance-Free Battery  
Police/Fire  
5500# Gvwr  
Gas-Pressurized Front Shock Absorbers  
Rear Auto-Leveling Suspension  
Front Anti-Roll Bar and Rear HD Anti-Roll Bar  
HD Suspension  
Electro-Hydraulic Power Assist Steering  
18.5 Gal. Fuel Tank  
Dual Stainless Steel Exhaust  
Permanent Locking Hubs  
Short And Long Arm Front Suspension  
Multi-Link Rear Suspension  
4-Wheel Disc Brakes w/4-Wheel ABS  
Wheels: 18" x 7.5" Steel  
Tires: P225/60R18 BSW Performance  
Goodyear Brand Tires  
Steel Spare Wheel  
Full-Size Spare Tire  
Clearcoat Paint  
Body-Colored Front Bumper  
Body-Colored Rear Bumper  
Power Side Mirrors w/Manual Folding  
Black Grille  
Trunk Rear Cargo Access  
Projector Beam Halogen Headlamps  
Perimeter/Approach Lights  
LED Brake Lights  
Laminated Glass

Radio w/Seek-Scan, MP3, Clock, Aux Audio Input Jack  
Wheel Controls and External Memory Control  
Radio: Uconnect 5.0  
6 Speakers  
Wireless Streaming  
6-Way Power Driver Seat -inc: Power Height Adjustment  
4-Way Passenger Seat -inc: Manual Recline  
Front Facing Rear Seat  
Manual Tilt/Telescoping Steering Column  
Gauges -inc: Speedometer, Odometer, Oil Pressure  
Transmission Fluid Temp, Engine Hour Meter,  
Power Rear Windows  
5 Person Seating Capacity  
Leather/Metal-Look Steering Wheel  
Remote Keyless Entry w/Integrated Key Transmitter  
Remote Releases -Inc: Power Trunk/Hatch  
Cruise Control w/Steering Wheel Controls  
Dual Zone Front Manual Air Conditioning  
HVAC -inc: Underseat Ducts  
Heavy Duty Cloth Bucket & Rear Bench Seats  
Full Vinyl/Rubber Floor Covering  
Instrument Panel Bin, Driver/Passenger & Rear Door Bins  
Power 1st Row Windows  
Delayed Accessory Power  
Power Door Locks w/Autolock Feature  
Systems Monitor  
Digital/Analog Display  
Electronic Stability Control (ESC)  
ABS And Driveline Traction Control  
Side Impact Beams  
Dual Stage Driver/Passenger Seat-Mounted Side Airbags  
Tire Specific Low Tire Pressure Warning  
Dual Stage Driver And Passenger Front Airbags  
Curtain 1st And 2nd Row Airbags  
Airbag Occupancy Sensor  
Rear Child Safety Locks  
Outboard Front Lap And Shoulder Safety Belts

**Base Price      \$      26,049.50**

## Dodge Charger Options

|                                                                              |             |
|------------------------------------------------------------------------------|-------------|
| Driverside Spotlight                                                         | \$ 210.00   |
| Black Vinyl Floor Covering (STD)                                             | \$ -        |
| Vinyl Rear Bench                                                             | \$ 120.00   |
| Power Heated Mirrors                                                         | \$ 60.00    |
| Fleet Key (Freq 1)                                                           | \$ 140.00   |
| Console Mounting Bracket                                                     | \$ -        |
| Deactivate Rear Door & Window Controls                                       | \$ 75.00    |
| Fleet Park Assist Group (Rear Camera / Sensing System                        | \$ 350.00   |
| Spare Tire Relocation Bracket                                                | \$ 145.00   |
| MNStar Installer Series Wiring Harness                                       | \$ 440.00   |
| MNStar Power Distribution Panel w/Master Cut-Off Switch                      | \$ 290.00   |
| Skid Plate                                                                   | \$ 300.75   |
| Activate Wig-Wags                                                            | \$ 155.00   |
| Whelen XLP Inneredge (Red) w/ LED TDs                                        | \$ 895.00   |
| Whelen RTX Rear Inneredge (Red w/ 1 Blue) w/ TA Function                     | \$ 995.00   |
| Whelen V-Series ION Mirror Beams (Red) w/ White Scene Light                  | \$ 525.00   |
| Whelen CenCom Sapphire Siren/ Light Controller                               | \$ 1,100.00 |
| (2) Whelen 100watt Speakers & Brackets (Mounted on PB -Top of Center)        | \$ 555.00   |
| Setina XL Prisoner Partition w/Sliding Plexi Window, Lower Ext, Recess Panel | \$ 825.00   |
| ProGard Rear Plastic Transport Seat w/ Floor Pan                             | \$ 750.00   |
| Setina Window Bars (Metal-Vertical)                                          | \$ 350.00   |
| Setina Dual Gun Rack (Universal / Shotgun) w/ Handcuff Key Override          | \$ 595.00   |
| Setina (PB450L) Pusbumper w/ (4) Whelen ION LEDs (W/R) (R/W) - & (R/W Sides) | \$ 925.00   |
| Brooking Rear Tail Light Flasher                                             | \$ 495.00   |
| Havis Charger Console w. Maplight, Armrest and Cupholder                     | \$ 595.00   |
| Havis Rear Trunk Tray                                                        | \$ 475.00   |
| Havis (PKG-PSM-263) Premium Computer Mounted                                 | \$ 649.00   |
| Havis Dell (DS-DELL-231) Docking Station                                     | \$ 850.00   |
| Dell Docking Station Power Supply (LPS-105)                                  | \$ 175.00   |
| Havis Charge Guard                                                           | \$ 125.00   |
| (2) Whelen Single Avengers (1-Red) (1-Blue) in Rear Window                   | \$ 425.00   |
| Customer Supplied Antennas (3) Run to Rear of Vehicle (Remote Head)          | \$ 150.00   |
| Delivery                                                                     | \$ 182.00   |

**Option Total \$ 13,921.75**

**Budget Total \$ 39,971.25**

Date: **8/22/2019**

Quote is good for 60 Days

To accept this quotation, sign here and return: \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
AN INTER-MUNICIPAL 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**, The Town of New Windsor ("Town") believes that the Butterhill Wells, the Town's former primary public water source has been contaminated with PFAS originating from New York Stewart International Airport and Stewart Air National Guard Base; and

**WHEREAS**, from May 2016, to October 24, 2018, the City relied 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**, from May 2019 to the present, due to the aforementioned contamination, the Town has relied on the Aqueduct as the Town's main source of public water supply; and

**WHEREAS**, from October 24, 2018 to June 19, 2019, City relied 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 next shutdown scheduled for October 7, 2019 ("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 must secure sufficient and reliable backup sources of public water supply by October 7, 2019, when the second of the aforementioned Shutdowns is planned; and

**WHEREAS**, the Town desires to arrange for one such backup source of public water supply for the aforementioned Shutdown, as well as future Shutdowns and other emergencies, from the City and to cooperate with the City to make available to the City such supply of water 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 water agreement attached hereto; and

**WHEREAS**, the City Council of the City of Newburgh finds that entering into said inter-municipal 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 water supply agreement as attached hereto on behalf of the City of Newburgh with the Town of New Windsor.

INTERMUNICIPAL  
WATER SUPPLY AGREEMENT

Between the City of Newburgh and the Town of New Windsor

Dated \_\_\_\_\_, 2019



INTER-MUNICIPAL WATER SUPPLY AGREEMENT

AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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 24, 2018, CITY relied on the New York City Catskill Aqueduct ("Aqueduct") as CITY's sole source of public water supply; and

WHEREAS, since October 24, 2018, CITY has been relying on Brown's Pond, also known as Silver Stream Dam Reservoir, a reservoir located in the TOWN but owned by the CITY, as CITY's sole source of public water supply during the temporary shutdowns of the Aqueduct; and

WHEREAS, CITY intends to resume and continue use of the Aqueduct as CITY's source of public water supply until such time as Washington Lake and the CITY watershed have been fully remediated and restored; 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 ("Shutdowns"); and

WHEREAS, CITY has historically used Brown's Pond as a backup water supply and will be doing so again during the Shutdowns, but the 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, TOWN believes that the Butterhill Wells, TOWN'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 2019 to the present, due to the aforementioned contamination, TOWN has relied on the New York City Catskill Aqueduct ("Aqueduct") as TOWN's main source of public water supply; and

WHEREAS, on October 7, 2019, the second of the aforementioned Shutdowns is planned to begin and TOWN must secure sufficient and reliable backup sources of public water supply by that time; and

WHEREAS, TOWN desires to arrange for one such backup source of public water supply for the aforementioned Shutdown, as well as future Shutdowns and other emergencies, from CITY; and

WHEREAS, CITY acknowledges that a May 31, 1922, Determination of the New York State Water Commission (now the New York State Department of Environmental Conservation ["NYSDEC"]) (the "1922 Determination"), provided as follows:

"It will be required that the right of the hamlet of New Windsor, if it shall hereafter be formed into a municipality or water district, to obtain water from Silver stream shall be preserved"; and

"The Commission [now NYSDEC] will require that if future necessity for a public supply for those sections [of TOWN] shall arise, they be furnished with water by the city of Newburgh either directly from the city mains or from such reservoirs as may be built on Silver stream, subject to such compensation and under such conditions as the Commission [now NYSDEC] may at that time find to be equitable."; 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; and

WHEREAS, CITY and TOWN wish to resolve all pending litigation between them regarding water supply from Brown's Pond to assure that both municipalities continue to provide public water sufficient for the health and safety of their residents;

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 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 both TOWN and CITY with a backup supply of finished water during the aforementioned Shutdowns and on an emergency

basis during times other than the planned Shutdowns. It is also intended to resolve all pending litigation between them concerning TOWN'S access to raw water from Brown's Pond.

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, due to issues related to water quantity or quality, 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.

This Agreement shall not be construed as an agreement by either TOWN or CITY to supply the other with a primary source of water, 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 who resides at a property within such CITY or TOWN that has a water service connection to the respective water distribution system of such municipality, provided that the term shall include a property located outside CITY or TOWN with an existing connection to the CITY or TOWN water system as of the effective date of this Agreement..

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

C. Neither party may withdraw water from the other's finished or raw water 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 shall be determined solely by the Town Supervisor, City Manager, and/or Water Superintendent for the party whose finished or raw water supply is being utilized

G:\General\NEWWIN~1\EMERGE~1\2018AG~1\INTERMUNICIPAL WATER SUPPLY AGREEMENT (clean copy 8.28.19) GR and DZ Edits 3-27-19; GR edits 6-12-19; DZ edits 8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc 6

and communicated in writing to the respective party requesting the withdrawal; subject to any water withdrawal permits issued by the NYSDEC and in recognition of the fact that each party's needs for their own water supply shall take priority over the needs of the other in the event of a shortage or shortfall in the amount of water supply available.

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

A. Two new connections are proposed and two existing connections are available for the emergency supply of water between TOWN and CITY. The first new connection shall be in TOWN, at the intersection of Moore's Hill Road and Riley Road, 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 and owned by TOWN to allow TOWN to supply finished water to the CITY'S water main, which conveys raw water from the Brown's Pond Pumping Station to the CITY'S Water Filtration Plant.

The second new connection 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.

The two available existing connections are at River Road/South Water Street ("River Road") and at Walsh Road. Both interconnections are intended to flow in one direction to enable CITY to supply finished water to TOWN. A vault currently exists at each existing interconnect location. Each vault contains check valves and a meter. Both the backflow preventer and the meter need to be replaced at each location before the connections can be used.

Where the costs of the engineering and construction of any connection are to be shared equally by the parties, the party responsible for the design and construction of a connection, or part of a connection (the "Contracting Party"), shall afford to the other party the opportunity for review and comment on the bid documents prior to final approval; to be present at all bid proceedings, contract meetings, and work site meetings; and to inspect the progress of the work at all reasonable times. All bids and proposals for all contracts, including professional services, shall be procured in accordance with the General Municipal Law and the Contracting Party's approved procurement policy. Final approval of the acceptance of the connection shall be by the Contracting Party after issuance of a certificate of completion by the project engineer and applicable permitting authorities.

The Contracting Party may, from time to time, as the work progresses, but in no case more frequently than once per month, submit an invoice to the non-contracting municipality (CITY to TOWN, or TOWN to CITY) and a voucher signed by the Contracting Party's respective Chief Financial Officer, itemizing the costs of the completed tasks and certifying that all work being invoiced is in accordance with approved plans for the connection and this Agreement. The approved, invoiced and vouchered amount shall be paid to the Contracting Party within sixty (60) days receipt of the invoice and voucher and all other appropriate documentation as may be required by the applicable funding source.

#### MOORE'S HILL ROAD & RILEY ROAD CONNECTION

1. Engineering design and specifications for the Moore's Hill Road and Riley Road Connection shall be prepared by McGoeey, 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 in an emergency situation, as defined above. CITY will take all necessary steps to prevent the backflow 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, maintenance, repair and operation of this connection. CITY will hold harmless, indemnify, and provide for the TOWN'S defense if any claim relating to water quality pertaining to this Connection is brought against the TOWN.

3. CITY shall be responsible for performing and funding 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. If the City elects to construct this connection and once this connection is operational, TOWN shall maintain an absolute right of control over same and may, at any time it deems fit, take any action it deems necessary to protect the TOWN'S finished water supply on behalf of its residents. If any action is required to protect these rights, TOWN will consult with



and/or notify CITY as soon as practicable and work in good faith with CITY to resolve the issue(s) that led to such action. CITY shall remain responsible for all costs associated with any such action taken, with the exception of engineering costs or inspections undertaken by TOWN; unless such action is required due to CITY'S negligence, in which case CITY will pay for these costs as well.

6. Except in emergency situations in which prior approval is impractical, any repairs or maintenance of or related to this Connection shall not be performed without the TOWN'S prior written approval, and any costs associated therewith shall be the sole responsibility of CITY, with the exception of engineering costs or inspections undertaken by TOWN; unless such action is required due to CITY'S negligence, in which case CITY will pay for these costs as well.

7. 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 TOWN'S residents, without CITY'S consent or approval. In such case, 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 remain responsible and pay for all costs associated with said repairs or maintenance, with the exception of engineering costs or inspections undertaken by TOWN; unless such action is required due to CITY'S negligence, in which case CITY will pay for these costs as well.

### LAKE STREET CONNECTION

1. It is anticipated that the Lake Street Connection will allow either party to supply the other with finished water during an emergency situation only, as defined above, including but not limited to those brought about by the Shutdowns during the next 4 to 5 years.

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 and design, but the cost for engineering, design, approval, inspection, rental, purchase, setup, testing and operation of any temporary removable overland piping, pumping and associated appurtenances shall be borne by the party receiving the water. Any costs associated with construction, installation or purchase of permanently installed infrastructure or equipment that will remain on site for the benefit of both parties indefinitely, shall be shared equally by both TOWN and CITY, provided that both parties have agreed to move forward with said construction. This Agreement is not meant to commit either party to do so.

3. The selection of an engineering consultant to prepare the design and inspect the permanent facilities shall be by mutual agreement of the parties. These designs and specifications shall be subject to reasonable review, written comment and written approval by both TOWN and CITY, prior to submittal to any agency for final approval. Construction on any permanent infrastructure or equipment that will remain on site for the benefit of both parties shall be performed by a mutually agreed upon company (or companies); 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, with the costs and expenses for same to be borne equally by TOWN and CITY. Both CITY and TOWN shall have the right to supervise and approve all work on any permanent infrastructure or equipment that will remain on site for the benefit of both parties; and shall cooperate in obtaining all such necessary permits, licenses and approvals for same, including the execution of any necessary applications. Appropriate access easements shall be granted to TOWN and/or CITY, as

applicable, to ensure common access for all shared infrastructure as part of this connection. All disturbed areas shall be restored to the satisfaction of the municipality in which the shared infrastructure is located, at an expense to be shared equally by each.

4. 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. Subject to the foregoing paragraph, both sides agree to supply up to 1 million gallons per day (1 MGD) of finished water to the other side through the Lake Street connection, with any additional finished water subject to the prior written approval of the other side's Water Superintendent.

5. To the extent it is known that either TOWN or CITY will require use of this Connection to draw finished water from the other's finished water supply, 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 finished water from their respective finished water supply if they are unable to accommodate said request due to an anticipated unreasonable interruption or draw down on the supply that would be available to its residents if permitted.

6. If any subsequent repair or maintenance of this Connection is required, work shall proceed to ensure there are no interruptions or interference with the supply of finished water to TOWN'S residents or 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 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 operating the joint infrastructure requiring the repairs or maintenance, or if such work is limited to infrastructure or equipment that has not been installed for the benefit of both parties. All costs associated with subsequent repairs or maintenance of any temporary, removable overland piping, pumping, or associated appurtenances shall be borne solely by the party receiving the water from same. All costs associated with operation of the equipment (i.e., fuel and electric) related to any such temporary removable overland piping, pumping and associated appurtenances shall be borne solely by the party receiving the water from same.

7. All operational costs (fuel, electricity, rental fees, monitoring) associated with the activation and operation of the permanent infrastructure shall be borne solely by the party to receive the water from the same.

#### RIVER ROAD AND WALSH ROAD CONNECTIONS

1. Both the River Road and Walsh Road connections are designed to provide finished water to TOWN from CITY during Shutdowns and other emergencies. As of the date of this Agreement, the only work needed to make these connections operational is the replacement of the check valves and meters at each location; and the decision to undertake this work, at either location, shall rest solely within the TOWN'S discretion.

2. If TOWN should decide to perform the work necessary to use either of these connections pursuant to this Agreement; and in recognition of the fact that these connections would be used solely to furnish finished water from CITY to TOWN; any costs for engineering, design, approval, inspection, rental, purchase, setup, testing and operation of any equipment for either of these two connections shall be borne solely by TOWN.

SECTION 3.            INSTALLATION

A.     Any installation of permanent connection facilities discussed in this Agreement taking place within TOWN shall be reviewed and approved by TOWN'S Engineer. Any installation of permanent connection facilities discussed in this Agreement taking place within CITY shall be reviewed and approved by CITY'S Engineer. Nothing in this agreement shall prohibit TOWN or CITY from employing a consulting engineer, as deemed necessary by the municipality where the proposed work is taking place. "Connection facilities" shall mean 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.     TOWN and CITY may inspect any work in progress, as it deems appropriate or necessary in relation to the installation of such connection facilities.

C.     The entire cost and expense for installation of the connection at Moore's Hill Road/Riley Road, other than Engineering costs as discussed earlier in this Agreement, shall be borne by CITY.

D.     The entire cost and expense for installation of the connections at River Road and Walsh Road shall be borne by TOWN.

E.     All costs and expense for installation of any permanent infrastructure at the Lake Street Connection shall be shared equally by TOWN and CITY.

F.     All costs and expense for installation of any temporary infrastructure at the Lake Street Connection shall be borne solely by the party receiving finished water.

G. No installation of any permanent connection facilities shall commence until and unless CITY and TOWN have jointly approved plans and specifications, and approval from all involved or required agencies is obtained.

#### SECTION 4. TOWN AND CITY ACCESS RIGHTS

A. CITY and its contractors shall have all rights necessary to construct the MOORE'S HILL/RILEY RD. Connection including, but not limited to, the right to construct required facilities and lines upon TOWN property and within TOWN right-of-ways, TOWN roads and TOWN 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 reasonable satisfaction of TOWN'S Engineers and Superintendent of Highways.

B. The above shall hold true for both CITY and TOWN in relation to whatever rights might be necessary to construct or improve the Lake Street, River Road and Walsh Road connections.

#### SECTION 5. METERING EQUIPMENT

A. CITY shall install, maintain and repair, at its sole cost and expense, any metering equipment necessary to accurately measure the amounts of water withdrawn from the Moore's 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

G:\General\NEWWIN~1\EMERGE~1\2018AG~1\INTERMUNICIPAL WATER SUPPLY AGREEMENT (clean copy 8.28.19) GR and DZ Edits 3-27-19; GR edits 6-12-19; DZ edits 8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc 15

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 Moore's Hill Road/Riley Road Connection shall, when installed and whenever tested subsequent to installation, conform to standards established by TOWN and the New York State 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 Moore's Hill Road/Riley Road Connection, but in any event, the Metering Equipment shall be tested at least once a year with proof of testing to be transmitted to the other municipality. Such tests shall be conducted by a person or entity approved by TOWN, and subject to the approval of and as may be required by the NYSDOH or OCDOH, at the sole cost and expense of 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 Moore's 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 Moore's 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)



8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
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 Moore's 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, tested and repaired as  
necessary at the Lake Street, River Road and Walsh Road connections. CITY will be responsible  
for the cost of installation, maintenance and repairs for any equipment, including metering  
equipment, necessary to effectuate the drawing of water supply from TOWN to CITY for the  
benefit of CITY and its residents. TOWN will be responsible for the cost of installation,  
maintenance and repairs for any equipment, including metering equipment, necessary to  
effectuate the drawing of water supply from CITY to TOWN for the benefit of TOWN and its  
residents. The Metering Equipment for the interconnection serving CITY 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. The Metering Equipment for  
the interconnection serving TOWN shall be of the same type and manufacture as the metering  
equipment used by CITY 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 serving CITY at the Lake Street Connection shall, when installed and whenever tested subsequent to its installation, conform to standards established by TOWN and the New York State Department of Health, as well as any other applicable standards, including but not limited to AWWA and ANSI.

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

K. Either party to this agreement may make, at any time, a reasonable request for a test of the Metering Equipment at the Lake Street, River Road and Walsh Road connections, but in any event, the Metering Equipment shall be tested at least once a year with proof of testing to be transmitted to the other municipality. 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 NYSDOH and OCDOH, 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.

L. TOWN and CITY shall have, at all times and for any reason, unrestricted access to the Metering Equipment at the Lake Street, River Road and Walsh Road connections and the structure(s) housing same. Two (2) sets of duplicate keys to all locks on and in such structure(s) shall be provided to and maintained by CITY and TOWN as soon as installation of the

shall be subject to the approval of both CITY and TOWN.

M. In the event the Metering Equipment at the Lake Street, River Road or Walsh 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 of each metering device will be borne by CITY or TOWN as discussed above, in paragraph H of this Section, 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.

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

O. Both parties shall be responsible for providing and installing whatever Metering Equipment is necessary for the Lake Street Connection so as to satisfy current regulatory requirements.

## SECTION 6. METERING RECORDS

### A. For Moore's 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 transmitted via email to the CITY  
Water Department, 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 during which the Metering Equipment was in service and operating properly, or such other measure which the parties can reasonably agree may accurately reflect actual water consumption during such emergency circumstances, or as additional data as to such consumption becomes available.

3. Within thirty (30) days after the end of a Shutdown, TOWN shall furnish to CITY 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. CITY shall have the right to audit all meter readings supplied by TOWN and shall have access, at reasonable times and on reasonable advance notice, to inspect the books and records of TOWN 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 Street, River Road and Walsh Road Connections:

1. The Metering Equipment to be used at this Connection for billing purposes shall be read by a representative from both parties' Water Department, at intervals to be

G:\General\NEWWIN~1\EMERGE~1\2018AG~1\INTERMUNICIPAL WATER SUPPLY 20 AGREEMENT (clean copy 8.28.19) GR and DZ Edits 3-27-19; GR edits 6-12-19; DZ edits 8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
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 the Metering equipment is out of service based upon an average of the quantity of water withdrawn from the Connection during the most recent previous month's flow data, or such other measure which the parties can reasonably agree may accurately reflect actual water consumption during such emergency circumstances, or 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 purpose 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

G:\General\NEWWIN~1\EMERGE~1\2018AG~1\INTERMUNICIPAL WATER SUPPLY 21 AGREEMENT (clean copy 8.28.19) GR and DZ Edits 3-27-19; GR edits 6-12-19; DZ edits 8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
charges retail water customers in TOWN'S Consolidated Water District, plus a 15% administrative surcharge. The rate for FY 2019 is currently \$8.69/1000 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 2019 is currently \$9.20/1000 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 on the consumption of water by its residents, those same restrictions shall be imposed and enforced on the consumption of water by residents receiving water through any 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 on its own residents; 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, RELOCATION AND/OR TERMINATION OF USE OF THE CONNECTION FACILITIES

### A. AT MOORE'S HILL ROAD / RILEY ROAD

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

1. If this Agreement is terminated, CITY shall relinquish any rights to the use of this connection within ten (10) days after said termination and shall not utilize this connection again until a new agreement is reached regarding same.



2. Unrelated to an emergency situation, if, upon the report of a certified professional engineer with concurrence from the State and/or County Department of Health, the TOWN determines the operation and maintenance of the TOWN'S water supply system requires modification, removal or relocation of this Connection facility, TOWN shall remove or relocate same, at CITY'S sole cost and expense.

3. If TOWN determines there to be an emergency situation believed to be caused by this connection, TOWN retains complete power and authority to temporarily disconnect, close valving or cut and cap connections to any infrastructure as necessary to eliminate any hazard to the water supply. Any required removal or relocation of the connection(s) shall follow the procedures in the immediately preceding paragraph for non-emergency situations. The cost and expense for any such disconnection, valve closing, cut and cap, removal or relocation shall remain CITY'S complete responsibility. All efforts will be made to notify CITY before the temporary disconnect, valve closing or cut and cap is started, but regardless of whether such notice is provided, CITY shall have no recourse to stop the temporary disconnect, valve closing or cut and cap. The cost for temporary disconnect, valve closing or cut and cap shall be borne entirely by CITY.

4. If required by the NYCDEP, in accordance with the terms and conditions of the CITY Catskill Aqueduct Agreement or the TOWN Catskill Aqueduct Agreement, TOWN and CITY shall, in a timely fashion and at CITY'S sole cost and expense, do whatever is necessary to modify or relocate these connection facilities in a timely fashion so as to remain in compliance with the aforementioned Agreements. If CITY fails to meet said requirement, the TOWN can take whatever steps are necessary to come into compliance, which may include removal in accordance with the procedures set forth in paragraph 2 above. In this situation, CITY will have

8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
abandoned its rights under this Agreement to continue to use this connection to draw water from  
the TOWN'S finished water supply, and CITY must reimburse TOWN for all costs and expenses  
associated with the actions taken, if any, by TOWN in order to come into compliance.

5. If modification, removal or relocation occurs per any of the above scenarios,  
CITY shall, at its sole cost and expense and within a reasonable time, not to exceed 180 days,  
restore TOWN'S land to the condition it was in before installation.

B. AT LAKE STREET

Use of this connection shall be terminated 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, upon the report of a certified professional engineer, with concurrence  
from the State and/or County Department of Health, TOWN or CITY determines that the  
operation and maintenance of either party's water supply system requires modification, removal or  
relocation of this Connection facility, utilization of same shall immediately cease by all parties  
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.

Neither party shall unilaterally remove permanent facilities associated with  
the Lake Street Connection until a new agreement is reached

3. If required by the NYCDEP in accordance with the terms and conditions of CITY'S Catskill Aqueduct Agreement or TOWN'S 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 180 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, and TOWN shall within 180 days after the removal or relocation of the Lake Street Connection Facilities, restore CITY's land to the condition it was in before installation to CITY's reasonable satisfaction. If CITY or TOWN fails to remove or relocate the Lake Street Connection Facilities and/or restore TOWN'S or CITY's land as required by this section, TOWN or CITY may, upon thirty (30) days written notice to the other party, remove or relocate the Connection Facilities and/or restore the party's own land and charge to the other party the entire cost and expense of such removal, relocation and/or restoration. The other party 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.

C. RIVER ROAD AND WALSH ROAD

1. At the River Road and Walsh Road connections, use may be terminated by the same conditions applicable to the Lake Street Connection. Since no new construction is needed for these connections, there will be no need to remove any part of the construction in the event that supply of water by CITY to TOWN is terminated for the aforementioned reasons.

SECTION 11. BROWN'S POND

A. TOWN and CITY agree that TOWN will keep in place the temporary water withdrawal facilities that are the subject of pending litigation before the Orange County Supreme Court, Index No. 2018-005047, until the Shutdown beginning in October 2019 is over. Thereafter, provided it is not needed on an emergency basis to meet TOWN water demands and weather does not preclude removal, they will be removed within one (1) month thereafter. Upon removal, TOWN will store the temporary water withdrawal equipment at an off-site location, on TOWN property, outside of the watershed of Brown's Pond.

B. Immediately after execution of this Agreement, TOWN will undertake to design and construct additional spill prevention measures at the current location where the temporary withdrawal facilities are situated. Said design and construction shall be completed as soon as reasonably practical and in accordance with TOWN'S procurement policy.

Such additional spill prevention measures will consist of a containment berm with associated ground liner. These additional spill prevention measures will be outlined in a sketch plan to be provided by TOWN to CITY for CITY'S review and approval, which shall not be unreasonably withheld. TOWN'S sketch plan shall also show the existing location of all temporary pumping appurtenances, piping, and floating barge, in addition to the aforementioned spill containment berm and associated ground liner. Such plans shall demonstrate that the water withdrawal facility is designed and maintained in such a manner as to minimize, to the extent reasonably and fiscally practical, any risk of contamination of Brown's Pond by said facilities.

Payment by TOWN to CITY for any water withdrawn from Brown's Pond by TOWN shall be at the same rate and manner set forth in Sections 8 and 9 of this Agreement.

C. If at any time after removal, TOWN needs to reinstall the aforementioned temporary water withdrawal facilities to ensure a sufficient and adequate supply of water is

available to meet the needs of its residents, TOWN may, pursuant to the rights conferred to it under the 1922 Determination, temporarily reinstall the Brown's Pond water withdrawal equipment in the same general location and configuration, which will include the additional spill prevention measures discussed above.

D. If TOWN needs to reinstall the temporary water withdrawal equipment for the reasons described in Section C above, TOWN will endeavor to provide at least five (5) days' notice of its intent to do so. CITY recognizes and agrees, however, that in the event such reinstallation is necessary, it may not be possible for TOWN to provide such advance notice. In this event, TOWN will notify CITY as soon as possible, which in no event will be less than twelve (12) hours before reinstallation.

E. In the event TOWN seeks to reinstall the temporary water withdrawal equipment to draw water from Brown's Pond, TOWN will abide by the same restrictions noted above for the other emergency water connections, namely, neither party may withdraw water from the other's finished or raw water 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 the party whose finished or raw water supply is being utilized; subject to any water withdrawal permits issued by the NYSDEC, and in recognition of the fact that each party's needs for their own water supply shall take priority over the needs of the other in the event of a shortage or shortfall in the amount of water supply available. If the diesel pumps are reinstalled pursuant to the provisions of this paragraph, TOWN will remove same within ten (10) business days after withdrawal activities have ceased, unless additional time is requested of CITY, in writing, and said request is granted. CITY will not unreasonably withhold such consent upon request and in any event, short of impossibility due to

8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
weather or some other unforeseen event, the withdrawal equipment will not be left in place for more than thirty (30) days after withdrawal activities have ceased

F. In the event of any disagreement between CITY and TOWN regarding these temporary withdrawal facilities, mitigation measures, or the compensation for water withdrawn, for which a solution is not accounted for in this Agreement, CITY and TOWN shall promptly submit a joint request to NYSDEC to render a decision on what arrangement is equitable under the 1922 Determination.

G. TOWN will be responsible for the cost of installation, maintenance and repairs for any equipment, including Metering Equipment, necessary to effectuate the drawing of water from Brown's Pond for the benefit of its residents. The Metering Equipment used to monitor and measure the amount of water drawn from Browns' Pond will be of the same type and manufacture as the Metering Equipment used by CITY (i.e. meter conforming to CITY standards that can be read by CITY Water Department) for billing purposes, in order to monitor and measure TOWN'S use at the Brown's Pond temporary water withdrawal facility. Said Metering Equipment shall satisfy all current regulatory requirements and conform to standards established by CITY and the New York State Department of Health, as well as any other applicable standards, including but not limited to AWWA and ANSI.

H. Upon any reinstallation, CITY shall have unrestricted access to the Metering Equipment at the Brown's Pond temporary water withdrawal facilities. If applicable, two (2) sets of duplicate keys to all locks on any structure housing such Metering Equipment will be delivered by TOWN to CITY immediately upon completion and reinstallation of same.

I. CITY may, at any time the equipment at the Brown's Pond site is installed, make a reasonable request for a test of the Metering Equipment. Such tests shall be conducted by a

person or entity, approved by both CITY and TOWN, at TOWN'S expense. A request for an annual test, or a test after the repair, replacement, or reinstallation of this Metering Equipment is deemed a reasonable request for the purposes of this section.

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

K. For any period during which the Metering Equipment fails to register accurately and correctly, or ceases to record the flow of water TOWN withdraws from Brown's Pond, CITY 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.

L. 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.

M. TOWN shall be responsible for any leakage that may occur between the water withdrawal equipment at Brown's Pond and the meter; and such water shall be paid for as if it had flowed through such meter. CITY may make a reasonable estimate of such leakage.

N. In recognition of the understandings and agreements reflected in this Agreement, TOWN and CITY agree to stipulate to dismiss, without prejudice, within thirty (30) days of the



SECTION 12.            LAWS, REGULATION, PERMITS

A.        CITY shall obtain all necessary permits and approvals for Connection Facilities at Moore's Hill Road/Riley Road and shall conform to all laws, ordinances, rules, regulations and requirements affecting the work and installation of the Connection Facilities or the discontinuation of use, 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 discontinuation of use, 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.

C.        CITY and TOWN agree to jointly work together and cooperate to obtain all necessary permits and approvals for Connection Facilities at Lake Street 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.

SECTION 13.            LIABILITY FOR INJURY TO PROPERTY

A.        Any injury or damage sustained by the TOWN'S or CITY'S lands, the TOWN'S or CITY'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 or CITY 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 other party ("Responsible Party") or their agents, servants or employees or any other acting on behalf of the Responsible Party, shall be repaired by the Responsible Party, as required by the other party to its reasonable satisfaction, and the Responsible Party shall bear the entire cost and expense of such repairs.

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

#### SECTION 14. HOLD HARMLESS CLAUSE

A. 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.

B. TOWN shall save and hold CITY harmless from, and indemnify CITY for, all judgments and awards of every kind, for damages, costs and expenses rendered against CITY in all suits, actions, claims and proceedings instituted against CITY 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 TOWN, 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, CITY, with TOWN'S consent, shall have the power to settle any such suit, action, claim or proceeding, and TOWN shall indemnify the CITY 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 Connections discussed in this Agreement, or from Brown's Pond, 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 Connections discussed in this Agreement if same be caused by factors outside of TOWN'S control.

B. CITY shall not be responsible for the discontinuation or inadequacy of the supply of water in TOWN'S water supply system or for the discontinuation or inconsistency of rates of flow of water through the Connections discussed in this Agreement, or from Brown's Pond, if same be caused by factors outside of CITY'S control. CITY shall not be liable to TOWN 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 Connections discussed in this Agreement, or from Brown's Pond, if same be caused by factors outside of CITY'S control.

C. TOWN shall not be required to provide any chemical treatment or purification of the water with respect to the Connection at Moore's 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 or utilized from the Connection at Moore's 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.

D. CITY shall not be required to provide any chemical treatment or purification of the water with respect to the Connections at Lake Street or Brown's Pond. CITY shall not be liable to TOWN, 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 or utilized from the Connections at Lake Street or Brown's Pond, whether treated or untreated by CITY. TOWN shall be required to install, maintain and operate at its sole cost and expense and subject to the

G:\General\NEWWIN~1\EMERGE~1\2018AG~1\INTERMUNICIPAL WATER SUPPLY 34  
AGREEMENT (clean copy 8.28.19) GR and DZ Edits 3-27-19; GR edits 6-12-19; DZ edits  
8.8.19; GR edits 8-14-19; DZ edits 8.20.19 (JMorris GR); DZ edits 8.28.19).doc  
provisions of this Agreement, any plant or equipment for the chemical treatment or purification,  
sedimentation or filtration of the water withdrawn from the Connections 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  
                                                 Newburgh, New York 12550

With a copy to:                      City of Newburgh

Office of the Corporation Counsel  
83 Broadway, City Hall  
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)

for and on behalf of THE CITY OF NEWBURGH

BY: \_\_\_\_\_  
JOSEPH P. DONAT, City Manager

Authorized by City Council Resolution  
Dated \_\_\_\_\_, 2019

(SEAL)

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

BY: \_\_\_\_\_  
GEORGE GREEN, Supervisor

Authorized by Town Board Resolution  
Dated \_\_\_\_\_, 2019



ORDINANCE NO.: \_\_\_\_\_ - 2019

OF

SEPTEMBER 9, 2019

AN ORDINANCE AMENDING SECTION 88-2  
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH  
TO ADDRESS RETENTION OF ELECTRONIC RECORDS

**BE IT ORDAINED** by the City Council of the City of Newburgh, New York that Chapter 88, entitled “Records Retention” of the Code of Ordinances is amended as follows:

**SECTION 1.** Chapter 88. Records Retention

Section 88-2. Disposition of records.

In accordance with Article 57-A of the Arts and Cultural Affairs Law:

- A. Only those records will be disposed of that are described in Records Retention and Disposition Schedule MU-1 after they have met the minimum retention period described therein.
- B. Only those records will be disposed of that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond established time periods.
- C. All digitally created or digitally converted records shall be designated as the official copy of the record and maintained in digital format for the legally prescribed retention period of the record in accordance with the guidelines set forth in the Regulations of the Commissioner of Education, Part 185.8, section 57.29 of the Arts and Cultural Affairs Law and all related standards and guidelines set by the Commissioner of Education. Copies of records in other formats, including paper, shall be deemed convenience copies and disposed of when no longer needed for reference or other administrative purposes.

**SECTION 2.** This ordinance shall take effect immediately.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

The Town of [Name] shall designate all digitally created or digitally converted records as the official copy of the record and maintain such records in digital format for the legally prescribed retention period of the record. The Town shall maintain all digital records adhering to the guidelines set forth in the Regulations of the Commissioner of Education, Part 185.8, section 57.29 of the Arts and Cultural Affairs Laws and all related standards and guidelines set by the Commissioner of Education.

Copies of records in other formats, including paper, shall be deemed convenience copies and disposed of when no longer needed for reference or other administrative purposes.