CITY OF NEWBURGH
COUNCIL MEETING AGENDA
SESION GENERAL DEL CONSEJAL
March 22, 2021
7:00 PM

Mayor/Alcaldesa

1. Moment of Silence / Momento de Silencio
2. Pledge of Allegiance/ Juramento a la Alianza

City Clerk:/Secretaria de la Ciudad

3. Roll Call/ Lista de Asistencia

Communications/Communicaciones

4. Approval of the Minutes of the City Council Meeting on March 8, 2021
5. City Manager Update/ Gerente de la ciudad pone al dia a la audiencia de los planes de cada departamento

Presentations/Presentaciones

6. Public Hearing - City Charter Section C4.01 amendment to Rules of Order

   There will be a public hearing on Monday, March 22, 2021 to receive comments from the public concerning a local law amending City Charter Section C4.01 entitled "Rules of Order".

   Se llevara a cabo una audiencia pública el lunes 22 de marzo de 2021 para recibir comentarios del público con respecto a una Ley Local enmendando la Carta de la Ciudad Sección C4.01 titulado "Reglas de Orden".

Comments from the public regarding agenda and general matters of City Business/Comentarios del público con respecto a la agenda y sobre asuntos generales de la Ciudad.

Comments from the Council regarding the agenda and general matters of City Business/Comentarios del Consejo con respecto a la agenda y sobre asuntos generales de la Ciudad

City Manager's Report/ Informe del Gerente de la Ciudad

7. Resolution No. 45 - 2021 - Accept a Donation from Cub Scout Pack 4028

   Resolution authorizing the City Manager to accept a donation of catch basin signs from Cub Scout Pack 4028 for use in the City of Newburgh storm sewer area.

Resolución que autoriza al Gerente de la Ciudad a aceptar la donación de señales de cuencas de recepción de Cub Scout Pack 4028 para usar en el área de alcantarilla pluvial en la Ciudad de Newburgh.

8. Resolution No. 46 - 2021 - Proposal with EcoTec Environmental Services for Off-Site Monitoring Well Testing

   Resolution authorizing the City Manager to accept a proposal and execute a contract with Eco Tec Environmental Services to perform groundwater sampling activities for the off-site groundwater monitoring wells associated with the Former Provan Ford Remedial Site (B00127) at a cost not to exceed $7,000.00.

   Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato con Eco Tec Environmental Services para realizar actividades de muestreo de aguas subterráneas para el monitoreo de aguas subterráneas en pozos fuera del sitio asociados con el Antiguo Sitio de Reparación Provan Ford (B00127) a un costo que no exceda $7,000.00.

9. Resolution No. 47 - 2021 - Amended Agreement with H2M Architects & Engineers for the Crescent Avenue Pump Station

   Resolution authorizing the City Manager to execute a contract amendment with H2M Architects and Engineers for additional professional engineering design services at a cost of $21,500.00 in the Crescent Avenue Pump Station Reconstruction Project.

   Resolución que autoriza al Gerente de la Ciudad a ejecutar una enmienda de contrato con H2M Architects and Engineers para servicios adicionales de diseño de ingeniería profesional por un costo de $21,500.00 en el Proyecto de Reconstrucción de la Estación de Bombeo en Crescent Avenue.

10. Resolution No. 48 - 2021 - Subrecipient Agreement with Legal Services of the Hudson Valley to undertake work under the Anti-Displacement Learning Network Innovation Grant

    Resolution authorizing the City Manager to enter into a New York State Anti-Displacement Learning Network phase II sub-recipient grant agreement in the amount of $409,209.00 with Legal Services of the Hudson Valley for civil legal, outreach, and organization services related to housing stability issues in the City of Newburgh.

    Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo de subvención de la fase II de la Red de Aprendizaje contra el Desplazamiento del Estado de Nueva York por el monto de $409,209.00 con Servicios Legales del Valle de Hudson para servicios civiles legales, alcance, y organización relacionados con temas de estabilidad de vivienda en la Ciudad de Newburgh.

11. Resolution No. 49 - 2021 - Subrecipient Agreement with Community Voices Heard to undertake work under the Anti-Displacement Learning Network Innovation Grant

Resolution authorizing the City Manager to enter into a New York State Anti-Displacement Learning Network phase II sub-recipient grant agreement in the amount of $195,000.00 with Community Voices Heard for outreach and organization services related to housing stability issues in the City of Newburgh.

Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo de subvención de la fase II de la Red de Aprendizaje contra el Desplazamiento del Estado de Nueva York por el monto de $195,000.00 con Community Voices Heard para servicios de alcance, y organización relacionados con temas de estabilidad de vivienda en la Ciudad de Newburgh.

12. Resolution No. 50 - 2021 - Police and Fire Overtime/Staffing Study

Resolution authorizing the City Manager to execute a letter agreement between the City of Newburgh and PKF O'Connor Davies, LLP for professional auditing services for the Police and Fire Departments at a cost of $70,000.00.

Resolución que autoriza al Gerente de la Ciudad a ejecutar una carta de acuerdo entre la Ciudad de Newburgh y PKF O'Connor Davies, LLP para servicios de auditoria profesional para los Departamentos de Policía y Bomberos a un costo de $70,000.00.

13. Resolution No. 51 - 2021 - Mobile Life Services EMS Agreement Renewal

Resolution designating Mobile Life Support Services, Inc. as the designated provider of emergency medical services for the City of Newburgh in accordance with the terms of an agreement between the parties and authorizing the City Manager to execute a renewal of said agreement.

Resolución que designa a Mobile Life Support Services, Inc. como el proveedor designado de servicios médicos de emergencia para la Ciudad de Newburgh de acuerdo con los términos de un acuerdo entre las partes y autorizando al Gerente de la Ciudad a ejecutar una renovación de dicho acuerdo.

14. Resolution No. 52 - 2021 - 2022 Police Traffic Services Grant

Resolution authorizing the City Manager to apply for and accept if awarded a New York State Governors Traffic Safety Committee 2022 Police Traffic Services program grant in an amount not to exceed $46,000.00 with no City match required.

Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si es otorgada una subvención de Servicios de Trafico Policía del Comité de Seguridad Vial del Gobernador del Estado de Nueva York por un monto

que no exceda $46,000.00 el cual no requiere que la Ciudad iguale los fondos.

15. Resolution No. 53 - 2021 - National Fitness Campaign $30,000 grant

    Resolution authorizing the City Manager to apply for and accept if awarded a National Fitness Campaign program grant in the amount of $30,000.00 for a Recreation Park fitness court.

    Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si es otorgado una subvención del programa de Campaña Nacional de Salud por un monto de $30,000.00 para Parque Recreativo.

16. Resolution No. 54 - 2021 - Agreement with Ruff Ryders to the Rescue Foundation

    Resolution authorizing the City Manager to enter into and execute an agreement with the Ruff Ryders to the Rescue Foundation.

    Resolución que autoriza al Gerente de la Ciudad a entrar en y ejecutar un acuerdo con la Fundación Ruff Ryders al Rescate.

17. Resolution No. 55 - 2021 - Agreement with Benevate Inc. (dba Neighborly Software) to provide hosted software for the administration and reporting of the CDBG-CV Emergency Income Payments (Rent) Program

    Resolution authorizing the City Manager to enter into an agreement with Benevate, Inc. d/b/a Neighborly Software to provide hosted software to administer the CDBG-CV Emergency Income Payments (Rent) Program at a cost of $9,200.00.

    Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo con Benevate, Inc. d/b/a Neighborly Software para proporcionar software alojado para administrar el Programa de Pagos de Ingreso de Emergencia (Alquiler) a un costo de $9,200.00.

18. Resolution No. 56 - 2021 - 2021-2022 Orange County Stop DWI grant

    Resolution authorizing the City Manager or the Police Chief, as Manager's designee, to execute an inter-municipal agreement with the County of Orange confirming the City of Newburgh's participation in the STOP-DWI Program for the enforcement period of March 1, 2021 to January 1, 2022 and to accept an award not to exceed $3,668.00 covering 70 person-hours for the first enforcement period of 2021 (March 12, 2021 – June 1, 2021).

    Resolución que autoriza al Gerente de la Ciudad o al Jefe de la Policía, como designado del Gerente, a ejecutar un acuerdo inter-municipal con el Condado de Orange confirmando la Participación de la Ciudad de Newburgh en el Programa de STOP-DWI por el periodo de Marzo 1, 2021 a Enero 1, 2022 y a aceptar una concesión que no exceda $3,668.00 el cual cubre 70 horas de persona por el primer periodo del 2021 (marzo 12,

2021 – junio 1, 2021).

19. Resolution No. 57 - 2021 - Amendment No. 3 Extension of NYS DEC Catskill Aqueduct Water Reimbursement Contract

    Resolution authorizing the City Manager to enter into Amendment No. 3 to the agreement with the New York State Department of Environmental Conservation to extend the term of the agreement for reimbursement of the cost of water purchased from the New York City Catskill Aqueduct.

    Resolución que autoriza al Gerente de la Ciudad a entrar en la Enmienda No. 3 para el acuerdo con el Departamento de Conservación Ambiental del Estado de Nueva York para extender el término del acuerdo para reembolso del costo del agua comprada del Acueducto de Catskill de la Ciudad de Nueva York.

20. Resolution No. 58 - 2021 - New NYS DEC Catskill Aqueduct Water Reimbursement Contract

    Resolution authorizing the City Manager to enter into a new agreement with the New York State Department of Environmental Conservation for reimbursement of the cost of water purchased from the New York City Catskill Aqueduct.

    Resolución que autoriza al Gerente de la Ciudad a entrar en un nuevo acuerdo con el Departamento de Conservación Ambiental del Estado de Nueva York para reembolso de costos por el agua comprada del Acueducto de Catskill de la Ciudad de Nueva York.

21. Resolution No. 59 - 2021 - E.O. 203 Police Reform and Reinvention Collaborative Plan

    Resolution of the City Council of the City of Newburgh adopting the City of Newburgh Police Reform and Reinvention Collaborative Plan.

    Resolución del Consejo Municipal de la Ciudad de Newburgh adoptando el Plan de Reforma y Reinvención Policial de La Ciudad de Newburgh.

22. Ordinance No. 2 - 2021 - Citizens Advisory Committee

    Ordinance amending Chapter 12 entitled “Citizens Advisory Committee” of the Code of Ordinances of the City of Newburgh.

    Ordenanza que enmienda el Capítulo 12 titulado “Comité Consultivo de Ciudadanos” del Código de Ordenanzas de la Ciudad de Newburgh.

23. Resolution No. 60 - 2021 - Authorizing a Payment of Claim

    A resolution authorizing the City Manager to execute a payment of claim with Juan Flores in the amount of $3,496.97.

Resolucion que autoriza al Gerente de la Ciudad a ejecutar un pago de reclamo con Juan Flores por el monto de $3,496.97

24. Resolution No. 61 - 2021 - Board of Assessment Review Appointment

    A resolution appointing Hannah Brooks to the Board of Assessment Review.

    Resolucion que nombra a Hannah Brooks a la Junta de Evaluaciones.

25. Resolution No. 62 - 2021 - Authorizing an Agreement for Remediation at 842 Broadway

    A resolution authorizing an agreement with the administrator for the New York Environmental Protection and spill compensation fund for remediation of the property known as 842 Broadway (Section 25, Block 1, Lot 85.1)

    Resolucion que autoriza un acuerdo con el administrador de los fondos de Protection Ambiental y Compensacion de Derrames de Nueva York para remediacion de la Propiedad concocida como la 842 de Broadway (Seccion 25, Bloque 1, Lote 85.1)

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

Final Comments from the City Council/ Comentarios Finales del Ayuntamiento:

Adjournment/ Aplazamiento:

RESOLUTION NO.: 44 - 2021

OF

MARCH 8, 2021

RESOLUTION SCHEDULING A PUBLIC HEARING FOR MARCH 22, 2021 TO HEAR PUBLIC COMMENT CONCERNING "A LOCAL LAW AMENDING SECTION C4.01 ENTITLED 'RULES OF ORDER' OF THE CHARTER OF THE CITY OF NEWBURGH"

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law amending Section C4.01 entitled 'Rules of Order' of the Charter of the City of Newburgh"; 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 22nd day of March, 2021; and

BE IT FURTHER RESOLVED, that due to public health and safety concerns related to COVID-19, the City Council will not be meeting in-person. In accordance with the Governor's Executive Order 202.1, as amended, the March 22, 2021 City Council meeting will be held via videoconferencing, and a transcript will be provided at a later date. The public will have an opportunity to see and hear the meeting live and provide comments on the proposed local law as follows:

To view the livestream of the City Council Work Session and Meeting visit: https://www.cityofnewburgh-ny.gov/live-video-streaming.

To access the City Council Work Session and Meeting remotely: join from a PC, Mac, iPad, iPhone, or Android device through the Zoom App:

https://zoom.us/webinar/register/WN_3yXd-iEpSuCg40O89I18kw. Please note that there is an underscore between the "N" and "3").

To register in advance for this webinar in order to provide comments during the hearing:

https://zoom.us/webinar/register/WN_3yXd-iEpSuCg40O89I18kw. Please note that there is an underscore between the "N" and "3"). Please fill out the required information (First Name, Last Name, E-mail Address and check appropriate box to comment during the public hearing). After registering, you will receive a confirmation email containing information about joining the webinar.

Comments can be provided by email before the meeting to comments@cityofnewburgh-ny.gov with the Subject Line in this format: "PUBLIC HEARING ITEM" by 4:00 p.m. on Monday, March 22, 2021. Please check the meeting Agenda posted on the website for further instructions to access the virtual meeting and for updated information.

I, Lorene Vitek, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 3/8/21 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 9 day of March 2021

City Clerk

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

A LOCAL LAW AMENDING SECTION C4.01 ENTITLED "RULES OF ORDER" OF THE CHARTER OF THE CITY OF NEWBURGH

BE IT ENACTED by the City Council of the City of Newburgh as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Section C4.01 entitled 'Rules of Order' of the Charter of the City of Newburgh".

SECTION 2 – AMENDMENT

§ C4.01. Rules of order; sanctions.

A. The Council shall determine the rules of its own proceedings and be the judge of the election, returns and qualifications of its members. The Council may compel the attendance of absent members at any meeting properly called and may punish or expel a member for excessive or unexcused absence or disorderly conduct, as defined in this section, ~~or~~ and may declare the member's ~~his~~ seat vacant as provided by the standards and procedures set forth in this section ~~by reason of inexcusable absence, provided that such absence has continued for four consecutive regular meetings, but no expulsion shall take place and no vacancy on account of absence shall be declared until the delinquent member has had an opportunity to be heard in his defense~~.

1. Excessive and Unexcused Absence
    a. Every member of the Council shall attend the sessions of the Council unless duly excused or unable to attend because of extenuating circumstances. Any member desiring to be excused shall notify the Mayor and the City Clerk.
    b. A member of Council absent from 4 consecutive regular meetings or 6 regular meetings within a calendar year without excuse shall constitute excessive absence.

2. Disorderly Behavior
    a. Members of the Council shall not engage in disorderly behavior, which shall include but is not limited to: willful violation or evasion of any provision of law relating to such member's discharge of his or her official duties; commission of

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fraud upon the City; conversion of public property to such member's own use; knowingly permitting or allowing by gross culpable conduct another person to convert public property; violation of the Council's duly adopted Rules and Order of Procedure, violation of the City's Code of Ethics, or violation of City policy or policies against discrimination, harassment and workplace violence.

3. A member of Council charged with conduct constituting excessive and unexcused absence or disorderly behavior or grounds for forfeiture of office other than those grounds causing an immediate vacancy, by operation of state law, shall have the right to a public hearing by filing a written demand within 7 working days of receiving written notice of the charged conduct. In the event that a member of Council makes such request for a public hearing, the opportunity to be heard shall be afforded at a regular or special meeting of the Council to be held within 15 working days of the Council's receipt of such written request. Notice of such hearing shall be published in one (1) or more newspapers of general circulation in the City at least one (1) week in advance of the hearing. A transcript of the hearing shall be retained by the City Clerk.

4. Upon a finding by the Council that a member has engaged in excessive or unexcused absence or disorderly behavior as set forth in subsection A(1) or subsection A(2) of this Section, the Council may impose one or more of the following sanctions:
    a. Denial or limitation of any right, power, or privilege of the Member;
    b. Reprimand;
    c. Censure;
    d. Fine;
    e. Expulsion from the Council; and
    f. Any other sanction determined by the Council to be appropriate.

    All sanctions shall be imposed by a majority plus one vote of all members of Council.

5. A decision made by the Council under this subsection imposing the sanction of removal from office shall be subject to review by the courts in accordance with the laws of New York State. In determining the qualifications of its members, the Council shall use the standards set forth in the Public Officers Law and General Municipal Law, and such additional standards as may be enacted by Charter amendment or local law, provided that the same are not inconsistent with the Public Officers Law or General Municipal Law.

SECTION 3 – 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

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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 4 – 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 Charter 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 "Charter", "Article", 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 City Charter affected thereby.

SECTION 5 – 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 6 – EFFECTIVE DATE

This Local Law shall be effective after the filing in the Office of the New York State Secretary of State and the approval of the qualified voters of the City of Newburgh at the November 2, 2021 election in accordance with the provisions of New York State Municipal Home Rule Law.

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RESOLUTION NO.: _45_ - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION OF CATCH BASIN SIGNS FROM CUB SCOUT PACK 4028 FOR USE IN THE CITY OF NEWBURGH STORM SEWER AREA

WHEREAS, Cub Scout Pack 4028 has offered to create and donate "No Dumping– Drains to River" signs on some existing catch basins in the City's MS4 storm sewer area; and

WHEREAS, this donation would benefit the City of Newburgh by demonstrating compliance with public outreach and participation as part of the City's MS4 program; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to accept the No Dumping– Drains to River" signs donated by Cub Scout Pack 4028, with the appreciation and thanks of the City of Newburgh.

NO DUMPING
DRAINS TO RIVER
NO DUMPING
DRAINS TO RIVER

RESOLUTION NO.: ___46_____ - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND EXECUTE A CONTRACT WITH ECO TEC ENVIRONMENTAL SERVICES TO PERFORM GROUNDWATER SAMPLING ACTIVITIES FOR THE OFF-SITE GROUNDWATER MONITORING WELLS ASSOCIATED WITH THE FORMER PROVAN FORD REMEDIAL SITE (B00127) AT A COST NOT TO EXCEED $7,000.00

WHEREAS, the New York State Department of Environmental Conservation approved the Site Management Plan for the Former Provan Ford Site, Site No. B00127, 210 Mill Street (formerly known as 146-172 Mill Street), Section 43, Block 7, Lot 7.1, in June of 2016; and

WHEREAS, provisions in Site Management Plan requires the City of Newburgh to conduct groundwater sampling activities on the off-site groundwater monitoring wells in connection with the Former Provan Ford Site; and

WHEREAS, Eco Tec Environmental Services submitted a proposal to conduct such work at a cost not to exceed $7,000.00 with funding to be derived from A.1440.0448.0001; and

WHEREAS, this Council has determined that accepting such proposal for such work is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal from Eco Tec Environmental Services to conduct groundwater sampling activities at the off-site monitoring wells in connection with the Former Provan Ford Site at a cost not to exceed $7,000.00.

ECO TEC LLC
ENVIRONMENTAL SERVICES
3 Nancy Court, Suite 4, Wappingers Falls, NY 12590
Tel. (845) 897-0003 Fax (845) 897-0042 www.EcoTecLLC.com

March 9, 2021 – REVISION 1

Mr. Jason Morris
City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550
Phone: (845) 569-9400 Fax: (845) 569-9700
E-mail: jmorris@cityofnewburgh-ny.gov

Re: Groundwater Sampling at Off-Site Wells for former Provan Site

Dear Mr. Morris,

I am pleased to submit to you our cost estimate for the Groundwater Sampling Activities for the off-site groundwater monitoring wells associated with the former Provan Remedial Site (B00127).

- EcoTec shall perform Groundwater Sampling Activities according the Site Management Plan (SMP) June 2016 and Quality Assurance Project Plan (QAPP) May 2016 for six (6) offsite groundwater monitoring wells.
- The wells will be inspected, groundwater level will be measured and field parameters of pH, conductivity temperature and DO will be measured. All field equipment will be decontaminated between each sampling location. The wells will be purged according the "3-5 volume" method and sampled utilizing a low-flow sampling pump. All groundwater sampling activities shall be documented on the "Sampling Log" in the SMP. Note: All purged groundwater shall be containerized in a 55-gallon drum(s). EcoTec has included analytical characterization of the waste. The waste shall be disposed of as non-hazardous waste water at an approved facility. Should the waste be characterized as hazardous from laboratory analysis, EcoTec shall provide additional cost(s) to dispose of waste as hazardous depending on sampling results. Note: Location of drum(s) staging locations shall be determined prior to sampling activities.
- The groundwater samples will be collected under chain of custody documentation and submitted to a NYSDOH Approved Laboratory for analysis of volatile organic compounds (VOCs) utilizing EPA Method 8260. Per the requirements of the QAPP, 1 duplicate sample shall be collected; field blanks shall be collected on each day of sampling, and 1 trip blank shall be collected during the sampling event.
- EcoTec shall provide the City with a Groundwater Monitoring Wells Sampling Report with Data Verification which will detail the collection methodology, laboratory results and any recommendations.

Cost Estimates:

Groundwater Sampling Activities: 2 X Environmental Technician @ $850/ day (2-Days) - $1700

Groundwater Sampling Field Equipment:	$150/ day (Estimate -2 Days)
Consumables (Tubing, PPE, Decon. Materials):	$85/ day (Estimate -2 Days)
55-Gallon DOT Steel Drums	$85/ ea (Estimate – 2 Drums)
Laboratory Analysis	$160/ sample (8 Samples)
Sampling Report with Electronic Data Deliverables and Verifications:	$1950
Hazardous Waste Characterization Sample:	$460
Non-Haz Disposal Cost	$825
Haz-Waste Disposal Cost	$ TBD*

*If waste is characterized as hazardous through laboratory analysis, pricing will be dependent on results. It is assumed that waste will be non-hazardous based upon previous sampling data.

Estimated Project Cost:	$6855

Thank you for the opportunity to present you with this proposal and if you would wish to discuss in any detail please feel free to contact me at your convenience.

Respectfully,

Evan Stankunas, QEP
Principal

RESOLUTION NO.: 47 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH H2M ARCHITECTS AND ENGINEERS FOR ADDITIONAL PROFESSIONAL ENGINEERING DESIGN SERVICES AT A COST OF $21,500.00 IN THE CRESCENT AVENUE PUMP STATION RECONSTRUCTION PROJECT

WHEREAS, the City of Newburgh and the Town of Newburgh are parties to an Inter-Municipal Agreement providing for the upgrade of the Crescent Avenue Pump Station; and

WHEREAS, the City of Newburgh solicited proposals for professional engineering design services in the Crescent Avenue Pump Station Reconstruction Project (the "Project"); and

WHEREAS, by Resolution No. 2018-2020 of September 14, 2020, this Council authorized approved a contract with H2M Architects and Engineers for professional engineering design services for the Project; and

WHEREAS, H2M Architects and Engineers has submitted a proposal for additional services to related to soil borings, flow monitoring instrumentation, valve vault design and force main inspection in connection with the Project; and

WHEREAS, additional funding shall be in the amount of $21,500.00 and derived from 2020 Bond (Pump Stations) GL Account: HG1.8120.0208.0000.2020; and

WHEREAS, this Council has determined that authorizing the City Manager to execute a contract amendment with H2M Architects and Engineers is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute a contract amendment with H2M Architects and Engineers for additional professional engineering design services in the Crescent Avenue Pump Station Reconstruction Project.

architects + engineers
2700 Westchester Avenue, Ste 415
Purchase, NY 10577 | tel 914.358.5623

March 11, 2021

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

Re: Crescent Avenue Pump Station Reconstruction Project
Proposal for Additional Design Services
Resolution No. 218-2020
H2M Proposal No.: LP21-0357

Dear Mr. Morris:

H2M architects + engineers (H2M) is pleased to provide the City of Newburgh (City) with this proposal for additional professional engineering services. The work described in this proposal includes additional design phase services that were requested by the City due to a change in conditions at the pump station.

PROJECT BACKGROUND

H2M was selected by the City to develop the design for the Crescent Avenue Pump Station Reconstruction project. The project includes the rehabilitation of the pump station influent channel, wet well, pumps, controls, instrumentation, shelter, emergency power, and a video inspection of the station force main. Depending on the condition of the force main, the City may elect to replace the pipeline in its entirety.

The pump station was originally designed with a drywell housing the pumps and a wet well located across the adjoining wall. The forcemain inspection was to be conducted by entering the dry well and providing an access point by removing a check valve. The inspecting contractor would then run their closed-circuit TV (CCTV) cameras through the 6-inch pipeline as far as possible. The inspection would then relocate to the discharge manhole where the pipe is open-ended and run the camera upstream as far as possible.

As we discovered in our site visits, the pump station has been altered in the past and converted to a single large wet well. This was accomplished by cutting holes through the original shared wall between the wet well and dry well and installing submersible pumps. The valves currently in the wet well will require relocation into a separate valve vault for access.

This changed condition now requires the inspection contractor to perform their work within what is now the wet well. Consequently, the station influent flow must now be captured and either hauled off-site or bypass-pumped downstream. The least costly approach will be to use 4,000-gallon tanker trucks that can collect the flow while the inspection team are in the wet well.

In addition to the revised approach for the forcemain inspection, the valves must be moved outside of the wet well to meet State design standards for access. H2M will design a valve vault to house the check valves, isolation valves and a bypass connection fitting. The vault can be sized for a flow meter as well if desired.

We observed comments in the draft engineering report that suggested a possible restoration of the pump station back to the original wet well / dry well configuration. H2M would not advise this due to the volume of wastewater that apparently enters the station. This is likely why the station was modified in the past. One way to gain better knowledge of the inflow volume is to install a flow meter upstream of the pump station and record flow over a 4 to 8 week period. We mentioned this in our proposal and gave an approximate cost. This letter proposal includes an updated fee for this work.

The soil conditions are not known at the pump station or along the force main route. A geotechnical investigation was not part to the original design scope. We did mention this in our proposal with an approximate cost range. H2M recommends the City collect this soil data now as the installation of the valve

vault and a manhole along the forcemain – possibly the entire force main will require an understanding of the soil conditions for proper foundation design and specification.

ADDITIONAL DESIGN SCOPE

Based on the changed conditions noted above, our amended scope will include:

1. Force Main Inspection / Pump Station Shutdown:
    a. H2M subcontractor TAM Enterprises will perform a pressure test to initially determine the condition of the force main. This will require a shutdown of the pump station and a capture of the influent flow by tanker truck. Waste will be hauled to the City WWTP. TAM will then perform confined space entry at both ends of the force main to CCTV inspect the route. If the 45-degree elbow along the force main cannot be navigated, TAM will excavate and perform a line break to complete the inspection. TAM will restore the excavated location and install a new cleanout fitting and manhole flowed by asphalt restoration.
2. Valve Vault Design Addition:
    a. Due to the modifications to the pump station from its original design, H2M will design and specify a new pre-cast valve vault to be located within the station footprint or City ROW along North Plank Road. The valve vault will provide access to the pump isolation valves and check valves. Currently, there is no way for the City operations staff to isolate a pump or perform maintenance on the valves in their current location. The vault will be approximately 6-ft x 4-ft in area, and 4 to 5-ft in depth. A lockable access hatch with an integral fall protection grating will be provided.
3. Geotechnical Investigation:
    a. Due to the new valve vault and manhole additions noted above, Carlin Simpson will provide a geotechnical investigation of the current soil conditions at the pump station site as well as the force main location. This will be needed for proper foundation / bedding design of the structures. One (1) soil boring will be taken at the pump station, and one (1) soil boring will be taken along Jamison Place. Carlin Simpson will then generate a Geotechnical Report that details their findings and recommendations for foundation support.
4. Pump Station Influent Flow Metering:
    a. Flow assessment Services will install one (1) flow meter at the influent manhole to the pump station. A rain gauge will be installed at an agreed-upon location to correlate the rainfall with any observed spikes in inflow to the station. Flow assessment will be responsible for maintenance, operation, and removal of the meter. Following the flow data capture, Flow Assessment will reconcile the data and generate a Flow Metering Report that defines what occurred over the metering period and what the observed response was in terms of inflow to the station. This data can be used for confirming the wet well size requirements as well as offering the City input on where to begin inflow / infiltration studies upstream of the pump station of desired.

CONSTRUCTION PHASE SERVICES

At this time, construction phase services are not part of H2M's current scope of work.

ADDITIONAL SERVICES FEE

The lump sum fee for the requested additional work associated with the Crescent Avenue Pump Station Reconstruction Project is **$21,500.** A breakdown is provided below (vendor quotes attached):

FORCEMAIN INSPECTION - TAM ENTERPRISES:	$10,497.00
ORIGINAL APPROVED TAM FEE FOR INSPECTION:	$3,500.00 (INCL. ABOVE)
TOTAL ADDITIONAL FEE FOR TAM ENTERPRISES:	$6997.00
	$7,000 (ROUNDED)
ADDITIONAL VALVE VAULT DESIGN – H2M:	**$4,900.00**
GEOTECHNICAL INVESTIGATION – CARLIN SIMPSON:	$8,570.00
	$9,000 (ROUNDED)
FLOW METERING AT PUMP STATION – FLOW ASSESS.:	$3,540
ORIGINAL APPROVED FLOW MONITORING FEE:	$3,000
TOTAL ADDITIONAL FEE FOR FLOW ASSESSMENT:	$540
	$600 (ROUNDED)

ADDITIONAL DESIGN SCHEDULE

H2M anticipates the additional work to be completed within 4 weeks of Notice to Proceed.

MINORITY PARTICIPATION REQUIREMENTS FOR NEW YORK STATE ENVIRONMENTAL FACILITIES CORPORATION (NYSEFC) FINANCING

H2M acknowledges that these services are to follow the same requirements set forth in the previous contract for Minority Business Enterprises (MBE) and Women's Business Enterprises (WBE).

SERVICES EXCLUDED

- Any work not specifically outlined above

H2M would invoice the City monthly based on the terms of the Prime Agreement. Any additional fees for consultants or changes in the scope of work will be identified in writing and agreed upon, prior to the commencement of additional work.

All terms and conditions for this work will be in accordance with the previously executed Contract via Resolution 218-2020 dated September 14, 2020.

If the terms and conditions are acceptable to the City, please include this proposal as the scope of work for approval - to be issued to H2M under Contract Resolution 218-2020.

If you have any questions or require further clarification, please feel free to contact David Leun at (914) 231-8662 or the undersigned at (914) 358-5623 extension 2058.

Very truly yours,

H2M architects + engineers

James J. Roberts, P.E.
Senior Vice President

cc: DKL, CAW – H2M

PROPOSAL AGREED & ACCEPTED BY:

Signature: _____

Print Name: _____

Title: _____

Client: City of Newburgh, NY
Address: 83 Broadway
Newburgh, New York 12550

Date: _____

X:\NEWC (City of Newburgh)\NEWC2001 - CRESCENT AVE PUMP STATION RECONSTRUCTION\00-ProjectAdmin\Agreements\Amendment No 1\LP20#### - (NEWC2001- Crecsent Ave PS_Additional Effort).docx

CARLIN • SIMPSON & ASSOCIATES

Consulting Geotechnical and Environmental Engineers

61 Main Street, Sayreville, New Jersey 08872
Tel. (732) 432-5757
Fax. (732) 432-5717

Principal:
Robert B. Simpson, P.E.

Associates:
Meredith R. Anke, P.E.
Stephen Rossi, P.E.
Kurt W. Anke
Eric J. Shaw
Catherine K. Simpson, E.I.T.
Michal Wroblewski, E.I.T.

8 March 2021

H2M Architects & Engineers
2 Executive Blvd, Suite 401
Suffern, NY 10901

Attn: Mr. David K Leun, P.E., BCEE

Re: Proposal for Subsurface Soil and Foundation Investigation
Proposed Pump Station
Plank Rd.
Newburgh, NY (CSA Job #21-46)

Dear Mr. Leun:

In accordance with your request, we are pleased to submit this proposal to perform a Subsurface Soil and Foundation Investigation for the referenced site. We understand that the planned construction will consist of a new pump station. To guide us in the preparation of this proposal, you have provided us with a site plan that indicates the location of the planned construction.

The purpose of this study is to determine the nature and engineering properties of the subsurface soil and groundwater conditions for the new construction, to recommend a practical foundation scheme and to determine the allowable bearing capacity of the site soils. To accomplish this, we propose the following:

- 2 borings to depths of 25 to 30 feet.

For this study, we will retain the boring subcontractor, lay out the borings in the field, provide full time inspection of the explorations, prepare detailed logs, observe the depth to groundwater, and obtain representative soil samples for laboratory testing. When the field exploration is completed, the samples will be brought to our laboratory for examination and testing. Soil identification tests will be performed on selected representative samples.

After the field tests are completed, we will prepare a final report that will contain all of the data collected and our engineering analysis of that data. In our final report, we will include the following:

1. Foundation design recommendations including design soil or rock bearing capacity, or pile type and capacity.

2. Subsurface soil, rock, and groundwater conditions.

3. Geology, seismic hazards, and site class.

4. A discussion of the existing groundwater conditions and their effect on the proposed construction.

5. Active and passive soil pressures where applicable.

6. Estimated settlement for the structure.

7. Controlled compacted fill recommendations and a determination of the suitability of the on-site soils for use as compacted fill.

8. Laboratory testing may include the following:

   a. Moisture Content
   b. Sieve Analyses
   c. Atterberg Limits

9. Recommendations concerning any other soil or soil related problem that becomes evident during this study.

The cost of this study will be as follows:

I. Boring Subcontractor

Mobilization and Demobilization	
(1-2 mobilizations @ $350/mobilization)	$350-$700
1-2 days @ $2,200/day	$2,200-$4,400

Note: both borings can be completed in 1 day. If the city requires 2 mobilizations , the cost will be for 2 days.

II. Boring Inspection (CSA)

1-2 days @ $550/day	$550-$1,100

III. Laboratory Testing

Lump Sum - Soil Testing	$250

IV. Engineering Analysis and Report

Lump Sum	$2,000

V. Reimbursable

Tolls @ $20/trip (1-2 trips)
Mileage - 80 miles/trip @ $0.50/mile ($40/trip)
Federal Express and copying charges will be billed at cost.

Reimbursable Estimate	$60-$120
Total	$5,410-$8,570

VI. Additional Services (if required)

Services of Robert B. Simpson, P.E.	$195/hour
Services of Staff Engineers	$125/hour
Services of Technicians and Draftsmen	$95/hour
Clerical Services	$75/hour

General Conditions

The total cost of this study will be **$5,410-$8,570** including the boring subcontractor. You will be billed after the completion of our final report. Payment is requested within 30 days.

We are prepared to begin this study about 3 weeks after receiving your authorization to proceed. The fieldwork will take 1-2 days and our report will be submitted about 3 weeks after the fieldwork is completed. A preliminary memo discussing our findings will be issued upon request.

By New York State law the New York Utility One-Call Center must be notified to provide a markout of existing underground utilities prior to the start of our fieldwork. Carlin-Simpson & Associates or their subcontractor will be responsible for notifying the one-call center. The One-Call Center requires three business days after the request is received to complete the markout. The One-Call Center may or may not mark out utilities on private property. In the absence of their markout, we will rely exclusively on information you furnish us in locating utilities. We will not be responsible for damage to any utilities that are not brought to our attention. If we are engaged to perform this study, we request that your forward to us all available information regarding existing utilities in the work area.

We look forward to working with you on this project. If the terms of this proposal are satisfactory, please sign and return one copy of this proposal or issue a Purchase Order that refers to this project. Thank you.

Very truly yours,

CARLIN-SIMPSON & ASSOCIATES

ROBERT B. SIMPSON, P.E.

Approved By _____ Date _____
File No. 21-46

114 Hartley Road
Goshen, NY 10924

TAM ENTERPRISES
Water and Wastewater Specialists

P: (845) 294-8882
F: (845) 294-8883

Customer:

H2M Architects & Engineers
2 Executive Blvd
Suite 401
Suffern, NY 10901

Proposal

Date	Estimate #
12/21/2020	14303REV

P.O. No.

Terms Net 30

Qty	Decription	Rate	Amount
	Proposal: - City of Newburgh		
	TAM Enterprises Inc. is pleased to quote the following:		
0	Tanker @ $1,440.00/day	1,440.00	0.00
	- Add manhole at 90 degree bend of force main. - Remove fitting to camera & re-install.		
	For the sum of:		
0	HydroVac w/ Operator & Laborer @ $3,320.00/day	3,320.00	0.00
0	Excavator w/ Operator @ $1,440.00/day	1,440.00	0.00
0	Dump Truck w/ Driver @ $1,120.00/day	1,120.00	0.00
0	Crane Truck w/ Operator & Laborer @ $2,840.00/day	2,840.00	0.00
0	Flagger @ $920.00/day	920.00	0.00
15	Item #4 approx. 15 ton @ $25.00/ton	25.00	375.00
2	Black Top approx. 2 ton @ $80.00/ton	80.00	160.00
	(2) Hymax's & Pipe	1,312.00	1,312.00
	Manhole	2,000.00	2,000.00
	- Pressure test force main.		
	For the sum of:	3,150.00	3,150.00
	- Enter wet well with confined space entry personnel & equipment to remove check valves so that force main can be drained in order to camera the line.		
	For the sum of:	3,500.00	3,500.00

All invoices paid by credit card will incur a 3.5% transaction fee.
A service charge of 1.5%, 18% APR, will be added to all overdue accounts.
Accounts are considered overdue on the 31st day past the invoice date.
You will also be liable for all legal and collection fees.

Total $10,497.00

Customer Signature: _____

Accepted By: _____

24 Hour Emergency Service - Certified Backflow Prevention Technician - Hydro Vacuum Excavation
Pump Station Installation & Maintenance - High Pressure Water Jetting - Video Inspection of Underground Lines
Installation of Water & Sewer Lines - Clearing of Catch Basins - Man-Hole Rehabs - Sewer & Water Plant Rehabs
Confined Space Entry - Pipe Lining Services - Soil Remediation Services - Pipe Location Services
Industrial Tank Pumping - Excavation Services - Emergency Sewer By-Pass Pumping - Emergency Utility Services

FLOW ASSESSMENT SERVICES

804 Plumtry Drive · West Chester, PA 19382 · Phone: (610) 918-3857

H2M architects + engineers
2 Executive Boulevard
Suite 401
Suffern, NY 10901 March 9, 2021

Attn: David Leun, P.E., BCEE, Associate | Practice Leader – Wastewater Engineering
Lower Hudson Market Specialist

Re: Temporary Flow Monitoring for the City of Newburgh

Dear David:

Thank you for your phone call and email requesting pricing for monitoring flow at a pump station in Newburgh, NY. In this proposal we are offering the cost of one flow monitoring station and a logging rain gauge for a month.

For flow monitoring, typically we break-out our pricing as follows:

- Flow meter installation: includes rigorous site investigation
  - Flow meter removal is included in our installation cost
- Equipment rental: shown on a per-month basis
- Flow meter site maintenance: shown on per-month basis
  - Consists of our crew visiting the site to:
    - Enter the manhole to inspect, clean and adjust the sensor
    - Download the data and analyze the current period for data quality
    - Make any adjustments necessary to improve data quality
    - Communicate with our client on each site
- Flow data reduction & presentation: shown on a per-month basis. We will post raw/preliminary data to our website ~2 weeks after meter installation. We will post final data ~2 weeks after the meters are removed, and our full & final report will follow.

H2M FOR NEWBURGH, NY
March 9, 2021
Temporary Flow Monitoring

Item #	Task Description	Quantity	Unit	Unit Cost	Total Cost
1	Flow Meter Installation	1	Installations	$850.00	$850.00
2	Flow Meter Maintenance (1 Meter x 1 Month = 1 Meter Month)	1	Meter Month	$1,200.00	$1,200.00
3	Flow Meter and Telemetry Rental (1 Meter x 1 Month = 1 Meter Month)	1	Meter Month	$740.00	$740.00
4	Data Reduction & Presentation (1 Meter x 1 Month = 1 Meter Month)	1	Data Months	$250.00	$250.00
7	Logging Rain Gauge (Lump Sum for up to 2 Months)	1	Lump Sum	$500.00	$500.00
	Total of Above:				**$3,540.00**

A. Flow monitoring will be performed to obtain information necessary to accurately analyze the monitoring tributary areas for infiltration during high groundwater periods and for rainfall related inflow during wet weather periods. Continuous metering will be conducted for the designated time period as directed by the Client.

The flow monitoring will be accomplished by one of the following methods:

1. The use of continuous monitoring devices incorporating a velocity sensor combined With a depth sensor; or

2. Palmer Bowlus flumes, in conjunction with continuous depth recording (used for smaller pipes and lower flows).

B. [option offered] A minimum of one recording tipping bucket rainfall gauge will be installed at a central location within the study area. The rain gauge will be capable of recording rainfall data in 5-minute increments. The rainfall data will enable the correlation of metered flow rates to rainfall intensity, duration, and volume for the purpose of identifying inflow and its components.

C. [option not offered] Groundwater gauges will be installed in locations determined by the Client in an attempt to monitor groundwater levels throughout the flow monitoring period. Readings will be taken and will be incorporated into the flow monitoring report. Field reading of the gauges will be provided to the Client on a weekly basis.

D. Flow monitoring data reduction and review will be performed on all data obtained each flow monitoring location. The data obtained will be reduced, evaluated, and presented in report form. One (1) copy of the completed report will be submitted to the Client. This will include, for each location, tabular reports based on 5-minute time increments.

The tabular report will be provided and will include:

A summary of daily flow information for a selected time period. The summary presents, for each day, the minimum flow rate, peak flow rate, total daily flow, total rain, peak hourly rain, and peak 5-

minute rainfall, if applicable. The summary also included the total flow volume, average daily flow, and total rainfall quantity, if applicable, for the selected time period.

Detailed flow reports of the flow rate data in 5-minute time increments will also be prepared and submitted. The detailed report will include depth of flow, velocity of flow, incremental flow rate, cumulative flow rate and recorded rainfall. The report will also include the total daily flow volume and total daily rainfall quantity, if applicable.

In addition, flow hydrographs will be prepared for each flow monitoring location, which present a plot of the recorded flow rates for a selected time period. A bar graph of rainfall recorded during the selected time period is also plotted on the hydrograph.

Further, periodically data will be posted to a secure password protected web site that will allow project personnel (both city and consultant) access to flow, rainfall and groundwater recorded data. Users then can prepare and review detailed flow reports, graphs and tables. Comparison between wet and dry periods as well as net flows per sub system calculations is also capable. Online data export format capabilities included Excel, Access, and ASCII.

I. CLIENT RESPONSIBILITIES

While developing this proposal, I have assumed that H2M architects + engineers (hereafter referred to as Client) or the owner would provide the following at no additional charge to Flow Assessment Services (hereafter referred to as sub-consultant):

A. Furnish copies of the necessary plot maps of all sewers to be studied. The sewer lines and manholes should be clearly marked and labeled with a numbered reference system.

B. Make arrangements to provide traffic control and permitting as required by local public safety authorities; FAS will provide normal traffic control with our vans and cones. If added traffic control is required, FAS will pass this cost through.

C. Make arrangements to provide access to and exposure for entry those manholes within the study area which are buried, covered or otherwise not readily accessible.

D. Provide free and legal access to all sites of work. We welcome our clients to observe our installation and maintenance, but due to the vagaries of other work, weather and unforeseen circumstances we cannot guarantee adherence to a schedule. Permits costs will be passed through.

E. Assure the prompt clearance of major blockages or obstructions in the sewer system, if any, should such clearance be required for performance of the work.

F. Provide the shutdown of certain pump stations, upon prior request, should it become necessary for the satisfactory performance of the work.

II. MUTUAL AGREEMENTS

A. Sub consultant shall not be held liable to the Client if delayed or prevented from performing the work as specified herein through any cause beyond the control of Sub consultant and not

caused by his own fault or negligence, including acts of God, or the public enemy, weather conditions; acts of government, including changes in state and/or federal requirements governing sewer system evaluation surveys after the effective date of this contract; fires, floods, epidemics, strikes, jurisdictional disputes, lockouts, and freight embargoes. Sub consultant shall advise the Client, in writing, of any such delays

B. Sub consultant is an equal opportunity employer.

C. Sub consultant agrees to carry
   a. Commercial General Liability, Personal & ADV Injury and Products, Comp/Op AGG
   b. Automobile Liability, Bodily Injury, Property Damage.
   c. Umbrella Liability
   d. Workman's Compensation Insurance
      i. A sample of our insurance certificate is available on request detailing our specific coverage
      ii. Any coverage beyond standard may require extra cost

D. The provisions of the Agreement may be revised upon written notice by either party, and the written acceptance of the revisions by both parties to this Agreement.

E. Sub consultant shall not assign, sublet, or transfer his interest in this Agreement without the written consent of the Client.

III. METHOD OF PAYMENT

The Method of Payment for Professional Services outlined above shall be in the form of progress invoices to be submitted to the Client for the items above as the fieldwork is actually completed. We request payment within 14 days of the client being paid.

Thank you for the opportunity to offer our services.

Very truly yours,

Jeff J. Cantwell
Email: jcantwell@flowassessment.com

RESOLUTION NO.: 218 - 2020

OF

SEPTEMBER 14, 2020

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND EXECUTE A CONTRACT WITH H2M ARCHITECTS AND ENGINEERS FOR PROFESSIONAL ENGINEERING DESIGN SERVICES AT A COST OF $79,800.00 IN THE CRESCENT AVENUE PUMP STATION RECONSTRUCTION PROJECT

WHEREAS, the City of Newburgh and the Town of Newburgh are parties to an Inter-Municipal Agreement providing for the upgrade of the Crescent Avenue Pump Station; and

WHEREAS, the City of Newburgh solicited proposals for professional engineering design services in the Crescent Avenue Pump Station Reconstruction Project (the "Project"); and

WHEREAS, H2M Architects and Engineers has submitted a proposal to assess existing conditions, compile and analyze data and develop a report and cost estimate for the design and reconstruction of the Project; and

WHEREAS, funding shall be in the amount of $79,800.00 and derived from 2020 Bond (Pump Stations) GL Account: HG1.8120.0208.0000.2020; and

WHEREAS, this Council has determined that authorizing the City Manager to execute a contract with H2M Architects and Engineers is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute a contract with H2M Architects and Engineers for professional engineering design services Crescent Avenue Pump Station Reconstruction Project.

I, Lorene Vitek, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held Sept. 14, 2020 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 15 day of Sept. 20 20

City Clerk

RESOLUTION NO.: 48 - 2021

OF

MARCH 22, 2021

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK PHASE II SUB-RECIPIENT GRANT AGREEMENT IN THE AMOUNT OF $409,209.00 WITH LEGAL SERVICES OF THE HUDSON VALLEY FOR CIVIL LEGAL, OUTREACH, AND ORGANIZATION SERVICES RELATED TO HOUSING STABILITY ISSUES IN THE CITY OF NEWBURGH

WHEREAS, by Resolution No. 227-2020 of September 28, 2020, the City Council authorized the City Manager to apply for and accept if awarded a Phase II New York State Anti-Displacement Learning Network grant from the Office of the New York State Attorney General and Enterprise Community Partners, Inc.; and

WHEREAS, the City of Newburgh partnered with the Newburgh Ministry, Legal Services of the Hudson Valley, and Community Voices Heard in making its application for the New York State Anti-Displacement Learning Network Phase II grant; and

WHEREAS, the City of Newburgh was awarded and entered into the New York State Anti-Displacement Learning Network Phase II grant agreement with the Office of the New York State Attorney General and Enterprise Community Partners, Inc.; and

WHEREAS, the grant program requires the City and sub-recipient grantees to use grant funds to prevent displacement and promote housing stability through increased access to civil legal, outreach, and organizing services for the most vulnerable City of Newburgh residents; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a sub-recipient grant agreement with Legal Services of the Hudson Valley to provide civil legal, outreach, and organization services for the most vulnerable City of Newburgh residents as set forth in the City's grant proposal; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a sub-recipient grant agreement with Legal Services of the Hudson Valley in the amount of $409,209.00, with all such terms and conditions as may be required by the Corporation Counsel, to provide civil legal, outreach, and organizing services related to housing stability issues for vulnerable City of Newburgh residents.

SUBGRANTEE AGREEMENT
NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK

This subgrantee agreement ("Agreement"), by and among the **CITY OF NEWBURGH, NEW YORK,** a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and **LEGAL SERVICES OF THE HUDSON VALLEY**, a not-for-profit corporation, having its principal place of business at 90 Maple Avenue, White Plains New York 10601 ("Sub-grantee"), is made this dated as of _____, 2021, as follows:

RECITALS

A. The City was awarded funds under the New York State Anti-Displacement Learning Network ("ADLN") program from Enterprise Community Partners ("Enterprise") (also referred to herein as "Grantor"), through the New York State Attorney General's Office ("AG").

B. The City has been duly designated to carry out activities authorized by the terms of the ADLN program, specifically to launch innovative programs related to reducing housing displacement, in the Grant Agreement with Enterprise.

C. One such program was designed to reimburse Legal Services of the Hudson Valley for costs incurred to Prevent displacement and promote stability through increased access to civil legal services for the most vulnerable City of Newburgh residents;

D. The Sub-grantee applied for funding as part of the City's application, which states the purpose, specific goals and objectives of its program, which is attached hereto and made a part of this Agreement as **Exhibit A**.

E. The Sub-grantee has agreed to the "Additional Provisions from Third Parties: New York State Anti-Displacement Learning Network," as set forth by Enterprise and made a part of this Agreement as **Exhibit B**.

F. The City has identified Sub-grantee as competent, willing, and able to perform the services contained in its proposal, and now wishes to engage the Sub-grantee to carry out the objectives of the program as stated in the Grant Agreement with Enterprise.

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

ARTICLE I AWARD

1. The City hereby awards a cost reimbursable subaward, as described above, to Sub-grantee. The statement of work and budget for this subaward are as shown in **Exhibit A**. In its performance of subaward work, Sub-grantee shall be an independent entity and not an employee or agent of the City.

ARTICLE II PAYMENT

1. Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this Agreement that the Agreement of the City to fund the subaward, shall be deemed executory to the extent that grant monies are available to it for the purpose of carrying out the terms of this subaward and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this Agreement.

2. Total payment under this Contract shall not exceed Four hundred and nine thousand, two hundred and nine dollars ($409,209) as payment for all eligible services incurred by Sub-grantee.

3. The City may withhold any payment whenever the Sub-grantee fails to achieve its program goals for the vouchered expenditure period.

ARTICLE III METHOD OF PAYMENT

1. Within thirty (30) days of the execution of this Agreement, and on a quarterly basis thereafter for the term of this Agreement, the City shall pay Sub-grantee eligible reimbursable costs.

2. Payment for services shall cease upon termination of the Agreement or upon the payment of the amount stated in Article II(2), whichever occurs first. All payments for services are to be made from grant funds.

3. The City shall reimburse Sub-grantee not more often than quarterly for allowable costs. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4th Floor, Newburgh, New York 12550.

4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of **December 31, 2022**. The final statement of costs shall constitute Sub-grantee's final financial report.

5. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of error, an audit finding, or other matter against the Sub-grantee.

ARTICLE IV TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Sub-grantee agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

DRAFT

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

Rachel C. Halperin, Esq.
Chief Executive Officer
Legal Services of the Hudson Valley
90 Maple Avenue
White Plains, NY 10601

2. In the event of termination as herein provided, any completed reports prepared by Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City, and such records shall be submitted to it.

3. In the event of termination, Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-grantee, the City may withhold from any payments due the Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by Sub-grantee.

ARTICLE V NO ASSIGNMENT

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

ARTICLE VI BOOKS AND RECORDS; REPORTS

1. Sub-grantee shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The City or the Grantor shall have access to the Records during normal business hours at an office within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

2. Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement at the termination of this Agreement. Sub-grantee shall also submit reports identifying prescribed activities funded under this Agreement upon request by the City while this Agreement is in effect.

DRAFT

ARTICLE VII CONFIDENTIAL INFORMATION

1. In the event that Sub-grantee, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Sub-grantee shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City's written permission. Sub-grantee agrees for a period of six (6) years to hold in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:

    a. was known to Sub-grantee prior to receipt from the City, as evidenced through written documentation;
    b. was or becomes a matter of public information or publicly available through no fault on the part of Sub-grantee;
    c. is acquired from a third party entitled to disclose the information to Sub-grantee;
    d. is developed independently by Sub-grantee;
    e. is required to be disclosed pursuant to law, regulation or court order. However, in the event of a demand for disclosure under law or court order, Sub-grantee shall not make such disclosure without prior written notice to the City and an adequate opportunity for the City to oppose such disclosure.

ARTICLE VIII INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

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

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

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

1. No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

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2. Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

1. No member or the New York State Assembly or Senate, or any other member of New York State government, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

1. Sub-grantee represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE X REPRESENTATIONS OF SUBGRANTEE

1. Sub-grantee acknowledges and agrees that services performed pursuant to this Agreement are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

2. Sub-grantee will not use funds under this Agreement to: (1) engage in activities that are other than for the purposes stated in the RFP; (2) attempt to influence legislation, by propaganda or otherwise; or (3) directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.

3. Sub-grantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, or any state department or agency. Sub-grantee agrees to comply with all applicable State and Federal regulations including, but not limited to, non-discrimination, rights of the handicapped and equal opportunity, during the performance of activities within this Agreement, including Title VI of the Civil Rights Act of 1964, and with Executive Order 11246, as amended by E.O. 11375 and 41 CFR, Part 60.

ARTICLE XI EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

ARTICLE XII FACILITIES AND PERSONNEL

1. Sub-grantee represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder.

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

ARTICLE XIII INDEMNIFICATION

1. Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act, or failure to act, of Sub-grantee or its agents, sub-contractors, servants or employees.

2. If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, Sub-grantee hereby agrees to hold harmless the City from and against any and all loss, expense, damage or injury whatsoever and indemnify the City from the same.

3. Sub-grantee shall procure and maintain at its own expense until final completion of this Agreement, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

    a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates

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covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.

b. Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:

i.	Property Damage Liability	$1,000,000 for each occurrence
ii.	Personal Injury Liability	$1,000,000 for each person $2,000,000 for each occurrence

4. The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

SECTION XIV NOTICES

1. Notices of any nature referred to in this agreement shall be in writing by certified mail, hand delivery. Notices shall be effective on the date of receipt.

   If to City:

   City of Newburgh
   Office of the Corporation Counsel
   83 Broadway, 2nd Floor
   Newburgh, New York 12550

   If to Sub-grantee

   Rachel C. Halperin, Esq.
   Chief Executive Officer
   Legal Services of the Hudson Valley
   90 Maple Avenue
   White Plains, NY 10601

SECTION XV MISCELLANEOUS

1. No changes may be made to this Agreement without written consent/amendment by the City.

2. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, directors or agents, to the extent allowed by law.

3. This Subaward shall be governed by the laws of the State of New York without regard to its choice of law provisions.

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4. Sub-grantee has read, acknowledged, and agreed to the additional specific terms in **Exhibit B**, which are incorporated by reference into this Agreement. Said terms are required by the Grantor in connection with the receipt of any grant funding. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) contained in **Exhibit B**, the term(s) contained in **Exhibit B** shall control and prevail.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.
[Signature page to follow]

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Signature Page
Subgrantee Agreement, ADLN Innovation Grant
City of Newburgh / Legal Services of the Hudson Valley

IN WITNESS WHEREOF, Sub-grantee and the City have executed this Agreement the day and year herein mentioned.

DATED: _____, 2021 CITY OF NEWBURGH

By: _____
Name: Joseph P. Donat
Title: City Manager

DATED: _____, 2021 Legal Services of the Hudson Valley

By: _____
Name: Rachel C. Halperin
Title: Chief Executive Officer

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

On this ____ day of _____, in the year 2021, before me personally appeared Joseph P. 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 person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

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

On this ____ day of _____, in the year 2021, before me personally appeared Rachel C. Halperin personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

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EXHIBIT A – SCOPE OF WORK AND BUDGET

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EXHIBIT B –
ADDITIONAL PROVISIONS FOR THIRD PARTIES
NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK

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Grant Recipient

Scope of Work Narrative – Exhibit A

Grantee Name and Address:
City of Newburgh
83 Broadway
Newburgh, NY 12550

Grant Number: 21SG2065

Period of Performance: January 1, 2020 to March 30, 2021
Final disbursement must be submitted to Enterprise within 30 days of the expiration of the Period of Performance as per the Terms and Conditions.

Abstract:

We will use the grant funds to prevent displacement and promote housing stability through increased access to civil legal services and outreach and organizing for the most vulnerable City of Newburgh residents.

Additionally:

- Grantee, Team Lead and Enterprise will participate in monthly check-in calls to discuss the progress of the Work Plan activities during the Grant's Period of Performance.
- ADLN team will participate in up to four additional learning sessions scheduled for early 2021.
- ADLN team will participate in quarterly calls with Enterprise and the other nine ADLN teams to share success/challenges during the grant period.
- Grantee and Team Lead will represent the team in attending an in-person meeting towards the end of the grant period, assuming public health guidance deems such a gathering advisable at that time.

Strategies:

1. Prevent displacement and promote stability through increased access to civil legal services for the most vulnerable City of Newburgh residents;

   The lack of affordable housing has led to an eviction and public health crisis that predates COVID. Instability and displacement forces individuals and their families into poor quality housing, overcrowding, and homelessness, all of which are associated with negative health including high blood pressure, depression, anxiety and psychological distress. COVID has only exacerbated these public health concerns. Last year, evictions in the city of Newburgh alone numbered 785. Without current data on evictions due to the eviction moratorium, it is anticipated that 30-40% of renters are behind on their rent nationally, indicating a flood of evictions that will far exceed last year's numbers when the moratorium is lifted. The vast majority of litigants lacked means to retain legal counsel and as a result, appeared, to their

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detriment, *pro se*, unable to meaningfully offer defenses or negotiate favorable outcomes. With only one attorney to staff City of Newburgh housing court, LSHV is able to represent a sliver of the households in need. This initiative will increase the number of attorneys available to represent households in need of legal assistance from one to three thus immediately reducing the number of evictions and ensuring the most vulnerable in Newburgh have access to the public benefits to which they are entitled. Civil legal services as an intervention has long been proven to successfully prevent displacement and promote long term community stability.

2. Displacement prevention through outreach, organizing, and tenant education;

   CVH will lead a tenant advocacy strategy to build resiliency through organizing, setting the stage long term effectiveness in reducing displacement. CVH was one of the leading organizations in Housing Justice for All, a campaign led by the Upstate Downstate Housing Alliance of tenant organizations fighting for tenant protections. In 2018, tenants from Newburgh participated at the state level for the first time. With a steady focus on improving housing conditions and access, CVH has engaged nearly 1,000 people in the past three years, about 70% of which are tenants. Approximately 400 renters have since joined CVH's chapter meetings, organizing training sessions and "Know Your Rights" presentations with LSHV, to network and become educated to advocate for better housing conditions. Newburgh CVH members are important advocates who were critical members of the movement which resulted in New York State's recent expansion of protections for tenants.

3. ADLN team will participate in the additional learning sessions Enterprise will coordinate to assess what levers the municipality can be pulling to more comprehensively support anti-displacement strategies.

The ADLN Team will hold monthly meetings that will be open to the public to provide updates on how the City and associated CBOs are implementing/stewarding these anti- displacement strategies on a systemic level. These meetings will be held virtually via zoom or a similar platform. These meetings will be essential in engaging community involvement in these strategies and ensure active stakeholders have opportunities to provide input and insight. Updates on the ADLN activities will be available on the City of Newburgh's webpage, and links will be provided to ADLN partner webpages with contact information on how to get involved or access services funded through ADLN.

Councilwoman Karen Mejia is directly elected and City Mayor Torrance Harvey is and will continue to be a participant in discussions.

Narrative and Activity Descriptions:

Legal Services of the Hudson Valley
LSHV has the benefit of a well-developed organizational infrastructure, which includes an active board of legal, business and client-eligible members; a lean, efficient administration; an established model of supervisor/attorney work product review to ensure quality services; and support staff to expand and

maximize productivity. In addition, LSHV has a well-developed and secure technology infrastructure that includes a case management system to capture time and effort, demographic information on clients served, level of service provided and outcomes of the cases. The vital information that is captured by our case management system offers a concrete and accessible means of conveying to funders how their dollars are being meaningfully utilized. Because we have supervisors at the program level, we set and adhere to standards that ensure quality legal services and community legal education.

Within 2 months of receipt of funding, LSHV will staff the ADLN funded positions and will thereafter handle a minimum of 300 cases on a rolling basis. Legal cases range in terms of the length of time needed to resolve, varying from a day to several years.

Community Voices Heard
Community Voices Heard will hire and train staff within 2 months of funding the positions. The Tenant organizer and intern will begin reaching out to tenants living in Wards 1 and 2.

A tenant survey tool will be developed for outreach to enhance the engagement process, but also to establish a baseline of issues facing tenants, the depth and breadth of the issues, and effects of COVID. The survey will assist CVH in defining the scope of follow up needed to effect change. Trainings including those in collaboration with LSHV will be scheduled for the duration of the grant period. Tenants will be invited to monthly organizing meetings and trainings. CVH will build a tenant organizing team to work with CVH leadership to identify and qualify local goals, content, and context in developing a Tenants' Bill of Rights. The Tenants Bill of Rights will further modify section 240 of the City of Newburgh City Code, to modify or add to Article II: Tenant Responsibility for Maintenance, otherwise known as the "Landlord Bill of Rights" See Newburgh City Code § 240-18 to 29.

Activity	Timeline	Deliverables/milestones by end of grant period	Narrative Description
Increased Legal Services	*2-14 months*	*300 Cases covered*	*Within 2 months of receipt of funding, LSHV will staff the ADLN funded positions and will thereafter handle a minimum of 300 cases on a rolling basis. Legal cases range in terms of the length of time needed to resolve, varying from a day to several years.*
Tenants Bill of Rights	*2-14 months*	*Tenants' Bill of Rights developed as an addition to Chapter 240 of the City Code.*	*CVH will create an organizing team of a senior organizer, intern and trainer to educate tenants understand their rights and take action culminating in establishing a tenants' union to work with local government to advance solutions such as rent stabilization, rent control, and a Tenants' Bill of Rights. The intention of this work would be to supplement Chapter 300 of the City Code, Zoning; and Chapter 240, Rental Properties. They will hold no less than 4 public tenant meetings, and 4 focus group meetings. This will be in addition to the monthly ADLN meeting which will*

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Grant Recipient

Scope of Work Narrative – Exhibit A

			be open to the public, and where organizers will be encouraged to attend.
Learning sessions	January 2021: Convene ADLN team to create timeline and visioning April 2021: Draft strategies Submit the additional strategy(ies), with the support of Enterprise, by May 2021. Starting May 2021: implement strategy	Proposed additional strategies to prevent displacement	The ADLN team will work with Enterprise to submit additional strategy(ies) for preventing displacement.

Budget Narrative:
See attached Exhibit B

- $409,209 – Legal Services of Hudson
- $195,000 - CVH
- $30,210 – Admin
- $365,581 - Engage in additional learning sessions, to be determined no later than June 2021. Funding is allocated for implementation of additional anti-displacement strategies & learning sessions as proposed by Grantee. Enterprise reserves the right to approve or deny any portion of Grantee's proposal for this portion of the award. Any portion not approved by Enterprise will result in a decrease of the total grant amount or may be redeployed to another, approved strategy. To be eligible to propose funding for this portion, Grantee will engage in additional learning sessions through Q1 2021 to assess what levers the municipality can be pulling to more systemically support anti-displacement strategies.

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Scope of Work Narrative – Exhibit A

MEASURABLE OUTCOMES

LSHV will handle a minimum of 300 housing and public benefits cases for advice and or representation on a rolling basis throughout the 14-month term, and will maintain metrics on numbers of evictions avoided, benefits obtained, incomes increased, and habitability issues addressed.

Survey data will illustrate tenant concerns and housing trends on an intimate scale which, and when coupled with the ongoing community engagement and relationship-building work, will inform content and design of a Tenants' Bill of Rights to be developed by CVH. Outreach is intended to reach 500 tenant residents, who represent 10% of the estimated 5000 rental housing units in the City. Although the final of this project may not be realized at the sunset of the ADLN Team's tenure, the document will be well underway in concept under the purview of the tenants' union. This document will be the draft ordinance to expand Chapter 240 of the City of Newburgh Code to better codify the rights of tenants, in addition to the current Article II, known as the "Landlord's Bill of Rights." This article may also be used to expand definitions and requirements in Chapter 300 of the City Code, the Zoning Code, to require certain types of housing in certain instances, otherwise known as "Inclusionary Zoning."

Learning Sessions: submitting a successfully funded additional strategy. Note: ADLN team will develop the strategy along with measurable outcomes to Enterprise in April or May 2021.

Additionally, three months before the end of the grant, December 31, the team will:

- produce a memo that outlines how community voice/partners will be more involved in city processes moving forward, for example an advisory board with community representatives.
- create a report/memo outlining other interventions (programmatic and/or policy) the team can recommend local stakeholders (i.e government, community-based organizations, etc.) to consider to build on the implemented strategies to tackle local displacement triggers and making the report publicly available.
- complete Enterprise survey to measure the overall impact of the strategies implemented and program.

Quarterly Payment Requisition Checklist

- Expense Report (for entire program budget). This report should detail how all project funds were spent. Any unspent funds and collected interest accruals should also be noted.
- Updated budget reflecting actual expenses and updated activities/deliverables for the upcoming quarter. This request should simply be a revised program budget projection for the upcoming quarter. It should be in the same form as the program budget originally submitted.
- A written narrative describing in further detail the activities and milestones achieved, as well as challenges encountered, during the last quarter, and expected activities and milestones for the upcoming quarter. Enterprise will provide a template.
- Back-up documentation of all expenses, including invoices, hiring reports. Resume and job description for Grantee staff positions filled during the quarter.

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New York State Anti-displacement Learning Network
Program Budget
Grantee Name: City of Newburgh

		Projections				
Staff	**Total Grant Budget**	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022
Salaries (list positions and % of time billed):						
LSHV Attorney 1: 100%	$99,167	$ 21,250	$ 21,250	$ 21,250	$ 21,250	$ 14,167
LSHV Attorney 2: 100%	$99,167	$ 21,250	$ 21,250	$ 21,250	$ 21,250	$ 14,167
LSHV Paralegal: 100%	$57,167	$ 12,250	$ 12,250	$ 12,250	$ 12,250	$ 8,167
LSHV Supervisor: 5%	$6,188	$ 1,326	$ 1,326	$ 1,326	$ 1,326	883.50
CVH Organizer: 100%, including fringe	$80,000	$ 16,000	$ 16,000	$ 16,000	$ 16,000	$ 16,000
CVH Intern: 100%, including fringe	$37,000	$ 7,400	$ 7,400	$ 7,400	$ 7,400	$ 7,400
CVH HV Organizing Director: 100%, including fringe	$60,000	$ 12,000	$ 12,000	$ 12,000	$ 12,000	$ 12,000
Total	**$ 438,688.00**	**$ 56,076.13**	**$ 56,076.13**	**$ 56,076.13**	**$ 56,076.13**	**$ 37,383.50**
Fringe Benefits (LSHV actual costs):	**$ 96,825.00**	$ 19,365	$ 19,365	$ 19,365	$ 19,365	$ 19,365
Uncommited - additional strategies via learning sessions	$ 365,581.00					
Admin/OPTS						
LSHV Program Admin	$ 20,450.00	$ 4,090	$ 4,090	$ 4,090	$ 4,090	$ 4,090
LSHV OTPS	$ 30,246.00	$ 6,049	$ 6,049	$ 6,049	$ 6,049	$ 6,049
CVH Rent & Supplies	$ 10,500.00	$ 2,100	$ 2,100	$ 2,100	$ 2,100	$ 2,100
CVH Community Engagement Expenses	$ 5,000.00	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000
CVH Phone and Internet	$ 2,500.00	$ 500	$ 500	$ 500	$ 500	$ 500
Total	$ 68,696.00	$ 13,739.20	$ 13,739.20	$ 13,739.20	$ 13,739.20	$ 13,739.20
Grant Admin	$ 30,210.00	$ 6,042	$ 6,042	$ 6,042	$ 6,042	$ 6,042
TOTAL	**$ 1,000,000.00**					

EXHIBIT B

Minimum Standards for Contractors
New York State Anti-Displacement Learning Network

All general contractors hired with Grant funding must meet the following minimum criteria:

- Be legally licensed in New York State
- Demonstrated prior experience in the rehabilitation or construction of housing in accordance with applicable codes, standards, rules, and regulations, including references from at least three relevant construction or rehabilitation projects within the past five years.
- Use of responsible and licensed subcontractors
- Evidence of insurance in accordance with the requirements set forth below
- Appropriate certifications by general contractor or sub-contractor for all lead-based paint and asbestos activities

General contractors and sub-contractors may not participate if they have a recent history of the following:

- Local, State, or Federal tax arrears
- Labor violations
- Arson, fraud, bribery, or grand larceny conviction or pending case
- A record of substantial building code violations or litigations on property controlled by the contractor or by any entity or individual that comprises the contracting entity
- Formal debarment or suspension from entering into contracts with any governmental agency or other notification or ineligibility for or prohibition against bidding or proposing on government contracts
- Denial of a contract based on any obligation to, or unsatisfied judgment or lien held by, a governmental agency

Contractor Insurance

Evidence of Environmental Pollution Liability (usually provided by the contractor doing remediation, if applicable) • $1,000,000 limit to new construction projects or demolition • naming the GRANTEE and ENTERPRISE COMMUNITY PARTNERS, INC. as an Additional Insured with Primary Non-Contributory language.
Certificate of Insurance (ACORD 25) evidencing Contractor's Commercial General Liability Insurance [applies to any contractor] • in amounts not less than $1,000,000 per occurrence/ per location, $2,000,000 in the annual aggregate, $2,000,000 products/completed operations aggregate • naming GRANTEE and ENTERPRISE COMMUNITY PARTNERS, INC. as an Additional Insured
Certificate of Insurance (ACORD 25) General Contractor's Auto • in amounts not less than $1,000,000 • naming ENTERPRISE COMMUNITY PARTNERS, INC. as Certificate holder.

REQUIREMENTS FOR ALL INSURANCE:

- Carrier must be rated “A-” or higher in the AM Best Guide with a Financial Size Category of at least VI,
- Named Insured must be Contractor’s full legal name,
- Policy must be current, not expired, and include all endorsements
- Certificate must be signed by an authorized representative of the insurance carrier,
- Additional Insured/ Certificate holder/ (as required above) must appear as the following for Enterprise:
  ENTERPRISE COMMUNITY PARTNERS, INC.
  1 Whitehall Street, 11th Floor
  New York, New York 10004
- Additional Insured for Grantee

For the purposes of insurance certificates, “Contractor” refers to any entity that contracts with Grantee or subcontracts with Contractor.

A note on General Liability Insurance: Commercial General Liability insurance naming Enterprise as Additional Insured is required for Grantee, as well as of any party responsible to complete the scope of work, directly or indirectly. By way of example, if the Grantee is reliant on one or more development partners to complete rehabilitation or construction work and the development partners in turn will be contracting with a general contractor, then both the development partners and the general contractor will be required to name Enterprise as Additional Insured on their Commercial General Liability insurance.

Additional Provisions for Third Parties
New York State Anti-Displacement Learning Network

These Additional Provisions are based on requirements of the grant agreement between ("Grantee") and Enterprise Community Partners, Inc. ("Enterprise") (the "Enterprise Prime Grant") related to the New York State Anti-Displacement Learning Network (the "Project").

These Additional Provisions apply to Grantee's Subcontractors, Grantee's Borrowers, and any Contractor who is assisting Grantee with the Project and the payment for which is funded in whole or in part by monies available under the Enterprise Prime Grant (the "Grant Proceeds"). The Third Party must comply with such Additional Provisions as applicable and to the extent feasible, given the role of the Third Party. These Additional Provisions are to be attached to and incorporated by reference into, as applicable, the contract or loan documents entered into by Grantee and the Third Party for the Project (each, a "Contract"). If there is a conflict between the provisions of the Contract and the provisions of these Additional Provisions, these Additional Provisions shall control.

Regulatory Restrictions

A. Equal Opportunity

The Third Party represents that, in conducting the activities described in the Contract, the Third Party shall not and will not discriminate in its respective activities and operations on the basis of age, race, creed, ethnicity, color, religion, sex, sexual orientation, national origin, disability, marital status or any other basis that is prohibited by the United States federal, state or local law.

B. Sanctions

The Third Party agrees that Grant Proceeds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224. The Third Party and any of its parent entities or subsidiaries or, to the knowledge of the Third Party, any director, officer, agent, employee or affiliate of the Third Party, as applicable, or any of the Third Party's parent entities or subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury (or any successor thereto) ("OFAC"), or other relevant sanctions authority (collectively, "Sanctions"), and the Third Party will not directly or indirectly use the Grant Proceeds, or lend, contribute or otherwise make available such proceeds to any parent entity, subsidiary, affiliate, joint venture partner or other person or entity (i) to fund any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or (ii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. By signing the Contract, the Third Party represents that neither the Third Party nor any principal of the Third Party, nor any person or entity owning a direct or indirect interest in or having a direct control over the Third Party is a person or entity that is named as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets

control at its official website: http://www.treas.gov/ofac/t11sdn.pdf.

The Third Party represents and warrants that, in connection with its dealings with Grantee, the Third Party shall not directly or indirectly deal with a person, entity or any other party (including official or de facto authorities) that are:

(a) located, domiciled, resident, incorporated or operating in a country/region subject from time to time to any sanctions and/or trade embargoes administrated by any Sanctioning Authority, as well as any other country designated by OFAC or notified by Enterprise as a "Sanctioned Country"; or

(b) subject to any sanctions lists administrated by authority responsible for the administration of sanctions and embargoes in the United Nations, the European Union, Switzerland, United States (Office of Foreign Assets Control of the US Department of Treasury) and in any other applicable country notified from time to time by Enterprise (each a "Sanctioning Authority"); or

(c) owned or controlled by a person, entity or any other party as defined in (a) or (b) above, (collectively, "Restricted Parties") and that neither it nor its directors, officers, agents or employees are Restricted Parties.

C. <u>Nondiscrimination; Compliance with Fair Housing Act and Equal Credit Opportunity Act</u>

The Third Party shall not discriminate in its respective activities and operations in connection with the Contract on the basis of age, race, creed, ethnicity, color, religion, sex, sexual orientation, national origin, disability, marital status or any other basis that is prohibited by the United States federal, state, or local law or regulation. The Third Party expressly agrees not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, or any regulation promulgated thereto.

The Third Party shall require that its sub-contractors receiving Grant Proceeds to comply with the obligations set forth in this section, including by providing their express agreement not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, or any regulation promulgated thereto.

D. <u>Compliance with Law and Prohibited Uses</u>

The Third Party shall comply with all federal, state, and local laws and regulations related to its performance of fulfillment of any acts, duties or obligations under the Contract or otherwise generally applicable to the Third Party and its respective organizations and activities. Any construction, demolition or rehabilitation of real property performed in connection with the Contract shall be in compliance with all applicable laws, rules, restrictions, orders and regulations, including but not limited to, environmental laws and regulations and locally accepted construction practices.

E. <u>Anti-Corruption/Bribery</u>

The Third Party represents and warrants that it is familiar with and is in compliance with the Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C. § 78dd-1, et seq.) (as amended) and shall not engage in any form of bribery, collusive practice or any other form of corruption, nor will such organizations extort, solicit, receive, offer, promise or give any undue financial or other advantage, directly or indirectly, in connection with any of its dealings under the Contract. Furthermore, neither the Third Party nor any person acting on its behalf shall authorize the giving of, offer, or give anything of value to any official or employee of the government or any state-owned entity, any agent or representative of the foregoing, or any other person (including any Enterprise, Grantee or any employee, the Third Party or agent) to improperly obtain, retain, or direct business or any improper advantage for or to any person.

F. Lobbying and Political Activity

The Third Party shall not use any funds disbursed to it under the Contract for any political campaign or to influence the outcome of any election, to carry on propaganda, to lobby or otherwise attempt to influence legislation or the outcome of any specific public election, to carry on directly or indirectly, any voter registrations drive or to conduct any activities described in Sections 4945(d) and (e) of the United States Internal Revenue Code of 1986, as amended (the "Code") and the Treasury Regulations promulgated thereunder.

Third Party Subcontracting

A. Any subcontractor, consultant or other entity retained by the Third Party to provide services funded by the Grant Proceeds (such provider(s) retained by the Third Party, referred to as "sub-subcontractor(s)") must comply with these Additional Provisions. The Third Party shall incorporate by reference into any of its contracts with sub-subcontractors (each a, "sub-subcontracts") these Additional Provisions.

B. The Third Party shall take full responsibility for the acts and omissions of its sub-subcontractors.

C. Grantee may request from the Third Party copies of sub-subcontracts between the Third Party and its sub-subcontractors to verify that the Additional Provisions have been included.

D. The Third Party shall not make any disbursements to its sub-subcontractors for work performed pursuant without a duly executed contract (including the Additional Provisions), invoices, receipts or other appropriate supporting documentation evidencing such party's work and services ("Supporting Documentation"). Grantee may request copies of Supporting Documentation at any time.

Environmental Review

As applicable, when construction, demolition or rehabilitation of real property is involved, the Third Party shall undertake satisfactory completion of an environmental review in compliance with the scope and limitations of ASTM Practice E 1527-05 Phase I Environmental Site Assessment standard as a condition to payment under the Contract. For single family properties, not adjacent to uses that may have an environmental impact, a National Environmental Policy Act (NEPA) review in accordance with HUD Environmental Standards, in particular a review of toxic or hazardous substances and radioactive materials in similar scope to HUD Notice 79-33, and a review of siting for HUD-Assisted Projects near Hazardous Operations, pursuant to 24 CFR 51 C, will be accepted in lieu of a Phase I Environmental Site Assessment. If a NEPA review cannot be performed, Grantee may accept, at its discretion, a review performed by an environmental officer in the local jurisdiction referencing history or evidence of spills, evidence of tanks, vegetation damage, flood plain, noise abatement/control issues in the area, presence of lead and asbestos, and other environmental risk factors. The officer must state that there is no evidence of

hazardous materials, contamination, chemicals, gases, or other environmental risk factors.

Representations, Warranties and Covenants.
The Third Party represents and warrants that:

a. The Third Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation;
b. All authorizations, consents, approvals and licenses of, and filings and registrations with, any governmental authority required under applicable law or regulations for the Third Party to make and perform the Contract have been obtained and are in full force and effect. Particularly, for construction, demolition or rehabilitation of real property, the Third Party is legally licensed in New York State and, if applicable, is appropriately certified for all lead-based paint and asbestos activities;
c. The Third Party maintains and will maintain throughout the term of the Contract the insurance requirements required by Grantee;
d. The Third Party has no recent history of the following:
    (i) Local, State, or Federal tax arrears
    (ii) Labor violations
    (iii) Arson, fraud, bribery, or grand larceny conviction or pending case
    (iv) A record of substantial building code violations or litigation on property controlled by the Third Party or by any entity or individual that comprises the contracting entity
    (v) Formal debarment or suspension from entering into contracts with any governmental agency or other notification or ineligibility for or prohibition against bidding or proposing on government contracts
    (vi) Denial of a contract based on any obligation to, or unsatisfied judgment or lien held by, a governmental agency

The foregoing representations and warranties shall remain in full force as of the date hereinabove and on each date that a disbursement of Grant Proceeds is made to the Third Party or its designee pursuant to the Contract.

Indemnification
The Third Party, intending to be legally bound, hereby expressly agrees and covenants to hold harmless and indemnify Enterprise, Department of Housing Preservation and Development (HPD), Grantee, and their respective directors, officers, agents and employees (the "Indemnified Parties") from and against any and all third party costs, losses, actions, liability, demands, claims, damages and expenses of any nature or any kind (including, but not limited to, indebtedness, penalties, fines, Indemnified Parties' costs and reasonable legal fees) that arise out of the Contract or any act or omission of Third Party or of any of its respective employees or agents, except to the extent any such costs, liability, demands, claims, damages or expenses result from an Indemnified Party's gross negligence or willful misconduct. The Third Party's obligations under this section shall survive termination of the Contract.

Third Party Beneficiaries
Nothing in the Contract, expressed or implied, is intended to confer upon any person other than Grantee and the Third Party or their respective successors, any rights, remedies, obligations or liabilities under or by reason of the Contract. Nothing in the Contract shall create an independent right of action by the Third Party or any of its sub-subcontractors against Enterprise, nor provide the Third Party or any of its sub-subcontractors with beneficiary status with respect to Enterprise.

RESOLUTION NO.: 49 - 2021

OF

MARCH 22, 2021

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK PHASE II SUB-RECIPIENT GRANT AGREEMENT IN THE AMOUNT OF $195,000.00 WITH COMMUNITY VOICES HEARD FOR OUTREACH AND ORGANIZATION SERVICES RELATED TO HOUSING STABILITY ISSUES IN THE CITY OF NEWBURGH

WHEREAS, by Resolution No. 227-2020 of September 28, 2020, the City Council authorized the City Manager to apply for and accept if awarded a Phase II New York State Anti-Displacement Learning Network grant from the Office of the New York State Attorney General and Enterprise Community Partners, Inc.; and

WHEREAS, the City of Newburgh partnered with the Newburgh Ministry, Legal Services of the Hudson Valley, and Community Voices Heard in making its application for the New York State Anti-Displacement Learning Network Phase II grant; and

WHEREAS, the City of Newburgh was awarded and entered into the New York State Anti-Displacement Learning Network Phase II grant agreement with the Office of the New York State Attorney General and Enterprise Community Partners, Inc.; and

WHEREAS, the grant program requires the City and sub-recipient grantees to use grant funds to prevent displacement and promote housing stability through increased access to civil legal services, outreach, and organizing for the most vulnerable City of Newburgh residents; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a sub-recipient grant agreement with Community Voices Heard to provide outreach and organization services for the most vulnerable City of Newburgh residents as set forth in the City's grant proposal; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a sub-recipient grant agreement with Community Voices Heard in the amount of $195,000.00, with all such terms and conditions as may be required by the Corporation Counsel, to provide outreach and organization services related to housing stability issues for vulnerable City of Newburgh residents.

SUBGRANTEE AGREEMENT, NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK

This subgrantee agreement ("Agreement"), by and among the **CITY OF NEWBURGH, NEW YORK,** a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and **COMMUNITY VOICES HEARD**, a not-for-profit corporation, having its principal place of business at 388 Ann Street, 1st Floor, Newburgh, NY 12550 ("Sub-grantee"), is made this dated as of _____, 2021, as follows:

RECITALS

A. The City was awarded funds under the New York State Anti-Displacement Learning Network ("ADLN") program from Enterprise Community Partners ("Enterprise") (also referred to herein as "Grantor"), through the New York State Attorney General's Office ("AG").

B. The City has been duly designated to carry out activities authorized by the terms of the ADLN program, specifically to launch innovative programs related to reducing housing displacement, in the Grant Agreement with Enterprise.

C. One such program was designed to reimburse Legal Services of the Hudson Valley for costs incurred to provide displacement prevention through outreach, organizing, and tenant education;

D. The Sub-grantee applied for funding as part of the City's application, which states the purpose, specific goals and objectives of its program, which is attached hereto and made a part of this Agreement as **Exhibit A**.

E. The Sub-grantee has agreed to the "Additional Provisions from Third Parties: New York State Anti-Displacement Learning Network," as set forth by Enterprise and made a part of this Agreement as **Exhibit B**.

F. The City has identified Sub-grantee as competent, willing, and able to perform the services contained in its proposal, and now wishes to engage the Sub-grantee to carry out the objectives of the program as stated in the Grant Agreement with Enterprise.

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

ARTICLE I AWARD

1. The City hereby awards a cost reimbursable subaward, as described above, to Sub-grantee. The statement of work and budget for this subaward are as shown in **Exhibit A**. In its performance of subaward work, Sub-grantee shall be an independent entity and not an employee or agent of the City.

ARTICLE II PAYMENT

1. Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this Agreement that the Agreement of the City to fund the subaward, shall be deemed executory to the extent that grant monies are available to it for the purpose of carrying out the terms of this subaward and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this Agreement.

2. Total payment under this Contract shall not exceed One-hundred and ninety-five thousand dollars ($195,000) as payment for all eligible services incurred by Sub-grantee.

3. The City may withhold any payment whenever the Sub-grantee fails to achieve its program goals for the vouchered expenditure period.

ARTICLE III METHOD OF PAYMENT

1. Within thirty (30) days of the execution of this Agreement, and on a quarterly basis thereafter for the term of this Agreement, the City shall pay Sub-grantee eligible reimbursable costs.

2. Payment for services shall cease upon termination of the Agreement or upon the payment of the amount stated in Article II(2), whichever occurs first. All payments for services are to be made from grant funds.

3. The City shall reimburse Sub-grantee not more often than quarterly for allowable costs. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4th Floor, Newburgh, New York 12550.

4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of **December 31, 2022**. The final statement of costs shall constitute Sub-grantee's final financial report.

5. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of error, an audit finding, or other matter against the Sub-grantee.

ARTICLE IV TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Sub-grantee agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

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If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

Community Voices Heard
attn.: Juanita Lewis
388 Ann Street, 1st Floor
Newburgh, New York 12550

2. In the event of termination as herein provided, any completed reports prepared by Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City, and such records shall be submitted to it.

3. In the event of termination, Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-grantee, the City may withhold from any payments due the Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by Sub-grantee.

ARTICLE V NO ASSIGNMENT

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

ARTICLE VI BOOKS AND RECORDS; REPORTS

1. Sub-grantee shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The City or the Grantor shall have access to the Records during normal business hours at an office within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

2. Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement at the termination of this Agreement. Sub-grantee shall also submit reports identifying prescribed activities funded under this Agreement upon request by the City while this Agreement is in effect.

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ARTICLE VII CONFIDENTIAL INFORMATION

1. In the event that Sub-grantee, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Sub-grantee shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City's written permission. Sub-grantee agrees for a period of six (6) years to hold in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:

    a. was known to Sub-grantee prior to receipt from the City, as evidenced through written documentation;
    b. was or becomes a matter of public information or publicly available through no fault on the part of Sub-grantee;
    c. is acquired from a third party entitled to disclose the information to Sub-grantee;
    d. is developed independently by Sub-grantee;
    e. is required to be disclosed pursuant to law, regulation or court order. However, in the event of a demand for disclosure under law or court order, Sub-grantee shall not make such disclosure without prior written notice to the City and an adequate opportunity for the City to oppose such disclosure.

ARTICLE VIII INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

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

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

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

1. No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Cities RISE gran program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

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2. Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

1. No member or the New York State Assembly or Senate, or any other member of New York State government, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

1. Sub-grantee represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE X REPRESENTATIONS OF SUBGRANTEE

1. Sub-grantee acknowledges and agrees that services performed pursuant to this Agreement are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.

2. Sub-grantee will not use funds under this Agreement to: (1) engage in activities that are other than for the purposes stated in the RFP; (2) attempt to influence legislation, by propaganda or otherwise; or (3) directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.

3. Sub-grantee certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, or any state department or agency. Sub-grantee agrees to comply with all applicable State and Federal regulations including, but not limited to, non-discrimination, rights of the handicapped and equal opportunity, during the performance of activities within this Agreement, including Title VI of the Civil Rights Act of 1964, and with Executive Order 11246, as amended by E.O. 11375 and 41 CFR, Part 60.

ARTICLE XI EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

ARTICLE XII FACILITIES AND PERSONNEL

1. Sub-grantee represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder.

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

ARTICLE XIII INDEMNIFICATION

1. Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act, or failure to act, of Sub-grantee or its agents, sub-contractors, servants or employees.

2. If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, Sub-grantee hereby agrees to hold harmless the City from and against any and all loss, expense, damage or injury whatsoever and indemnify the City from the same.

3. Sub-grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

    a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates

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covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.

b. Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:

i.	Property Damage Liability	$1,000,000 for each occurrence
ii.	Personal Injury Liability	$1,000,000 for each person $2,000,000 for each occurrence

4. The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

SECTION XIV NOTICES

1. Notices of any nature referred to in this agreement shall be in writing by certified mail, hand delivery, or sent by facsimile. Notices shall be effective on the date of receipt.

If to City:

City of Newburgh
Office of the Corporation Counsel
83 Broadway, 2nd Floor
Newburgh, New York 12550

If to Sub-grantee

Community Voices Heard
attn.: Juanita Lewis
388 Ann Street, 1st Floor
Newburgh, New York 12550

SECTION XV MISCELLANEOUS

1. No changes may be made to this Agreement without written consent/amendment by the City.

2. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, directors or agents, to the extent allowed by law.

3. This Subaward shall be governed by the laws of the State of New York without regard to its choice of law provisions.

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4. Sub-grantee has read, acknowledged, and agreed to the additional specific terms in **Exhibit B**, which are incorporated by reference into this Agreement. Said terms are required by the Grantor in connection with the receipt of any grant funding. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) contained in **Exhibit B**, the term(s) contained in **Exhibit B** shall control and prevail.

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[Signature page to follow]

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Signature Page
Subgrantee Agreement, ADLN Innovation Grant
City of Newburgh / Community Voices Heard

IN WITNESS WHEREOF, Sub-grantee and the City have executed this Agreement the day and year herein mentioned.

DATED: _____, 2021 CITY OF NEWBURGH

By: _____
Name: Joseph P. Donat
Title: City Manager

DATED: _____, 2021 Community Voices Heard

By: _____
Name: Juanita Lewis
Title: _____

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

On this ____ day of _____, in the year 2021, before me personally appeared Joseph P. 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 person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

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

On this ____ day of _____, in the year 2021, before me personally appeared Juanita Lewis personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

_____
NOTARY PUBLIC

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EXHIBIT A – SCOPE OF SERVICES

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EXHIBIT B –
ADDITIONAL PROVISIONS FOR THIRD PARTIES
NEW YORK STATE ANTI-DISPLACEMENT LEARNING NETWORK

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Enterprise

Grant Recipient

Scope of Work Narrative – Exhibit A

Grantee Name and Address:
City of Newburgh
83 Broadway
Newburgh, NY 12550

Grant Number: 21SG2065

Period of Performance: January 1, 2020 to March 30, 2021
Final disbursement must be submitted to Enterprise within 30 days of the expiration of the Period of Performance as per the Terms and Conditions.

Abstract:

We will use the grant funds to prevent displacement and promote housing stability through increased access to civil legal services and outreach and organizing for the most vulnerable City of Newburgh residents.

Additionally:

- Grantee, Team Lead and Enterprise will participate in monthly check-in calls to discuss the progress of the Work Plan activities during the Grant's Period of Performance.
- ADLN team will participate in up to four additional learning sessions scheduled for early 2021.
- ADLN team will participate in quarterly calls with Enterprise and the other nine ADLN teams to share success/challenges during the grant period.
- Grantee and Team Lead will represent the team in attending an in-person meeting towards the end of the grant period, assuming public health guidance deems such a gathering advisable at that time.

Strategies:

1. Prevent displacement and promote stability through increased access to civil legal services for the most vulnerable City of Newburgh residents;

   The lack of affordable housing has led to an eviction and public health crisis that predates COVID. Instability and displacement forces individuals and their families into poor quality housing, overcrowding, and homelessness, all of which are associated with negative health including high blood pressure, depression, anxiety and psychological distress. COVID has only exacerbated these public health concerns. Last year, evictions in the city of Newburgh alone numbered 785. Without current data on evictions due to the eviction moratorium, it is anticipated that 30-40% of renters are behind on their rent nationally, indicating a flood of evictions that will far exceed last year's numbers when the moratorium is lifted. The vast majority of litigants lacked means to retain legal counsel and as a result, appeared, to their

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detriment, *pro se*, unable to meaningfully offer defenses or negotiate favorable outcomes. With only one attorney to staff City of Newburgh housing court, LSHV is able to represent a sliver of the households in need. This initiative will increase the number of attorneys available to represent households in need of legal assistance from one to three thus immediately reducing the number of evictions and ensuring the most vulnerable in Newburgh have access to the public benefits to which they are entitled. Civil legal services as an intervention has long been proven to successfully prevent displacement and promote long term community stability.

2. Displacement prevention through outreach, organizing, and tenant education;

   CVH will lead a tenant advocacy strategy to build resiliency through organizing, setting the stage long term effectiveness in reducing displacement. CVH was one of the leading organizations in Housing Justice for All, a campaign led by the Upstate Downstate Housing Alliance of tenant organizations fighting for tenant protections. In 2018, tenants from Newburgh participated at the state level for the first time. With a steady focus on improving housing conditions and access, CVH has engaged nearly 1,000 people in the past three years, about 70% of which are tenants. Approximately 400 renters have since joined CVH's chapter meetings, organizing training sessions and "Know Your Rights" presentations with LSHV, to network and become educated to advocate for better housing conditions. Newburgh CVH members are important advocates who were critical members of the movement which resulted in New York State's recent expansion of protections for tenants.

3. ADLN team will participate in the additional learning sessions Enterprise will coordinate to assess what levers the municipality can be pulling to more comprehensively support anti-displacement strategies.

The ADLN Team will hold monthly meetings that will be open to the public to provide updates on how the City and associated CBOs are implementing/stewarding these anti- displacement strategies on a systemic level. These meetings will be held virtually via zoom or a similar platform. These meetings will be essential in engaging community involvement in these strategies and ensure active stakeholders have opportunities to provide input and insight. Updates on the ADLN activities will be available on the City of Newburgh's webpage, and links will be provided to ADLN partner webpages with contact information on how to get involved or access services funded through ADLN.

Councilwoman Karen Mejia is directly elected and City Mayor Torrance Harvey is and will continue to be a participant in discussions.

Narrative and Activity Descriptions:

Legal Services of the Hudson Valley
LSHV has the benefit of a well-developed organizational infrastructure, which includes an active board of legal, business and client-eligible members; a lean, efficient administration; an established model of supervisor/attorney work product review to ensure quality services; and support staff to expand and

maximize productivity. In addition, LSHV has a well-developed and secure technology infrastructure that includes a case management system to capture time and effort, demographic information on clients served, level of service provided and outcomes of the cases. The vital information that is captured by our case management system offers a concrete and accessible means of conveying to funders how their dollars are being meaningfully utilized. Because we have supervisors at the program level, we set and adhere to standards that ensure quality legal services and community legal education.

Within 2 months of receipt of funding, LSHV will staff the ADLN funded positions and will thereafter handle a minimum of 300 cases on a rolling basis. Legal cases range in terms of the length of time needed to resolve, varying from a day to several years.

Community Voices Heard
Community Voices Heard will hire and train staff within 2 months of funding the positions. The Tenant organizer and intern will begin reaching out to tenants living in Wards 1 and 2.

A tenant survey tool will be developed for outreach to enhance the engagement process, but also to establish a baseline of issues facing tenants, the depth and breadth of the issues, and effects of COVID. The survey will assist CVH in defining the scope of follow up needed to effect change. Trainings including those in collaboration with LSHV will be scheduled for the duration of the grant period. Tenants will be invited to monthly organizing meetings and trainings. CVH will build a tenant organizing team to work with CVH leadership to identify and qualify local goals, content, and context in developing a Tenants' Bill of Rights. The Tenants Bill of Rights will further modify section 240 of the City of Newburgh City Code, to modify or add to Article II: Tenant Responsibility for Maintenance, otherwise known as the "Landlord Bill of Rights" See Newburgh City Code § 240-18 to 29.

Activity	Timeline	Deliverables/milestones by end of grant period	Narrative Description
Increased Legal Services	*2-14 months*	*300 Cases covered*	*Within 2 months of receipt of funding, LSHV will staff the ADLN funded positions and will thereafter handle a minimum of 300 cases on a rolling basis. Legal cases range in terms of the length of time needed to resolve, varying from a day to several years.*
Tenants Bill of Rights	*2-14 months*	*Tenants' Bill of Rights developed as an addition to Chapter 240 of the City Code.*	*CVH will create an organizing team of a senior organizer, intern and trainer to educate tenants understand their rights and take action culminating in establishing a tenants' union to work with local government to advance solutions such as rent stabilization, rent control, and a Tenants' Bill of Rights. The intention of this work would be to supplement Chapter 300 of the City Code, Zoning; and Chapter 240, Rental Properties. They will hold no less than 4 public tenant meetings, and 4 focus group meetings. This will be in addition to the monthly ADLN meeting which will*

			be open to the public, and where organizers will be encouraged to attend.
Learning sessions	January 2021: Convene ADLN team to create timeline and visioning April 2021: Draft strategies Submit the additional strategy(ies), with the support of Enterprise, by May 2021. Starting May 2021: implement strategy	Proposed additional strategies to prevent displacement	The ADLN team will work with Enterprise to submit additional strategy(ies) for preventing displacement.

Budget Narrative:
See attached Exhibit B

- $409,209 – Legal Services of Hudson
- $195,000 - CVH
- $30,210 – Admin
- $365,581 - Engage in additional learning sessions, to be determined no later than June 2021. Funding is allocated for implementation of additional anti-displacement strategies & learning sessions as proposed by Grantee. Enterprise reserves the right to approve or deny any portion of Grantee's proposal for this portion of the award. Any portion not approved by Enterprise will result in a decrease of the total grant amount or may be redeployed to another, approved strategy. To be eligible to propose funding for this portion, Grantee will engage in additional learning sessions through Q1 2021 to assess what levers the municipality can be pulling to more systemically support anti-displacement strategies.

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Enterprise™

Grant Recipient

Scope of Work Narrative – Exhibit A

MEASURABLE OUTCOMES

LSHV will handle a minimum of 300 housing and public benefits cases for advice and or representation on a rolling basis throughout the 14-month term, and will maintain metrics on numbers of evictions avoided, benefits obtained, incomes increased, and habitability issues addressed.

Survey data will illustrate tenant concerns and housing trends on an intimate scale which, and when coupled with the ongoing community engagement and relationship-building work, will inform content and design of a Tenants' Bill of Rights to be developed by CVH. Outreach is intended to reach 500 tenant residents, who represent 10% of the estimated 5000 rental housing units in the City. Although the final of this project may not be realized at the sunset of the ADLN Team's tenure, the document will be well underway in concept under the purview of the tenants' union. This document will be the draft ordinance to expand Chapter 240 of the City of Newburgh Code to better codify the rights of tenants, in addition to the current Article II, known as the "Landlord's Bill of Rights." This article may also be used to expand definitions and requirements in Chapter 300 of the City Code, the Zoning Code, to require certain types of housing in certain instances, otherwise known as "Inclusionary Zoning."

Learning Sessions: submitting a successfully funded additional strategy. Note: ADLN team will develop the strategy along with measurable outcomes to Enterprise in April or May 2021.

Additionally, three months before the end of the grant, December 31, the team will:

- produce a memo that outlines how community voice/partners will be more involved in city processes moving forward, for example an advisory board with community representatives.
- create a report/memo outlining other interventions (programmatic and/or policy) the team can recommend local stakeholders (i.e government, community-based organizations, etc.) to consider to build on the implemented strategies to tackle local displacement triggers and making the report publicly available.
- complete Enterprise survey to measure the overall impact of the strategies implemented and program.

Quarterly Payment Requisition Checklist

- Expense Report (for entire program budget). This report should detail how all project funds were spent. Any unspent funds and collected interest accruals should also be noted.
- Updated budget reflecting actual expenses and updated activities/deliverables for the upcoming quarter. This request should simply be a revised program budget projection for the upcoming quarter. It should be in the same form as the program budget originally submitted.
- A written narrative describing in further detail the activities and milestones achieved, as well as challenges encountered, during the last quarter, and expected activities and milestones for the upcoming quarter. Enterprise will provide a template.
- Back-up documentation of all expenses, including invoices, hiring reports. Resume and job description for Grantee staff positions filled during the quarter.

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New York State Anti-displacement Learning Network
Program Budget
Grantee Name: City of Newburgh

		Projections				
Staff	**Total Grant Budget**	Q1 2021	Q2 2021	Q3 2021	Q4 2021	Q1 2022
Salaries (list positions and % of time billed):						
LSHV Attorney 1: 100%	$99,167	$ 21,250	$ 21,250	$ 21,250	$ 21,250	$ 14,167
LSHV Attorney 2: 100%	$99,167	$ 21,250	$ 21,250	$ 21,250	$ 21,250	$ 14,167
LSHV Paralegal: 100%	$57,167	$ 12,250	$ 12,250	$ 12,250	$ 12,250	$ 8,167
LSHV Supervisor: 5%	$6,188	$ 1,326	$ 1,326	$ 1,326	$ 1,326	883.50
CVH Organizer: 100%, including fringe	$80,000	$ 16,000	$ 16,000	$ 16,000	$ 16,000	$ 16,000
CVH Intern: 100%, including fringe	$37,000	$ 7,400	$ 7,400	$ 7,400	$ 7,400	$ 7,400
CVH HV Organizing Director: 100%, including fringe	$60,000	$ 12,000	$ 12,000	$ 12,000	$ 12,000	$ 12,000
Total	**$ 438,688.00**	**$ 56,076.13**	**$ 56,076.13**	**$ 56,076.13**	**$ 56,076.13**	**$ 37,383.50**
Fringe Benefits (LSHV actual costs):	**$ 96,825.00**	$ 19,365	$ 19,365	$ 19,365	$ 19,365	$ 19,365
Uncommited - additional strategies via learning sessions	$ 365,581.00					
Admin/OPTS						
LSHV Program Admin	$ 20,450.00	$ 4,090	$ 4,090	$ 4,090	$ 4,090	$ 4,090
LSHV OTPS	$ 30,246.00	$ 6,049	$ 6,049	$ 6,049	$ 6,049	$ 6,049
CVH Rent & Supplies	$ 10,500.00	$ 2,100	$ 2,100	$ 2,100	$ 2,100	$ 2,100
CVH Community Engagement Expenses	$ 5,000.00	$ 1,000	$ 1,000	$ 1,000	$ 1,000	$ 1,000
CVH Phone and Internet	$ 2,500.00	$ 500	$ 500	$ 500	$ 500	$ 500
Total	$ 68,696.00	$ 13,739.20	$ 13,739.20	$ 13,739.20	$ 13,739.20	$ 13,739.20
Grant Admin	$ 30,210.00	$ 6,042	$ 6,042	$ 6,042	$ 6,042	$ 6,042
TOTAL	**$ 1,000,000.00**					

EXHIBIT B

Minimum Standards for Contractors
New York State Anti-Displacement Learning Network

All general contractors hired with Grant funding must meet the following minimum criteria:

- Be legally licensed in New York State
- Demonstrated prior experience in the rehabilitation or construction of housing in accordance with applicable codes, standards, rules, and regulations, including references from at least three relevant construction or rehabilitation projects within the past five years.
- Use of responsible and licensed subcontractors
- Evidence of insurance in accordance with the requirements set forth below
- Appropriate certifications by general contractor or sub-contractor for all lead-based paint and asbestos activities

General contractors and sub-contractors may not participate if they have a recent history of the following:

- Local, State, or Federal tax arrears
- Labor violations
- Arson, fraud, bribery, or grand larceny conviction or pending case
- A record of substantial building code violations or litigations on property controlled by the contractor or by any entity or individual that comprises the contracting entity
- Formal debarment or suspension from entering into contracts with any governmental agency or other notification or ineligibility for or prohibition against bidding or proposing on government contracts
- Denial of a contract based on any obligation to, or unsatisfied judgment or lien held by, a governmental agency

Contractor Insurance

Evidence of Environmental Pollution Liability (usually provided by the contractor doing remediation, if applicable) • $1,000,000 limit to new construction projects or demolition • naming the GRANTEE and ENTERPRISE COMMUNITY PARTNERS, INC. as an Additional Insured with Primary Non-Contributory language.
Certificate of Insurance (ACORD 25) evidencing Contractor's Commercial General Liability Insurance [applies to any contractor] • in amounts not less than $1,000,000 per occurrence/ per location, $2,000,000 in the annual aggregate, $2,000,000 products/completed operations aggregate • naming GRANTEE and ENTERPRISE COMMUNITY PARTNERS, INC. as an Additional Insured
Certificate of Insurance (ACORD 25) General Contractor's Auto • in amounts not less than $1,000,000 • naming ENTERPRISE COMMUNITY PARTNERS, INC. as Certificate holder.

REQUIREMENTS FOR ALL INSURANCE:

- Carrier must be rated “A-” or higher in the AM Best Guide with a Financial Size Category of at least VI,
- Named Insured must be Contractor’s full legal name,
- Policy must be current, not expired, and include all endorsements
- Certificate must be signed by an authorized representative of the insurance carrier,
- Additional Insured/ Certificate holder/ (as required above) must appear as the following for Enterprise:
  ENTERPRISE COMMUNITY PARTNERS, INC.
  1 Whitehall Street, 11th Floor
  New York, New York 10004
- Additional Insured for Grantee

For the purposes of insurance certificates, “Contractor” refers to any entity that contracts with Grantee or subcontracts with Contractor.

A note on General Liability Insurance: Commercial General Liability insurance naming Enterprise as Additional Insured is required for Grantee, as well as of any party responsible to complete the scope of work, directly or indirectly. By way of example, if the Grantee is reliant on one or more development partners to complete rehabilitation or construction work and the development partners in turn will be contracting with a general contractor, then both the development partners and the general contractor will be required to name Enterprise as Additional Insured on their Commercial General Liability insurance.

Additional Provisions for Third Parties
New York State Anti-Displacement Learning Network

These Additional Provisions are based on requirements of the grant agreement between ("Grantee") and Enterprise Community Partners, Inc. ("Enterprise") (the "Enterprise Prime Grant") related to the New York State Anti-Displacement Learning Network (the "Project").

These Additional Provisions apply to Grantee's Subcontractors, Grantee's Borrowers, and any Contractor who is assisting Grantee with the Project and the payment for which is funded in whole or in part by monies available under the Enterprise Prime Grant (the "Grant Proceeds"). The Third Party must comply with such Additional Provisions as applicable and to the extent feasible, given the role of the Third Party. These Additional Provisions are to be attached to and incorporated by reference into, as applicable, the contract or loan documents entered into by Grantee and the Third Party for the Project (each, a "Contract"). If there is a conflict between the provisions of the Contract and the provisions of these Additional Provisions, these Additional Provisions shall control.

Regulatory Restrictions

A. Equal Opportunity

The Third Party represents that, in conducting the activities described in the Contract, the Third Party shall not and will not discriminate in its respective activities and operations on the basis of age, race, creed, ethnicity, color, religion, sex, sexual orientation, national origin, disability, marital status or any other basis that is prohibited by the United States federal, state or local law.

B. Sanctions

The Third Party agrees that Grant Proceeds will be used in compliance with all applicable anti-terrorist financing and asset control laws, regulations, rules and executive orders, including but not limited to, the USA Patriot Act of 2001 and Executive Order No. 13224. The Third Party and any of its parent entities or subsidiaries or, to the knowledge of the Third Party, any director, officer, agent, employee or affiliate of the Third Party, as applicable, or any of the Third Party's parent entities or subsidiaries is currently the subject or the target of any sanctions administered or enforced by the U.S. Government, including, without limitation, the Office of Foreign Assets Control of the U.S. Department of the Treasury (or any successor thereto) ("OFAC"), or other relevant sanctions authority (collectively, "Sanctions"), and the Third Party will not directly or indirectly use the Grant Proceeds, or lend, contribute or otherwise make available such proceeds to any parent entity, subsidiary, affiliate, joint venture partner or other person or entity (i) to fund any activities of or business with any person, or in any country or territory, that, at the time of such funding, is the subject of Sanctions or (ii) in any other manner that will result in a violation by any person (including any person participating in the transaction, whether as underwriter, advisor, investor or otherwise) of Sanctions. By signing the Contract, the Third Party represents that neither the Third Party nor any principal of the Third Party, nor any person or entity owning a direct or indirect interest in or having a direct control over the Third Party is a person or entity that is named as a "specifically designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets

control at its official website: http://www.treas.gov/ofac/t11sdn.pdf.

The Third Party represents and warrants that, in connection with its dealings with Grantee, the Third Party shall not directly or indirectly deal with a person, entity or any other party (including official or de facto authorities) that are:

(a) located, domiciled, resident, incorporated or operating in a country/region subject from time to time to any sanctions and/or trade embargoes administrated by any Sanctioning Authority, as well as any other country designated by OFAC or notified by Enterprise as a "Sanctioned Country"; or

(b) subject to any sanctions lists administrated by authority responsible for the administration of sanctions and embargoes in the United Nations, the European Union, Switzerland, United States (Office of Foreign Assets Control of the US Department of Treasury) and in any other applicable country notified from time to time by Enterprise (each a "Sanctioning Authority"); or

(c) owned or controlled by a person, entity or any other party as defined in (a) or (b) above, (collectively, "Restricted Parties") and that neither it nor its directors, officers, agents or employees are Restricted Parties.

C. <u>Nondiscrimination; Compliance with Fair Housing Act and Equal Credit Opportunity Act</u>

The Third Party shall not discriminate in its respective activities and operations in connection with the Contract on the basis of age, race, creed, ethnicity, color, religion, sex, sexual orientation, national origin, disability, marital status or any other basis that is prohibited by the United States federal, state, or local law or regulation. The Third Party expressly agrees not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, or any regulation promulgated thereto.

The Third Party shall require that its sub-contractors receiving Grant Proceeds to comply with the obligations set forth in this section, including by providing their express agreement not to use Grant Proceeds for any purpose or in any manner that could be deemed to violate the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, or the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, or any regulation promulgated thereto.

D. <u>Compliance with Law and Prohibited Uses</u>

The Third Party shall comply with all federal, state, and local laws and regulations related to its performance of fulfillment of any acts, duties or obligations under the Contract or otherwise generally applicable to the Third Party and its respective organizations and activities. Any construction, demolition or rehabilitation of real property performed in connection with the Contract shall be in compliance with all applicable laws, rules, restrictions, orders and regulations, including but not limited to, environmental laws and regulations and locally accepted construction practices.

E. <u>Anti-Corruption/Bribery</u>

The Third Party represents and warrants that it is familiar with and is in compliance with the Foreign Corrupt Practices Act of 1977 (FCPA) (15 U.S.C. § 78dd-1, et seq.) (as amended) and shall not engage in any form of bribery, collusive practice or any other form of corruption, nor will such organizations extort, solicit, receive, offer, promise or give any undue financial or other advantage, directly or indirectly, in connection with any of its dealings under the Contract. Furthermore, neither the Third Party nor any person acting on its behalf shall authorize the giving of, offer, or give anything of value to any official or employee of the government or any state-owned entity, any agent or representative of the foregoing, or any other person (including any Enterprise, Grantee or any employee, the Third Party or agent) to improperly obtain, retain, or direct business or any improper advantage for or to any person.

F. Lobbying and Political Activity

The Third Party shall not use any funds disbursed to it under the Contract for any political campaign or to influence the outcome of any election, to carry on propaganda, to lobby or otherwise attempt to influence legislation or the outcome of any specific public election, to carry on directly or indirectly, any voter registrations drive or to conduct any activities described in Sections 4945(d) and (e) of the United States Internal Revenue Code of 1986, as amended (the "Code") and the Treasury Regulations promulgated thereunder.

Third Party Subcontracting

A. Any subcontractor, consultant or other entity retained by the Third Party to provide services funded by the Grant Proceeds (such provider(s) retained by the Third Party, referred to as "sub-subcontractor(s)") must comply with these Additional Provisions. The Third Party shall incorporate by reference into any of its contracts with sub-subcontractors (each a, "sub-subcontracts") these Additional Provisions.

B. The Third Party shall take full responsibility for the acts and omissions of its sub-subcontractors.

C. Grantee may request from the Third Party copies of sub-subcontracts between the Third Party and its sub-subcontractors to verify that the Additional Provisions have been included.

D. The Third Party shall not make any disbursements to its sub-subcontractors for work performed pursuant without a duly executed contract (including the Additional Provisions), invoices, receipts or other appropriate supporting documentation evidencing such party's work and services ("Supporting Documentation"). Grantee may request copies of Supporting Documentation at any time.

Environmental Review

As applicable, when construction, demolition or rehabilitation of real property is involved, the Third Party shall undertake satisfactory completion of an environmental review in compliance with the scope and limitations of ASTM Practice E 1527-05 Phase I Environmental Site Assessment standard as a condition to payment under the Contract. For single family properties, not adjacent to uses that may have an environmental impact, a National Environmental Policy Act (NEPA) review in accordance with HUD Environmental Standards, in particular a review of toxic or hazardous substances and radioactive materials in similar scope to HUD Notice 79-33, and a review of siting for HUD-Assisted Projects near Hazardous Operations, pursuant to 24 CFR 51 C, will be accepted in lieu of a Phase I Environmental Site Assessment. If a NEPA review cannot be performed, Grantee may accept, at its discretion, a review performed by an environmental officer in the local jurisdiction referencing history or evidence of spills, evidence of tanks, vegetation damage, flood plain, noise abatement/control issues in the area, presence of lead and asbestos, and other environmental risk factors. The officer must state that there is no evidence of

hazardous materials, contamination, chemicals, gases, or other environmental risk factors.

Representations, Warranties and Covenants.
The Third Party represents and warrants that:

a. The Third Party is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization or incorporation;
b. All authorizations, consents, approvals and licenses of, and filings and registrations with, any governmental authority required under applicable law or regulations for the Third Party to make and perform the Contract have been obtained and are in full force and effect. Particularly, for construction, demolition or rehabilitation of real property, the Third Party is legally licensed in New York State and, if applicable, is appropriately certified for all lead-based paint and asbestos activities;
c. The Third Party maintains and will maintain throughout the term of the Contract the insurance requirements required by Grantee;
d. The Third Party has no recent history of the following:
    (i) Local, State, or Federal tax arrears
    (ii) Labor violations
    (iii) Arson, fraud, bribery, or grand larceny conviction or pending case
    (iv) A record of substantial building code violations or litigation on property controlled by the Third Party or by any entity or individual that comprises the contracting entity
    (v) Formal debarment or suspension from entering into contracts with any governmental agency or other notification or ineligibility for or prohibition against bidding or proposing on government contracts
    (vi) Denial of a contract based on any obligation to, or unsatisfied judgment or lien held by, a governmental agency

The foregoing representations and warranties shall remain in full force as of the date hereinabove and on each date that a disbursement of Grant Proceeds is made to the Third Party or its designee pursuant to the Contract.

Indemnification
The Third Party, intending to be legally bound, hereby expressly agrees and covenants to hold harmless and indemnify Enterprise, Department of Housing Preservation and Development (HPD), Grantee, and their respective directors, officers, agents and employees (the "Indemnified Parties") from and against any and all third party costs, losses, actions, liability, demands, claims, damages and expenses of any nature or any kind (including, but not limited to, indebtedness, penalties, fines, Indemnified Parties' costs and reasonable legal fees) that arise out of the Contract or any act or omission of Third Party or of any of its respective employees or agents, except to the extent any such costs, liability, demands, claims, damages or expenses result from an Indemnified Party's gross negligence or willful misconduct. The Third Party's obligations under this section shall survive termination of the Contract.

Third Party Beneficiaries
Nothing in the Contract, expressed or implied, is intended to confer upon any person other than Grantee and the Third Party or their respective successors, any rights, remedies, obligations or liabilities under or by reason of the Contract. Nothing in the Contract shall create an independent right of action by the Third Party or any of its sub-subcontractors against Enterprise, nor provide the Third Party or any of its sub-subcontractors with beneficiary status with respect to Enterprise.

RESOLUTION NO.: _____50_____ - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER AGREEMENT BETWEEN THE CITY OF NEWBURGH AND PKF O'CONNOR DAVIES, LLP FOR PROFESSIONAL AUDITING SERVICES FOR THE POLICE AND FIRE DEPARTMENTS AT A COST OF $70,000.00

WHEREAS, the City of Newburgh has received a proposal for accounting and business consulting services from the firm of PKF O'Connor Davies, LLP for an overtime study and staffing analysis of the Police and Fire Departments; and

WHEREAS, the cost for the accounting and business services is $70,000.00 and funding shall be derived from A.1230.0448; and

WHEREAS, this Council has reviewed the letter agreement attached hereto and has determined it to be in the best interests of the City to enter into the same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a letter agreement with the firm of PKF O'Connor Davies, LLP for professional auditing services for the Police and Fire Departments at a cost of $70,000.00.

PKF O'CONNOR DAVIES
ACCOUNTANTS AND ADVISORS

January 27, 2021

City of Newburgh New York
City Hall
83 Broadway
Newburgh, NY 12550
Attn: Joseph Donat, City Manager
Todd Venning, City Comptroller

Dear Mssr, Donat and Venning:

It is our understanding based on our discussions that you are authorized to retain individuals and firms under your direction to report directly to you regarding accounting and business consulting services for the City of Newburgh, New York ("Newburgh"). We have agreed to serve in this capacity under the following terms and conditions and this letter confirms the arrangements agreed upon for the performance of our services and the services of those we employ.

The contemplated services involve work that will include accounting and business consulting services of the specific activities directed by you and may consist of interviews of various employees, observation of employee performance of various duties, review and analysis of the financial activities, payroll records, time and record keeping documents, employee payroll files, bank records, scheduling of shifts and overtime, approval for overtime, compensating time off , sick and vacation time and tracking and record keeping of overtime, compensating time off , sick and vacation time and other services as required.

The contemplated services involved are anticipated to include the following:

POLICE DEPARTMENT

1) Interview employees responsible for scheduling of employees, overtime, compensating time off, sick and vacation time off and special duty assignments
2) Obtain an understanding of the systems used and the policies and procedures for scheduling of employees, overtime assignments, sick and vacation time and special duty assignments
3) Review supporting documents for assignment, approval and tracking of regular work, overtime, compensating time off , sick and vacation time and special duty time

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and pay

4) Review of organization chart for the Police department and detailed reports supplied by you in excel format for compensation for all Police officers including name, rank, date of hire, regular compensation, overtime pay and hours, special duty pay and hours for each pay period in 2020 and yearly totals for years 2017-2019

5) Sample Analysis of top 10% of staff receiving overtime listing the Police Officers regular payroll and hours, overtime payroll and hours and special duty /Side Jobs hours and payroll records for the year 2019 and 2020 and other documents as determined.

6) Obtain union contracts and review policies and procedures regarding overtime and support for authorization and deployment of overtime and scheduling of overtime.

7) Obtain charts for shifts and staffing for all rotation during 2019 and 2020

8) Review chart of number of arrests, police reports, tickets issued and ticket revenues and court appearances for 2019 and 2020

9) Report of findings and recommendations

FIRE DEPARTMENT

1) Interview employees responsible for scheduling of employees, overtime, compensating time off, sick and vacation time off

2) Obtain an understanding of the system used and the policies and procedures for scheduling of employees, overtime assignments, sick and vacation time

3) Review supporting documents for assignment, approval and tracking of regular work, overtime, compensating time off , sick and vacation time and pay

4) Review of organization chart for the Fire department and detailed reports supplied by you in excel format for compensation for all Fire fighters including name, rank, date of hire, regular hours and compensation, overtime pay and hours, special duty pay and hours for each pay period in 2020 and yearly totals for years 2017-2019

5) Sample Analysis of top 10% of staff receiving overtime listing the Fire fighters regular payroll and hours, overtime payroll and hours and special duty /Side Jobs hours and payroll records for the year 2019 and 2020 and other documents as determined.

6) Obtain union contracts and review policies and procedures regarding overtime and support for authorization and deployment of overtime and scheduling of overtime.

7) Obtain charts for shifts and staffing for all rotation during 2019 and 2020

8) Review chart of number of Fire calls, active fires addressed and dispatch for service for 2019 and 2020

9) Report of findings and recommendations

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

We will be performing specific services which are not in accordance with Generally Accepted Auditing Standards and Generally Accepted Accounting Principles.

You have represented that you have the necessary authority to enter into this agreement on behalf of Newburgh. Travel time if required outside New York is billable portal to portal. Disbursements, if incurred, will be billed in addition to the above fee schedule. Our invoices shall be sufficiently detailed so that they adequately and accurately disclose the nature of the services performed, the date and the time expended.

Proper signatures at the end of this letter will be required to commence our services and authorize us, to invoice Newburgh at the rate of $225 per hour for the time expended:

All fees and other expenses payable to PKF O'Connor Davies, LLP pursuant to this engagement will be the express responsibility of Newburgh. The type of work contemplated does not readily allow us to completely estimate total expected time due to changes which often result based upon our findings. We have estimated the time to complete the tasks set forth and provide our findings and recommendations to be approximately 320 hours for a total cost not to exceed $70,000 .

While it is not contemplated that we will be required to provide expert testimony or deposition testimony, in the event of such occurrence we invoice for half or full days at the rate of $2,000.00 per half day and $4,000.00 per full day for Partners. It is our intention to utilize the firm's time efficiently and to limit the services to those required.

At our convenience, we render invoices on the fifteenth and last day of each month. We will invoice you each month for the services provided as contemplated. All invoices are payable upon presentation. Interest at the rate of nine percent (9 %) per annum will accrue on any balance not paid within thirty (30) days of the invoice date. The continuation of our services is contingent upon prompt payment of our invoices. We reserve the right to discontinue services if our invoices are not paid when due.

Our Firm keeps detailed records of time and expenses incurred in this matter, which shall be available for your review at any time upon reasonable notice. If at any time you have a question concerning our billing statement, please contact us and we will be happy to explain the charges. It shall be the affirmative obligation of Newburgh, under this letter of retention, to review our invoices as they are rendered and to raise any questions concerning such invoices in a timely fashion. Failure to raise such questions in a timely fashion (regardless of whether or not our firm waives its right under this letter of retention to terminate its engagement if prompt payment is not made) shall be deemed to constitute acceptance of the charges presented on the outstanding bill as fair and reasonable. In the event that Newburgh fails to dispute any of our invoices or

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statements of amounts due within twenty (20) days of your receipt of same, PKF O'Connor Davies, LLP shall be entitled to assume and rely upon the fact that you have accepted the obligation to pay such invoice or statement in its entirety. At any time that there is fee dispute it is agreed that we may suspend all services until such time that the fee in dispute is resolved and paid.

PKF O'Connor Davies, LLP (the "Firm") will not have any obligation to issue a report or other document, or to communicate its research, analysis, or conclusions, or have any obligation to appear for or provide written or oral testimony or evidence at trial, deposition, or elsewhere, until all fees billed are paid in full, or alternative arrangements will have been mutually agreed to in writing between this firm and yourself. This Firm will have no liability to you or to any other person by reason of our not issuing a report, or other document, or to communicate its research, analysis, or conclusions, appearing for and/or providing testimony or other evidence because of Newburgh's failure to pay all amounts due to this firm and you agree to indemnify us against such liability.

INDEMNIFICATION

Any and all claims by Newburgh arising under this engagement must be commenced by Newburgh within one year following the date on which our firm delivered our report associated with this engagement, or the date Newburgh is informed of the engagement's termination in the event our report is not delivered, for any reason.

Our firm's maximum liability to Newburgh for any reason relating to the services under this letter shall be limited to two times the fees paid to the firm for the services or work product giving rise to liability, except to the extent it is finally determined that such liability resulted from the willful or intentional misconduct or fraudulent behavior of the firm. In no event shall the firm be liable to Newburgh, whether a claim be in tort, contract or otherwise, for any consequential, indirect, lost profit or similar damages.

Newburgh agrees to indemnify our firm, its partners, principals and employees, to the fullest extent permitted by law for any expense, including compensation for our time at our standard billing rates and reimbursement for our out-of-pocket expenses and reasonable attorneys' fees, incurred in complying with or responding to any request (by subpoena or otherwise) for testimony, documents or other information concerning Newburgh by any governmental agency or investigative body or by a party in any litigation or dispute other than litigation or disputes involving claims by Newburgh against the firm. This indemnification will survive termination of this engagement.

DISPUTE RESOLUTION

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

If any dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under Its Rules for Professional Accounting and Related Services Disputes in effect in the City of White Plains, County of Westchester, State of New York as of the signing date of this Engagement Letter before resorting to litigation. The costs of any mediation proceeding shall be shared equally by all parties.

If the dispute is not resolved by mediation within 90 days of its submission to the mediator, then, and only then, the parties shall submit the dispute for arbitration administered by the American Arbitration Association ("AAA") under its Professional Accounting and Related Service Dispute Resolution Rules (the "Rules"). The arbitration will be conducted before a single arbitrator selected from the AAA's Panel of Accounting Professional and the Attorney and shall take place in New York City.

Any discovery sought in connection with the arbitration must be expressly approved by the arbitrator upon a showing of substantial need by the parties seeking discovery.

All aspects of the arbitration shall be treated as confidential. The parties and the arbitrator may disclose the existence, content or result of the arbitration only expressly provided by the Rules.

The arbitrator shall issue his or her award in a written and reasoned decision to be provided to each party. In his or her decision, the arbitrator will declare one party the prevailing party. The arbitrator shall have the power to award to the prevailing party reasonable legal expenses associated with the arbitration and prior mediation. The arbitrator shall have no authority to award non-monetary or equitable relief sought. The arbitrator shall not have authority to award damages that are punitive in nature, or that are not measured by the prevailing parties' actual compensation loss.

The award reached as a result of the arbitration will be binding on the parties and the confirmation of the arbitration award may be sought in any court having jurisdiction.

The engagement will be governed by the laws of the State of New York, without giving effect to any provisions relating to conflicts of law that would require the laws of another jurisdiction to apply.

In connection with the performance of our services, all communications between yourself and the firm, as well as communications between any attorney, agent, or other person acting on your behalf with the firm, shall be regarded as confidential and made solely for the purpose of assisting counsel in giving legal advice. Neither we, nor anyone under our direction or control, shall disclose to anyone, without your written permission, the nature of or fact of this engagement, the content of any oral or written communication, or any information gained from the inspection of any record or document submitted to us, and we will not permit inspection of

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any papers or documents without your written permission in advance. All work papers, records or other documents, regardless of their nature or the source from which they emanate, shall be held by us solely for your convenience and subject to your unqualified right to instruct us with respect to possession and control. All work product prepared by the firm, or under our direction, belongs to Newburgh and shall be given to you when we complete the consulting services.

As part of the agreement to provide services in this matter, we will immediately notify you of the happening of any one of the following events;

(a) the disclosure, exhibition, or releasing currently of any information, documents or records prepared by or submitted by the firm or someone under our direction in a manner not expressly authorized by you
(b) a request by anyone to examine, inspect, or copy such documents or records
(c) any attempt to serve, or the actual service of any court order, subpoena or summons upon PKF O'Connor Davies, LLP or someone under our direction which requires the production of any such documents or records. We will immediately return all documents, records and work papers to you at your request.

By your signature below, you confirm that you've had the opportunity to investigate and verify our credentials, and you agree that we are qualified to perform the services described in this engagement letter.

If information becomes known that would make our continued involvement in this engagement inappropriate, we reserve the right to withdraw from this engagement. In addition, we will refuse to perform any requested act that we deem a violation of law, public policy, or our professional ethical standards and may, as a result, withdraw from the engagement without penalty. In the event we elect to withdraw from the engagement as a result of the factors cited in the above two sentences, Newburgh will still be obligated to pay our fees for the services rendered to the date we notify you of our withdrawal.

ACCEPTANCE

PKF O'Connor Davies, LLP is a member firm of the PKF International Limited network of legally independent firms and does not accept any responsibility or liability for the actions or inactions on the part of any other individual member firm or firms.

If this letter meets with your approval, please return a signed copy to us. Please do not hesitate to contact me if you have any questions at any time.

Sincerely,

_____
Keith S. Balla, CPA, PSA, ABV, CFF, CGMA, Partner

Accepted and Approved as to terms of agreement and payment of fees guaranteed:

By: _____ _____
Joseph Donat, City Manager, City of Newburgh Date

By: _____ _____
Todd Venning, Comptroller, City of Newburgh Date

PKF O'CONNOR DAVIES, LLP
20 Commerce Drive, Suite 301, Cranford, NJ 07016 I Tel: 908.272.6200 I Fax: 908.272.2416 I www.pkfod.com

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RESOLUTION NO.: ___51__ - 2021

OF

MARCH 22, 2021

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

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

WHEREAS, by Resolution No. 68-2011 of March 28, 2011, Resolution No. 59-2013 of March 25, 2013, and Resolution No. 99-2015 of April 27, 2015, the City of Newburgh renewed the contract with MLSS for an additional 2 year agreement; and

WHEREAS, by Resolution No. 104 of April 24, 2017, the City of Newburgh renewed the contract with MLSS for an additional 1 year agreement; and

WHEREAS, by Resolution No. 81-2018 of March 26, 2018, the City of Newburgh renewed the contract with MLSS for an additional 3 year agreement; and

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

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

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

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

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

AGREEMENT FOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2021, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the **"CITY,"** with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **MOBILE LIFE SUPPORT SERVICES, INC. ("MLSS")**, a firm with principal offices at 3188 Route 9W, New Windsor, New York 12553, hereinafter referred to as **"VENDOR."**

ARTICLE 1. SCOPE OF WORK

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

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES beginning April 1, 2021, and ending March 31, 2024.

ARTICLE 3. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 4. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may

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

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

ARTICLE 5. INDEPENDENT CONTRACTOR

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

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

ARTICLE 6. ASSIGNMENT AND SUBCONTRACTING

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

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

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

This agreement may be assigned by the CITY to any corporation, agency, municipality or instrumentality having authority to accept such assignment.

ARTICLE 7. BOOKS AND RECORDS

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

ARTICLE 8. RETENTION OF RECORDS

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

ARTICLE 9. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

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

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

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

shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

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

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

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

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

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

ARTICLE 10. INDEMNIFICATION

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

In the event that any claim is made or any action is brought against the CITY arising out of the negligence, fault, act, or omission of an employee, representative, subcontractor, assignee, or agent of VENDOR either within or without the scope of his respective employment, representation, subcontract, assignment or agency, or arising out of VENDOR'S negligence, fault, act or omission, then the CITY shall have the right to withhold further payments hereunder for the purpose of set-off of sufficient sums to cover the said claim or action. The rights and remedies of the CITY provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

ARTICLE 11. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.
In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

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

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

ARTICLE 12. CONFIDENTIAL INFORMATION

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

ARTICLE 13. TERMINATION

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

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

ARTICLE 14. NO ARBITRATION

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

ARTICLE 15. GOVERNING LAW

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

ARTICLE16. ENTIRE AGREEMENT

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

ARTICLE 17. MODIFICATION

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

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

THE CITY OF NEWBURGH

BY: _____
JOSEPH P. DONAT
CITY MANAGER
Per Resolution No.

DATE: _____

MOBILE LIFE SUPPORT SERVICES, INC.

BY: _____
SCOTT F. WOEBSE
PRESIDENT & CEO

DATE: _____

Approved as to Form:

_____
TODD VENNING
City Comptroller

Approved as to Form:

_____
MICHELLE KELSON
Corporation Counsel

SCHEDULE A

SCOPE OF SERVICES

PROPOSAL TO PROVIDE

EMERGENCY MEDICAL SERVICES RESPONSE AND TRANSPORT FOR THE CITY OF NEWBURGH

SUBMITTED BY

Mobile Life Support Services, Inc.

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

Under this proposal Mobile Life Support Services (MLSS) would offer the City of Newburgh the following services that would provide a state-of-the-art, comprehensive Emergency Medical Service (EMS) Plan of coverage to the City and its residents.

Emergency 911 EMS Coverage

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

Stand-by Coverage

MLSS will provide additional staffed ambulances for approved stand-by assignments within the City. In addition, MLSS will provide the resources of our ***Special Operations Response Teams (SORT)*** and ***Tactical Emergency Medical Services (TEMS)*** teams for deployment in the City without cost. Additional information on these units is covered later in this proposal. Standby Coverage can be for a single incident such as a working structure fire, or for multi-day events at the waterfront for example. Other than for public safety emergency incidents, his coverage would be for City of Newburgh sponsored events only. While MLSS will normally provide no-cost coverage to local community agencies for events they host that need EMS present, but private for-profit concerns requiring such coverage will be billed for the cost of the required EMS coverage.

Certifications:

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

Agreement duration and renewal options:

Mobile Life Support Services has provided continuous high-quality Emergency Medical Services to the City of Newburgh and proposes to continue this service with a minimum of a three (3)

year agreement. Renewals and longer-term agreements are also available. We have learned that a successful EMS system design often depends on effective planning and the management of assets and resources. The stability of a three-year agreement allows our organization to more accurately predict costs and better allocate resources.

Proposal Pricing

Mobile Life Support Services would provide the dedicated E-911 Emergency Medical Services (EMS) for the City of Newburgh **with no municipal fee or subsidy** for the duration of the agreement. The agreement would be for a three (3) year period with renewal options. The City of Newburgh would not be financially responsible for any uncollected patient invoices or bad debt and will have no fiduciary responsibility in the housing or operation of the EMS services provided by Mobile Life Support Services.

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

City of Newburgh Initiatives

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

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

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

- Identifying the various stakeholder organizations to participate in a committee for the purpose of the recruitment of qualified candidates.
- Interviewing and evaluating qualified City residents applying for the training opportunity.

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

Initiative: Continued Sponsorship for the Newburgh National Night Out Against Crime

MLSS supports the National Night Out Against Crime throughout our service area, in addition to the other charitable organizations we support in the Newburgh Community, we will continue to dedicate funds and resources necessary to assist in promoting a successful Night Out Against Crime event for the duration of our partnership with the City as their EMS provider.

Initiative: Continued Support of Local Businesses and Charities

MLSS and our staff continue to patronize Newburgh based businesses for fleet and personal vehicle auto repair, signage, supplies and equipment, banking needs, leisure and entertainment etc. MLSS also continues to sponsor events for and donate to area businesses, charities and not for profit organizations in order to promote strengthening and growth of our community. MLSS continues to train and employ area residents as well as provides continuing education for local professional and volunteer EMS providers.

Corporate Profile

Legal Corporate Name:	Mobile Life Support Services, Inc.	
Corporate Headquarters:	3188 Route 9W	
	New Windsor, New York 12553	
Contact Information:	Telephone:	(845) 561-5698
	Fax:	(845) 562-4055
	E-Mail:	Mail@Mobilelife.com
	Website:	www.Mobilelife.com

24-hour Emergency Communications Center: 1-800-858-1025

Type of Business:	Commercial Ambulance Service
	Equal Opportunity Affirmative Action Employer
Certified by:	New York State Department of Health Bureau of EMS
Owner & Founder:	Gayle Metzger-Houser RN Chair of the Board of Directors
Founded:	June 21, 1981 in Newburgh, NY
Area of Operation:	Orange, Ulster, Dutchess, Rockland & Westchester Counties of NY

Senior Leadership:

Gayle Metzger
Co-Founder
Chair of the Board of Directors

Scott F. Woebse
President &
Chief Executive Officer

Timothy G. Scannell
VP & Chief Financial Officer

William T. Jeffries
VP & Chief of Operations

Richard E. Miller
Deputy Chief of Operations

David Grass
Director of EMS Education

Emily R. Smith
Director of Human Resources

Christopher Martinez
Director of Information Technology

East Orange County Management

Andrew Skrobanksi
Orange East Director of Operations

Andy is a dedicated 25 year MLSS employee and area resident who manages our primary Newburgh response station centrally and conveniently located at 69 Dickson St, from which we operate 7 day time units and 3 overnight units as well as our Quality Improvement department.

RESOLUTION NO.: 52 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED A NEW YORK STATE GOVERNOR'S TRAFFIC SAFETY COMMITTEE 2022 POLICE TRAFFIC SERVICES PROGRAM GRANT IN AN AMOUNT NOT TO EXCEED $46,000.00 WITH NO CITY MATCH REQUIRED

WHEREAS, the City of Newburgh wishes to apply for a State of New York Governor's Traffic Safety Committee 2022 Police Traffic Services Program Grant in the amount of $46,000.00 with no City match required, except the City of Newburgh will be responsible for certain fringe benefit costs which are not covered by the grant; and

WHEREAS, the Governor's Traffic Safety Committee Police Traffic Services Program offers grant funding to conduct traffic enforcement details based on the crash data of their local patrol area with the goal of impacting motorist behavior and improving traffic safety within their jurisdiction; and

WHEREAS, if awarded the City of Newburgh Police Department will use the funds for traffic enforcement, and in addition to having a current mandatory seat belt use policy in place for police officers of the department, they will participate in the national Click it or Ticket seat belt enforcement mobilization; and

WHEREAS, this Council has determined that applying for and accepting such grant is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Governor's Traffic Safety Committee 2022 Police Traffic Services Program Grant in an amount not to exceed $46,000.00 with no City match required; 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.

MARK J.F. SCHROEDER
Commissioner

NEW YORK STATE | Department of Motor Vehicles

(518) 473-9324

6 EMPIRE STATE PLAZA • ALBANY, NY 12228

March 1, 2021

Dear Members of New York's Traffic Safety Community:

The Governor's Traffic Safety Committee (GTSC) is again pleased to announce this year's grant opportunities. I encourage you to develop innovative programs in your communities to help us dramatically reduce the number of fatalities and injuries on our roadways. I look forward to working with you and your colleagues as we strive to enhance the safety of motorists on our roadways and provide quality customer service to our shared constituency.

While motor vehicle fatality and serious injury data for 2020 are still preliminary in New York State, early statistics indicate an increase in the fatality rate per vehicle miles traveled. The COVID-19 pandemic led to more open roads and resulted in drivers exceeding the speed limits. In addition, we have seen an increase in motorcycle fatalities and impaired driving as well as a lack of seatbelt use. With this data, we need to increase our efforts in altering dangerous behaviors on our roads. I urge you to continue your efforts toward helping us to save lives in your traffic safety endeavors.

Traffic safety initiatives undertaken at the local level and funded by GTSC grants have supported our efforts to reduce all types of crashes including those related to speed, impairment, motorcycles, occupant protection, bicyclists, pedestrians, and commercial motor vehicles. The implementation of programs that educate the public on the dangers of drowsy, impaired, distracted, and aggressive driving and the enforcement of these traffic safety laws continue to make New York a national leader in highway safety.

Our consistent success in New York State can be largely attributed to the innovative and data driven programs that our grantees implement each year and from the partnerships we have formed among local, state and federal partners. We, at the GTSC, do not take these relationships for granted and are thankful to all our partners who work tirelessly each day to drive fatality, crash and injury rates down.

As you prepare to write your grant applications, please keep in mind that speed, impairment and a lack of seat belt use continue to lead the way in terms of contributing factors in crashes and that vulnerable roadway users (pedestrians, bicyclists, etc.) account for an increasing share of roadway fatalities. These non-motorist crashes represented 38% of total fatal crashes in 2019.

Your sustained efforts and dedication to highway safety are to be commended and recognized for the valuable contribution made toward making New York a safe state in which to live, work and travel. Together, we will maintain our strong commitment to making our state's roadways safer for all.

Please see the attached grant application information. Applications are due by 11:59 pm on **May 1, 2021**. Please contact your GTSC Highway Safety Program Representative at (518) 474-5111 if you have any questions. Thank you for your continued support and commitment to highway safety for all.

Sincerely,

Mark J.F. Schroeder

Mark J.F. Schroeder
Chair, Governor's Traffic Safety Committee and
Commissioner, NYS Department of Motor Vehicles

NEW YORK STATE OF OPPORTUNITY.

Governor's Traffic Safety Committee

STATE OF NEW YORK GOVERNOR'S TRAFFIC SAFETY COMMITTEE 2022 GRANT PROGRAM DESCRIPTIONS AND APPLICATION INFORMATION

March 2022

New for 2022 – PTS Click It or Ticket progress reports must be submitted before the associated claim for payment will be paid.

I. Structured Programs - Child Passenger Safety and Police Traffic Services:

Child Passenger Safety (CPS) - These grants will continue to support the educational activities of child passenger safety programs through the four different initiatives or schedules: fitting stations, awareness trainings, car seat check events and car seat education & distribution programs for low income families.

Please note: In Federal Fiscal Year 2022 there will be funding available for the purchase of a **limited number** of car seats/child restraints for use with Schedule A – Permanent Fitting Stations, Schedule C – Car Seat Check Events and Schedule D-Car Seat Education & Distribution Programs. Schedules A and C will require hands-on education pertaining to the proper use and installation of a car seat. In the event it is determined a car seat needs to be replaced, pre-established guidelines need to be followed before providing a replacement seat. Funds will also be available for the purchase of a limited number of car seats for use with Schedule D – Car Seat Education & Distribution Programs. Schedule D will require the verification of low income status as well as in classroom instruction about child restraint systems and hands-on education pertaining to the proper use and installation of car seats.

Police Traffic Services (PTS) - The Federal Fiscal Year 2022 Police Traffic Services (PTS) grant program will provide funding to law enforcement agencies to conduct traffic enforcement. In addition to having a current mandatory seat belt use policy in place for police officers of the department, participation in the national Click It or Ticket seat belt enforcement mobilization is required. This program will also fund agencies to conduct traffic enforcement details

2022

based on the crash data of their local jurisdiction, with the goal of impacting motorist behavior and improving traffic safety within their communities.

The incentive funding for these structured programs is limited. GTSC may not be able to fund all of your initiatives. Applicants may request up to the maximum grant amount of $40,000 for CPS and up to $46,000 for PTS. There is no minimum request amount.

II. General Highway Safety Grants - The highway safety grant application for local, state and not-for-profit agencies is available to address a particular highway safety problem in their jurisdiction. This proposal requires applicants to submit a narrative outline of the problem with supporting data, details of the proposed activities with milestones and an evaluation plan.

Proposals must address one of the program areas included in the state's Highway Safety Strategic Plan, which can be found online at **trafficsafety.ny.gov/highway-safety-grant-program.** Program areas considered for the general Highway Safety Grant funding include: occupant protection; traffic enforcement; motorcycle safety; traffic records; community programs; programs that impact our younger drivers or older drivers; pedestrian safety; roadway safety and impaired driving.

In 2022, our impaired driving program will focus on statewide projects that support training, enforcement, and technology and state agencies' initiatives to support the efforts of the County STOP-DWI programs. We anticipate that available federal funding will once again be limited this year so applications need to be detailed and supported by data.

Highway Safety Strategic Plan - Every year, the New York State Governor's Traffic Safety Committee prepares the Highway Safety Strategic Plan (HSSP). This plan is the road map for traffic safety professionals in the state and is based on issues and strategies identified by the GTSC member agencies, other state and local agencies, law enforcement agencies and not-for-profit organizations. The HSSP can be found online at **trafficsafety.ny.gov/highway-safety-grant-program.** We invite you to contact the GTSC if you have suggestions for the HSSP.

Problem Identification - Since successful programs are data-driven, we encourage you to use the crash and ticket data reports that are available for each county through an online database developed by the Institute for Traffic Safety Management and Research (ITSMR) with funding from the GTSC. The database, called the Traffic Safety Statistical Repository (TSSR), contains crash data from 2009 forward, including preliminary crash data for the current year, and ticket data for 2009-2019.

To access the TSSR, please visit **www.itsmr.org/sas-guest-portal**. Several help tools are available on the site, including a User Guide, FAQ, Glossary of Terms and TSSR Directory. Please contact your Highway Safety Program Representative at the GTSC if you have questions.

Application Procedure - The due date for all applications is May 1, 2021. Not-for-profit agencies must register with and be pre-qualified in the New York State Grants Gateway before submitting a GTSC grant proposal. Proposals received from not- for-profit applicants that have not registered and are not pre-qualified in the Grants Gateway on the proposal due date of 11:59 PM on May 1, 2021 cannot be evaluated. Such proposals will be disqualified from further consideration. If you need assistance with Grants Gateway enrollment or enrollment in the

GTSC's eGrants, contact the GTSC.

General instructions for preparing grant applications are included in the eGrants system. If your agency does not have a Project Director currently enrolled in eGrants, contact the GTSC for guidance. Frequently asked questions, an overview of the requests for proposals, application and review process can be found online at **trafficsafety.ny.gov/highway-safety-grant-program**.

Applications must be submitted using the GTSC eGrants system. The due date for General Highway Safety, Child Passenger Safety and Police Traffic Services grant applications is May 1, 2021. Applications submitted after May 1, 2021 will not be considered. Applicants must submit their proposals by changing the status of their completed 'In Process' proposal to 'Submit' on or before May 1, 2021.

If you have any questions or need any assistance preparing your grant application, please contact your GTSC Highway Safety Program Representative listed below or call (518) 474-5111.

Chuck Conroy: 518-486-1920

Bronx, Kings, Manhattan, Nassau, Putnam, Queens, Richmond, Suffolk, Westchester

Vanessa Waldron: 518-486-5395

Allegany, Cattaraugus, Cayuga, Chautauqua, Jefferson, Lewis, Madison, Oneida, Onondaga, Oswego, Seneca, Warren, Washington, Wayne, Wyoming

Jim Knapp: 518-473-4734

Delaware, Fulton, Hamilton, Herkimer, Montgomery, Orange, Rockland, Schoharie, Sullivan, Ulster

Maureen Kozakiewicz: 518-408-2036

Broome, Chemung, Chenango, Clinton, Cortland, Essex, Franklin, Ontario, Otsego, St. Lawrence, Schenectady, Schuyler, Steuben, Tioga, Tompkins, Yates

Robert Lopez: 518-402-2092

Erie, Genesee, Greene, Livingston, Monroe, Niagara, Orleans, Rensselaer

Aubrey Feldman: 518-474-2279

Albany, Columbia, Dutchess, Saratoga

The Governor's Traffic Safety Committee administers highway safety grant funding in accordance with 23 CFR Part 1300 Uniform Procedures for State Highway Safety Programs and 2 CFR Part 200 Uniform Administrative Requirements, Cost Principals, and Audit Requirements for Federal Awards and according to the guidelines published by the GTSC in the structured applications and the Guide to Preparing a Highway Safety Program applications. Grants are revisewed for approval based on the criteria stated on the application. In general, the review is based in part on past performance, agreement to perform requested activities, significance of problem identified, supported by data and rationale of proposed solution.

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: 2022 Police Traffic Services Grant	NAME OF DEPARTMENT REQUESTING GRANT: Police Department	NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT: Chief Amthor
NAME OF GRANT/NAME OF AWARDING AGENCY: NYS Governor's Traffic Safety Committee	GRANT SUBMITTAL DATE: May 1, 2021	AMOUNT OF AWARD: Not to exceed $46,000
MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND) No	AMOUNT REQUIRED BY THE CITY OF NEWBURGH: -0-	(OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS:
PROJECT PLAN: - The Federal Fiscal Year 2022 Police Traffic Services (PTS) grant program will provide funding to law enforcement agencies to conduct traffic enforcement. In addition to having a current mandatory seat belt use policy in place for police officers of the department, participation in the national Click it or Ticket seat belt enforcement mobilization is required. This program will also fund agencies to conduct traffic enforcement details based on the crash and ticket data of their local jurisdiction, with the goal of impacting motorist behavior and improving traffic safety within their communities. Project Timeline: (ex. Dates) **10/1/21- 9/30/22**		

City of Newburgh

GRANT APPLICATION FORM

SECTION B. FOR REVIEW BY CITY COMPTROLLER
GRANT MATCH REQUIREMENT REVIEWED? YES/NO: COMMENTS: N/A
IN-KIND SERVICES REQUIREMENT REVIEWED? YES/NO COMMENTS: N/A
STAFFING ISSUES REVIEWED? YES/NO: COMMENTS: N/A
ANY ADDITIONAL COMMENTS:
→ APPROVED BY CITY COMPTROLLER? YES/NO CITY COMPTROLLER SIGNATURE:_____ DATE: 3/2/21 NOTE: IF GRANT APPROVED, CITY COMPTROLLER WILL FORWARD TO CITY MANAGER FOR REVIEW. IF GRANT NOT APPROVED, CITY COMPTROLLER TO RETURN TO GRANTS ADMINISTRATOR FOR FURTHER REVIEW BY PROJECT SPONSOR.
SECTION C: FOR REVIEW BY CITY MANAGER
→ APPROVED BY CITY MANAGER? YES/NO CITY MANAGER SIGNATURE:_____ DATE: 3/4/21

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: 3/3/21
DATE RESOLUTION TO BE SENT TO CITY COUNCIL MEETING: Can be added to 3/18/21 Work session for 3/22/21 Regular meeting

RESOLUTION NO.: 53 - 2021

OF

MARCH 22, 2021

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT A NATIONAL FITNESS CAMPAIGN PROGRAM GRANT IN THE AMOUNT OF $30,000.00 FOR A RECREATION PARK FITNESS COURT

WHEREAS, by Resolution No. 249-2020 of October 13, 2020 and Resolution No. 250-2020 of October 13, 2020, the City Council authorized the City Manager to apply for and accept State and Municipal Facilities Capital Program Grants administered through the Dormitory Authority of the State of New York from Senator James Skoufis and Assemblyman Jonathan Jacobson in the amount of $50,000.00 each for a total of $100,000.00 to fund the development of a fitness court at the Recreation Park in the City of Newburgh; and

WHEREAS, the City of Newburgh proposes to apply for a National Fitness Campaign Program Grant in the amount of $30,000.00 for additional funding to complete the purchase and installation of the fitness court; and

WHEREAS, the Senate and Assembly Member items will provide the match for the National Fitness Campaign grant; and

WHEREAS, the City Council finds it to be in the best interests of the City of Newburgh and its citizens to accept such grant;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to apply for and accept a National Fitness Campaign Program Grant in the amount of $30,000.00 for additional funding for the purchase and installation of a fitness court at the Recreation Park in the City of Newburgh; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York 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 programs funded thereby.

City of Newburgh

GRANT APPLICATION FORM

SCANNED 3/4/2021
RECEIVED 3/2/2021

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: National Fitness Campaign Equip.	NAME OF DEPARTMENT REQUESTING GRANT: Planning and Dev.	NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT: Alexandra Church
NAME OF GRANT/NAME OF AWARDING AGENCY: National Fitness Campaign/ Sen. Skoufis/ Assemb. Jacobson	GRANT SUBMITTAL DATE: See project timeline. Fall 2020- Fall 2021	AMOUNT OF AWARD: $130,000 ($30,000 National Fitness $100,000 member items)
MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND) None. Member-items to serve as match to NFCE grant	AMOUNT REQUIRED BY THE CITY OF NEWBURGH: Pass-through $100,000 member items	(OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS: Overages can come from CDBG Parks

PROJECT PLAN:

Scope of Project: Procure and install fitness equipment at Delano Hitch Park. Apply for National Fitness Campaign Grant and then match that grant with member items (DASNY)

Key Stakeholders: P&D; Rec; Skoufis; Jacobson

Project Timeline: (ex. Dates) Fall 2020 accept member items (SAM Grants). Wait for grant disbursement agreements from DASNY. Apply for National Fitness Campaign Grant (estimate Fall 2021). Construction during Spring 2022.

DASNY is waiting for commitment from the national Fitness Campaign

SECTION B. FOR REVIEW BY CITY COMPTROLLER

City of Newburgh

GRANT APPLICATION FORM

GRANT MATCH REQUIREMENT REVIEWED? YES/NO: COMMENTS: DASNY - matching funds
IN-KIND SERVICES REQUIREMENT REVIEWED? YES/NO COMMENTS: N/A
STAFFING ISSUES REVIEWED? YES/NO: COMMENTS: N/A
ANY ADDITIONAL COMMENTS:
→ APPROVED BY CITY COMPTROLLER? YES/NO CITY COMPTROLLER SIGNATURE:_____ DATE: 3/2/21 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: MAR - 3 2021
SECTION D: FOR REVIEW BY CORPORATION COUNSEL
→ APPROVED BY CORPORATION COUNSEL FOR RESOLUTION? YES/NO CORPORATION COUNSEL SIGNATURE:_____

City of Newburgh

GRANT APPLICATION FORM

DATE: 3/2/21

Can be submitted for 5/18/21 work session

DATE RESOLUTION TO BE SENT TO CITY COUNCIL MEETING:

+ 3/22/21 Council meeting

NATIONAL FITNESS CAMPAIGN
EXECUTIVE SUMMARY

2020
PARTNER INVITATION

NFC : WHO & WHAT

CAMPAIGN MISSION

THE PROBLEM

Preventable diseases like obesity continues to rise across America. The built environment can increase longevity.

OUR MISSION

Design healthy infrastructure for cities to improve the quality of life for people.

WHO WE ARE

National Fitness Campaign is a San Francisco based social enterprise and consulting firm.

WHAT WE DO

NFC partners with cities, schools and state agencies who make health a priority to plan, build, fund and activate healthy infrastructure.

NFC : PAST, PRESENT, FUTURE

CAMPAIGN STORY

1979
FITNESS COURT INVENTED

1980-2000
CAMPAIGN EXPANDS

3 Countries • 10,000 FITNESS COURTS

2012
A NEW CAMPAIGN & WORLD CLASS TEAM

FITNESS COURT® DESIGN TEAM

2018 & PRESENT
NATIONWIDE CAMPAIGN LAUNCH

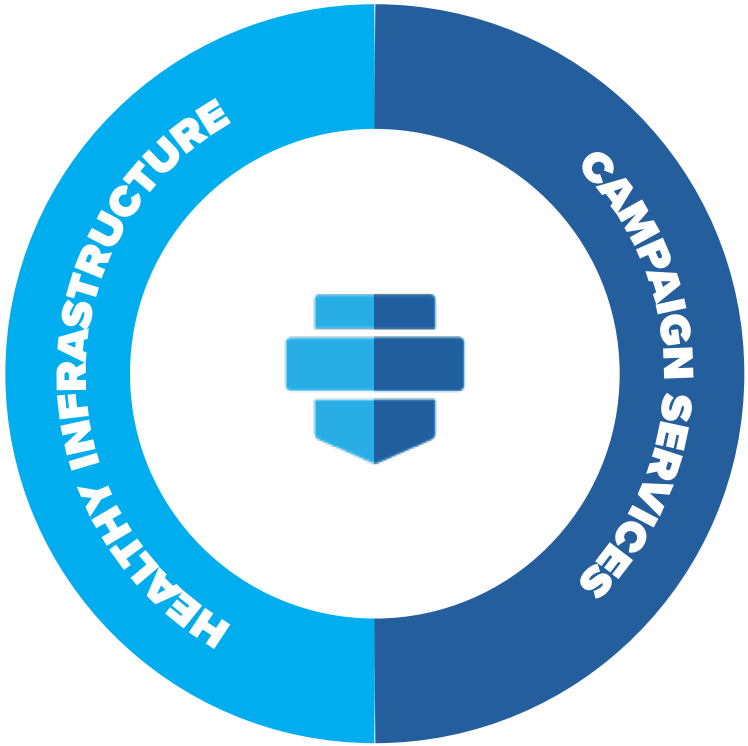
2022
EXPANSION TO 1,000 CITIES

1979 1980 2012 2018 2022

MITCH MENAGED NFC FOUNDER | GADI AMIT NEW DEAL DESIGN | SAM LUCENTE HEWLETT PACKARD | MARK LAUREN SPECIAL FORCES

THE NEW 2021 CAMPAIGN

A HOLISTIC QUALITY OF LIFE INITIATIVE FOR PARTNER CITIES



A Comprehensive Wellness Program

The Campaign is a collection of resources and services designed to activate, encourage and support participation in outdoor fitness activities. Our campaign is separated into two stages: Healthy Infrastructure & Campaign Services. All Cities and schools awarded in the program recieve all products, tools and services described on this page and detailed in this executive summary document.

HEALTHY INFRASTRUCTURE

Healthy Infrastructure Development

FITNESS COURT

H.I. DESIGN SERVICES

GRANT FUNDING

CONSENSUS BUILDING

PARTNER TOOLBOX

SPONSOR SUPPORT

CUSTOM DESIGN SERVICES

INSTALLATION GUIDANCE

CAMPAIGN SERVICES

Annual Campaign Services

LAUNCH SUPPORT

OFFICIAL NFC GEAR

MEDIA & PRESS

MOBILE APP

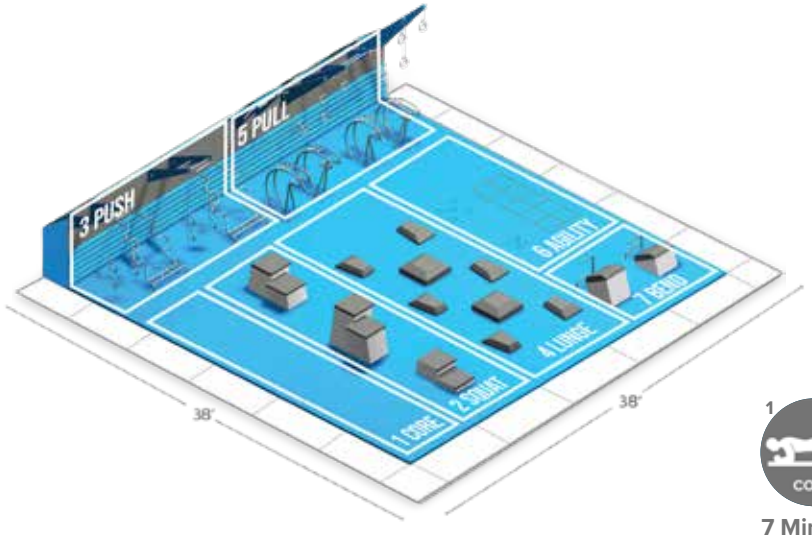
CLASSES & CHALLENGE

AMBASSADOR TRAINING

FITNESS SEASON

IMPACT STUDY

CAMPAIGN HIGHLIGHTS



FITNESS COURT

21st Century Healthy Infrastructure

National Fitness Campaign's Fitness Court is the centerpiece to its holistic health and wellness initiative. The Fitness Court is an outdoor bodyweight circuit training center with functional fitness DNA. The best-in-class system provides a full-body workout to adults of all ability levels. With 7 functional fitness zones, the Fitness Court can be used in thousands of ways. The Fitness Court is the world's best outdoor gym!

7 Minutes 7 Movements

STRATEGIC PLANNING STUDIES

Strategic Planning & Feasibility Study, Site Design Consulting

CAMPAIGN SUPPORT

NFC Grant Funding

Sponsor Strategy & Best Practices
National Installation Team & Support

FITNESS COURT APP

DIGITAL OUTDOOR FITNESS CONTENT

App Store | Google Play

Free App Delivering Programing and Workouts

AMBASSADOR TRAINING

ACE APPROVED NFC Fitness Court Ambassador Training

LAUNCH & PUBLIC RELATIONS

Featured Stories Highlighted through Press and Local Media

FITNESS SEASON 2020

WORLD-CLASS TRAINING

SPRING

World-class training videos will available on the Fitness Court App.

GROUP CLASSES

SUMMER

Bring group training outdoors with community fitness classes.

CHALLENGE SERIES

FALL

The Fitness Season culminates with local, regional and national challenges for residents.

FITNESS COURT®

WORLD CLASS MATERIALS & SYSTEM

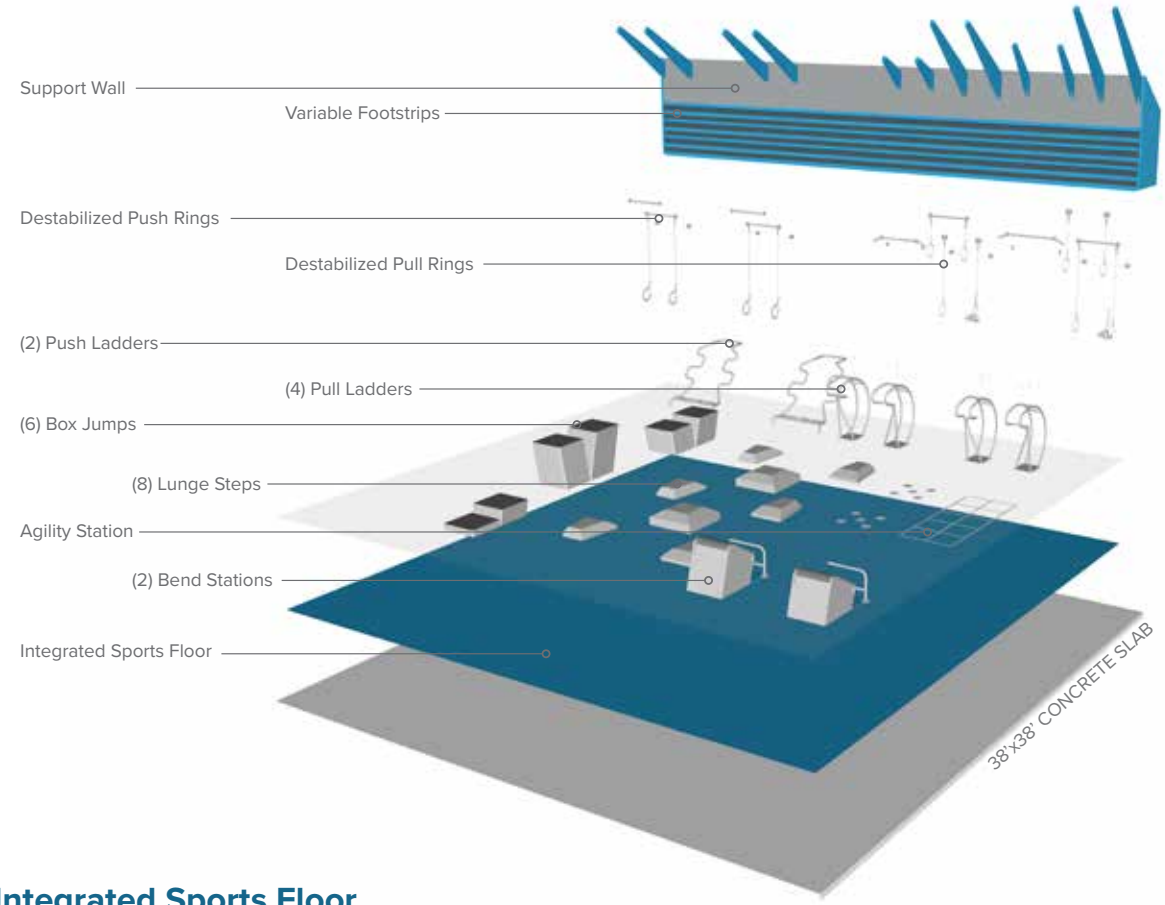
Made & Manufactured in the USA

Designed by NFC in California.

High Quality
Dual-layer powder-coating carbon steel

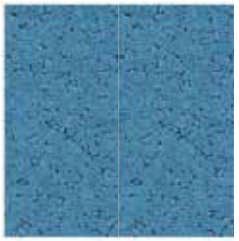
Durable Materials
Tamper-resistant, galvanized & stainless steel bolts and fittings.

Best In Class
Anti-graffiti laminate vinyl decals

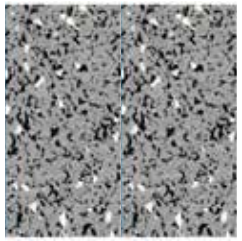


Integrated Sports Floor

Each Fitness Court® includes an integrated sports floor made from durable 2'x2' tiles which adhere directly to the concrete slab. Available in our standard NFC Blue or Gray to match any custom design.



Top (Blue Option)



Top (Grey Option)

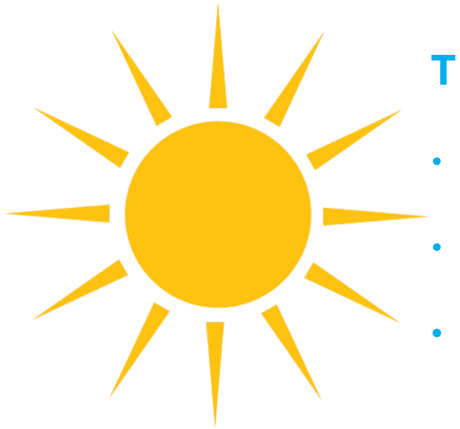
Bottom

Reducer with Tile

Reducer

COVID-19 RESPONSE WITH NATIONAL FITNESS CAMPAIGN

SAFE AND HEALTHY IN THE SUN



THE SUNSHINE VITAMIN

- Helps regulate the absorption of calcium and phosphorus
- Promotes normal immune system function
- **Helps generate resistance against certain diseases**

A prescription for improved health and overall wellbeing

BENEFITS OF OUTDOOR ACTIVITY

Improved mental wellbeing

Vitamin D Intake

It's Free

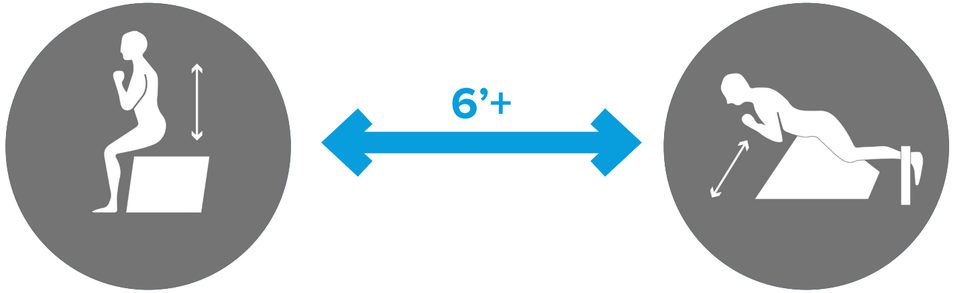
Open air environment

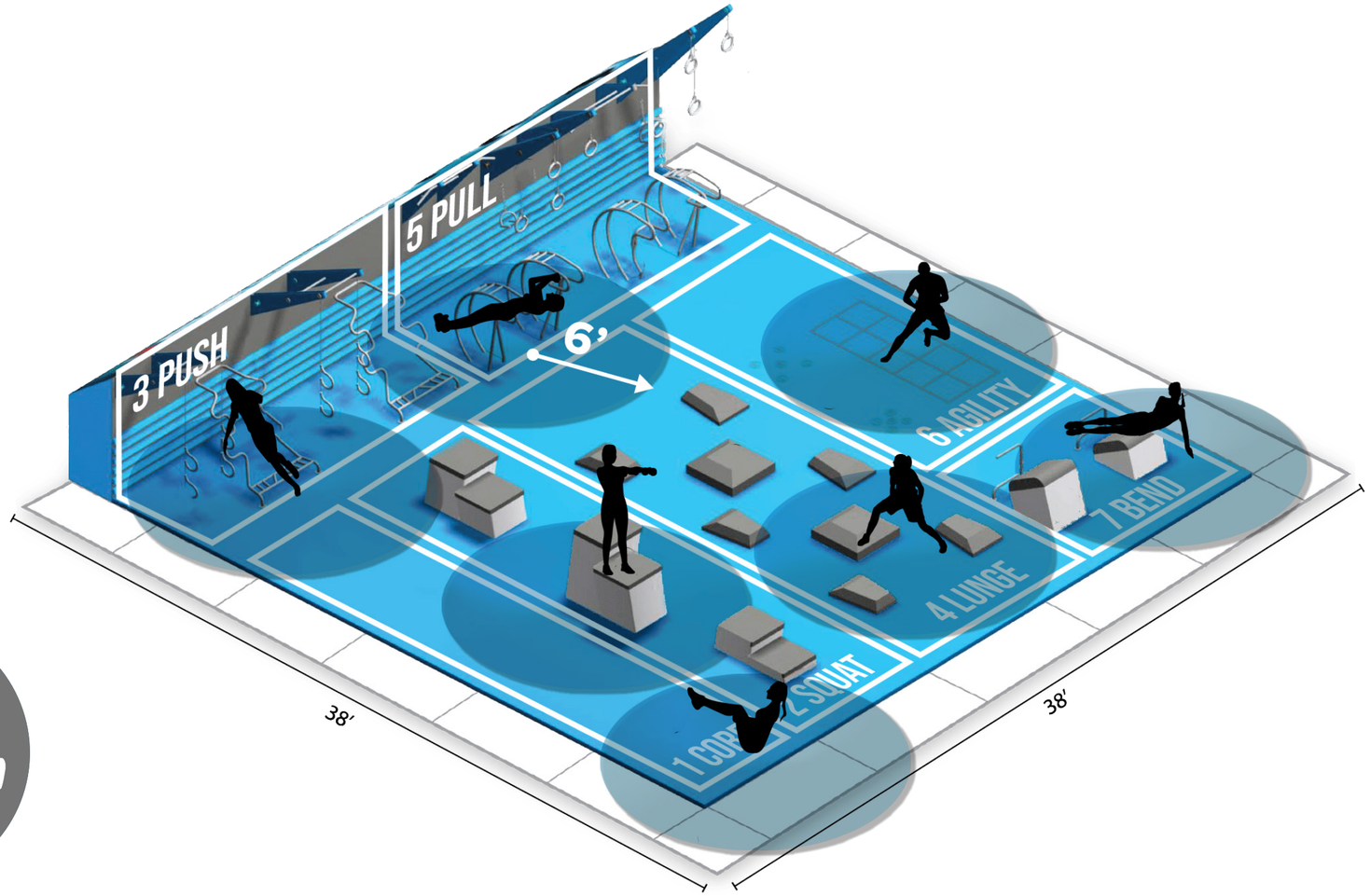
COVID-19 RESPONSE WITH NATIONAL FITNESS CAMPAIGN

OUTSIDE > INSIDE + PHYSICAL DISTANCING

7 MINUTES 7 MOVEMENTS

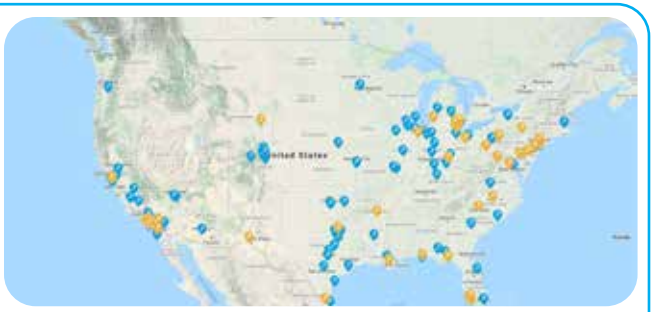
Our patented 7 minute 7 movement design makes 6’ Social Distancing easy on the Fitness Court!





500 PARTNERS & SPONSORS

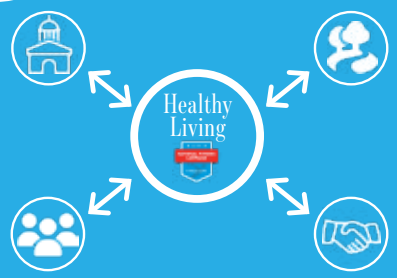
The new campaign is now operating in over 100 cities and colleges across the Nation. By the end of 2020, the program will be thriving in over 200 communities across 40 states. The Campaign's unique funding model brings partnerships and funding to cities and schools of all sizes.



GRANT FUNDING REQUIREMENTS

NFC 4-STEP PROGRAM ADOPTION PROCESS

1



IS WELLNESS A PRIORITY

Is healthy living a priority in your city? Does the campaign align with your city's goals and local initiatives? Is there support from appropriate stakeholders?

- Mayor
- City Council
- Park Director
- Leadership

2

SITE SELECTION

Main Criteria for Site Selections

1. Iconic Sites
Supports Success and Impact

2. Accessibility
Engage all Population Sectors

3. Connectivity
Program locations align with pedestrian infrastructure and trails systems.

3

PROGRAM FUNDING

Qualified cities will receive $30,000 in Grant Funding from NFC for each Fitness Court and local Campaign. With variable funding models and opportunities for partnership development within your local and regional network, there are multiple ways to fund the Campaign. NFC is here to help!

4

PROGRAM TIMING

2020 Campaign

Application Submission:
PER BRIEFING WINDOW

Program Launch:
PER AWARD PERIOD

PROGRAM ADOPTION PROCESS

GRANT FUNDING AWARD

REQUIRED FUNDING FOR EACH SITE

FITNESS COURT & CAMPAIGN SERVICES

TOTAL FUNDING

REQUIRED PER FITNESS COURT

$130,000

+

FITNESS COURT INSTALL

=

$30,000

GRANT FUNDING AWARD

$100,000

LOCAL FUNDING MATCH (PLUS INSTALLATION)

INSTALLATION METHODS

IN HOUSE OR **IN KIND** OR **BID OUT**

PROGRAM SUMMARY

NFC 2020 CAMPAIGN SPECIFICATIONS

2020 PROGRAM SUMMARY: ***All items and services below are delivered to approved partners as part of the 2020 Campaign.***

HEALTHY INFRASTRUCTURE

FITNESS COURT®

Fitness Court® Description:
32'x35' outdoor bodyweight circuit training system with the following components:

- Seven station circuit training system providing full-body workout modules
- Fitness Court body-weight training wall - 32'W x 2'D x 6' H with custom graphics
- Thirty pieces of body-weight fitness elements for simultaneous use by 28 users at one time. Fitness Elements anchored and grouped within seven stations.
- Bolts, attachments and anchors required for installation

Fitness Court Surface - Tile Surface Specifications

- Outdoor Sports Floor Size: 1,024 SF (32'x32')
- Color: NFC Blue
- Thickness: 1" Tiles
- ADA Border Included

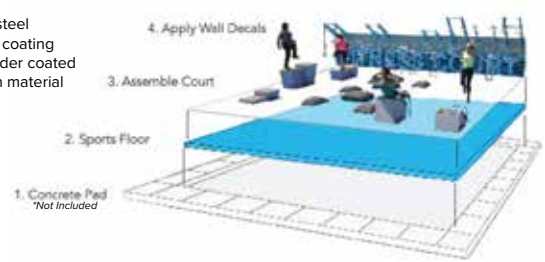
Fitness Court Specifications:

- All structural components are made from high-grade carbon steel
- Structural components receive high-grade duel layer powder coating
- All cladding (skins) made from high-grade aluminum and powder coated
- Graphics and signage printed with anti-graffiti over-lamination material
- Manufactured in the United States
- Resilient to heavy, repeated daily use
- Over 30 individual pieces of equipment
- Powder-Coated Structural Components
- Galvanized fittings and bolts - *included*
- Stainless steel cables
- Full installation guide provided
- Warranty through NFC

Warranty + Maintenance

- Made for all climates
- Almost no moving parts (only cables)
- Equipment is anchor bolted into concrete
- Replacement parts available through NFC
- No requirement for disassembly in winter
- Maintenance guide, including touch-up paint & necessary tooling included

See Official Warranty for Full Coverage Detail



HEALTHY INFRASTRUCTURE DESIGN SERVICES

Strategic Planning & Feasibility Study

- City-wide impact analysis and master plan integration plan
- Site Design and Visibility Analysis

Custom Fitness Court Design Services & Construction & Installation Support

- Customized Fitness Court powder-coating and decal design - no two Fitness Courts are the same!
- stamped and certified design plans, concrete slab drawings, and contractor management are provided by the NFC Activation Team. With all ready-to-build plans included, most installations require less than 90 days to complete from ground-breaking to launch.
- NFC National Installation Partner Access - EIS (contracted separately)

GRANT FUNDING, CONSENSUS BUILDING, SPONSOR SUPPORT

NFC Grant Funding Qualification

- Access to qualify for NFC's Grant Funding through NFC's national partners to support seeding the program.

Consensus Building Consulting

- NFC has industry experts in project management, and from conception through execution, they will collaborate on an average of 2 intensive monthly planning calls to drive success.

Sponsor Strategy Consulting Support

- Up to 10 custom renderings provided by NFC Design Team to support outreach to local sponsors and partners. Up to 5 custom slide presentations provided for in-person meetings and internal stakeholder consensus-building.

CAMPAIGN SERVICES

FITNESS COURT® APP

The Fitness Court App
Free mobile app for iOS / Android teaches proper use, routines and challenges to all users

- **Classes:** schedule, run and track attendance using the Fitness Court App back-end scheduling tool, providing live class management through the OnSched platform. Training and basic setup provided by NFC within 30 days of launch event.
- **Learn:** video guides deliver workouts, and teach the basics for beginners on the Fitness Court. New content released quarterly, and updated by NFC National Training Team.
- **Train:** individual audio guides. New content released quarterly, updated by NFC National Training Team.
- **Challenge:** competitive tracking allows users to participate in timed, scored challenges, with an option to submit their scores to a national Leaderboard. Acts as a regional and national event qualification tool.

CERTIFIED AMBASSADOR TRAINING

Programming and Training Tools
Fitness Court Ambassadors build and sustain a healthy culture around the Fitness Court ecosystem

- **Learn:** education modules provided by the NFC Training Team are eligible for a range of industry certifications, are offered both in-person and remote, and provide a range of class templates, coaching tips and more to qualified Ambassadors. Partnership includes program vouchers for up to 12 individual Ambassadors per Fitness Court, individually eligible for up to 3 continuing education credits (CECs), approved through the American Council on Exercise (ACE).
- **Train:** classes, clinics and challenges become the building blocks of a Fitness Season, led by Ambassadors, that engage all ages and fitness levels. These guided workout options expand the user community and increase long-term usage and adoption.
- **Share:** continuous online and print storytelling, engagement and social connection further build out a healthy culture on each Fitness Court. Up to five local Ambassadors are eligible to attend an in-person regional training event of their choice in 2020. **Regional training schedule provided May 2020*

MEDIA, PRESS, & PROMOTIONS

Promotions and Marketing Package
Media support and community engagement materials excite users and strengthen program adoption

- **Custom Grant Announcement Kit:** promote the development of the program in your community with NFC support through traditional and social media channels - including a custom Press Release, site rendering, and outreach planning tools.
- **Launch Event Promotions Toolkit:** announce the launch of the Fitness Court on traditional media channels with a separate customized press release, outreach support and uniquely branded assets for social media.
- **NFC Website Feature Story:** NFC-hosted custom storytelling showcases the partnership and program development in your community.
- **Fitness Court Gear:** minimum $750 credit towards the official NFC gear store - gear and giveaways (provided in part by national Campaign sponsor, Badger Sport®) nurture Ambassador relationships, honor stakeholders and excite event attendees, to amplify launch activities.
- **Opening Day Launch Support:** NFC provides event management templates, guidance for launch event planning, and custom promotional materials (flyers, media assets).

FITNESS SEASON 2020

Annual Activation Series: 2020 Fitness Season
Bring the Latest Events & Programs to Your Fitness Court® this Year!

- Spring 2020 : 18 new workout routines & video tutorials introduced to the Fitness Court App, featuring pro trainer, Mark Lauren.
- Summer 2020: Classes and Clinics support ongoing programming for group exercise and app-based class
- Fall 2020: Challenge series builds competition & strengthens community. Marks the success of year's activation program for all users.
- Healthy Infrastructure Awards: annual recognition program highlighting exceptional partners and leaders nationwide, winners receive custom awards, decals and press support to announce

NATIONAL FITNESS CAMPAIGN
SAN FRANCISCO, USA
NATIONALFITNESSCAMPAIGN.COM
INFO@NFCHQ.COM
(415) 702-4919

RESOLUTION NO.: __54__ - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AND EXECUTE AN AGREEMENT WITH THE RUFF RYDERS TO THE RESCUE FOUNDATION

WHEREAS, Ruff Ryders to the Rescue Foundation (RR2R) provides necessary resources to improve the social economic circumstances and life development of individuals in ethnically diverse, low-income urban communities and committed to improving ethnically-diverse urban communities by providing a range of services and non-traditional support to community organizations, families and individuals; and

WHEREAS, RR2R's Community Watch Program (the Program) is designed to reduce violence, particularly among teenagers and young adults, by nurturing the active participation of community residents in mediating the role of law enforcement in community policing through violence interrupters that identify and intervene in interpersonal conflicts and street violence, credible messengers who mentor the community's most challenging youth, and hospital responders who make referrals for emergency hospital services; and

WHEREAS, RR2R wishes to bring the Program and related services to the City of Newburgh; and

WHEREAS, the City desires to collaborate with RR2R to implement the Program within the City of Newburgh in fulfillment of its stated not-for-profit mission and purpose, pursuant to the terms and conditions contained in the annexed agreement; and

WHEREAS, this Council has reviewed the annexed agreement and finds that the execution of such agreement is in the best interests of the City of Newburgh, and its citizens;

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 the Ruff Ryders to the Rescue Foundation in substantially the same form as annexed hereto to implement the Community Watch Program in the City of Newburgh.

COMMUNITY WATCH PROGRAM COOPERATION AGREEMENT BETWEEN THE CITY OF NEWBURGH AND RUFF RYDERS TO THE RESCUE FOUNDATION

This Cooperation Agreement (the "Agreement") is made this ___ day of _____, 2021 by and between the City of Newburgh, New York, a New York municipal corporation (the "City"), having a principal office located at 83 Broadway, Newburgh, NY 12550, and the Ruff Ryders to the Rescue Foundation, a New York not-for-profit corporation ("RR2R"), having a principal office located at 30 South Broadway, Suite 809, Yonkers, NY 10701.

RECITALS

WHEREAS, Ruff Ryders to the Rescue Foundation (RR2R) provides necessary resources to improve the social economic circumstances and life development of individuals in ethnically diverse, low-income urban communities and committed to improving ethnically-diverse urban communities by providing a range of services and non-traditional support to community organizations, families and individuals; and

WHEREAS, RR2R's Community Watch Program is designed to reduce violence, particularly among teenagers and young adults, by nurturing the active participation of community residents in mediating the role of law enforcement in community policing through violence interrupters that identify and intervene in interpersonal conflicts and street violence, credible messengers who mentor the community's most challenging youth, and hospital responders who make referrals for emergency hospital services; and

WHEREAS, RR2R wishes to bring RR2R's Community Watch Program and related services to the City (collectively, the "Program"); and

WHEREAS, the City desires to collaborate with RR2R to implement the Program within the City of Newburgh in fulfillment of its stated not-for-profit mission and purpose, pursuant to the terms and conditions contained herein;

NOW THEREFORE, for and in consideration of the foregoing, the mutual covenants and promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1
OPERATING BUDGET

A. The parties agree to meet for the purpose of establishing an Operating Budget for the initial operating year of the Program.

    1. The Operating Budget for the initial operating year will include, at a minimum, the following:

        a. the number of participants expected;

b. the number of paid staff and volunteers;

c. the amount of vehicles, uniforms, and equipment;

d. any other expenses that are needed to serve the participants;

e. the source of funding for items and expenses identified in paragraph A(1)(a) through A(1)(d) inclusive.

B. The parties agree to meet at least ninety (90) days prior to the submission of the City Manager's proposed annual budget for the purpose of preparing an annual Operating Budget for each year subsequent to the initial operating year of the Program.

C. In the event that the parties are unable to establish an Operating Budget for the initial operating year of the Program within three (3) months of the date this Agreement is executed, the parties may:

1. terminate this Agreement in accordance with subsection (A) of Article 7; or
2. extend the time for an additional three (3) months to establish an Operating Budget for the initial operating year by mutual written agreement signed by the parties; or
3. proceed to establishing the Operating Budget for the next subsequent year in accordance with subsection (B) of this Article 1.

ARTICLE 2
PERSONNEL

A. Staff

1. Staff shall refer to paid personnel of the Program.
2. The number of paid Staff will be determined by the Operating Budget.
3. All Program Staff engaged or hired by the City or paid from a City budget expense line shall be considered employees of the City.

   a. The City shall select, in its sole discretion, the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment (including without limitation termination thereof) relating to such employees in accordance with New York State Civil Service Law, Civil Service Rules and Regulations and applicable collective bargaining agreements.

   b. The City shall give consideration to whether otherwise qualified applicants reside in the City or within the City school district as one factor in making employment decisions, as permitted by applicable law.

   c. The City shall be responsible for the acts or omissions of its employees under this Agreement.

4. The number of paid Staff employed by the City may not exceed the amounts in the approved Operating Budget.
5. Nothing in this Agreement shall preclude RR2R from engaging or hiring Staff consistent with applicable law, rules and regulations. Program Staff hired or paid by RR2R or any other third-party entity or organization participating in the Program shall not be considered employees, agents or independent contractors of the City.
6. All paid Staff shall be subject to and must comply with all City of Newburgh policies, rules and regulations, as applicable to each such Staff member.

B. Volunteers

1. The parties will collaborate to recruit volunteers for the Program, and further agree to use reasonable and prudent judgment in the selection of such volunteers, and give consideration to whether otherwise qualified applicants reside in the City or within the City school district as one factor in selecting such volunteers.
2. Program Volunteers shall be supervised by the paid Staff defined in subsection (A) of Article 2.
3. Program Volunteers shall not be employees, agents or independent contractors of the City.

C. Training

1. RR2R will develop and provide a training program addressing the program mission for all Staff and volunteers of the Program. Training costs shall not result in any expenses that exceed the amounts in the approved Operating Budget.
2. All Staff are required to complete the same annual training as required of City of Newburgh employees, provided that to the extent permitted by law, the City may approve a waiver of such requirement in the event that compliance would be impractical, inconvenient or otherwise create a hardship, with such approval not being unreasonably withheld.

ARTICLE 2
EQUIPMENT AND SUPPLIES

A. The Operating Budget for the initial year and each subsequent year of the Program shall include a list of all equipment and supplies necessary for the Program's services, including the type and amount of each item of equipment and supplies, cost of obtaining the equipment items and the annual cost of maintenance of each item of equipment, which includes, but is not limited to, vehicles, uniforms, and communication devices.

B. All equipment and supplies purchased by the City of Newburgh and/or using City of Newburgh funds shall comply with all applicable New York State and City of Newburgh procurement laws, rules, regulations, policies and procedures.

1. No procurement and/or purchase of equipment and supplies by the City shall result in any expenses exceeding the amounts in the approved Operating Budget.

2. All supplies purchased by the City of Newburgh and/or paid for by City of Newburgh funds will become the property of the City of Newburgh and cannot be sold or traded without the express written permission of the City of Newburgh.
3. Supplies purchased by the City of Newburgh and/or paid for by City of Newburgh funds may be returned upon termination of the contract if no longer needed by or of use to the City of Newburgh.

C. Vehicles.

1. No vehicles purchased and owned by the City and designated for Program use may be operated or otherwise used for non-Program purposes.
2. Vehicles purchased and owned by the City of Newburgh shall be operated by drivers holding valid New York State driver's licenses.
3. Drivers of City-purchased and owned vehicles must be authorized by the City and subject to all applicable City laws, rules, regulations and policies for the operation of motor vehicles.
4. The City will be responsible for the cost and supply of fuel and the maintenance of all vehicles purchased and owned by the City.

D. Uniforms.

1. The City and RR2R will approve the style and markings of uniforms purchased and worn by the Program staff and volunteers.
2. The City and RR2R will develop a procedure for issuing and cleaning uniforms.

E. Communication devices.

1. Communication devices include, but are not limited to, Walkie-talkies, cellular phones, and body-worn cameras.
2. All communication devices purchased by the City shall remain owned by the City.
3. All communication devices shall be issued, assigned, and/or distributed to Program staff and volunteers in accordance with City policies and procedures.
4. All communication device data and files shall remain property of the City and may not be disclosed to third parties except as provided by law.

F. Other supplies. The parties may agree to procure and purchase other equipment and supplies in accordance with the terms of this Agreement.

ARTICLE 3
FUNDING AND EXPENSES

A. Payment of Expenses. All items of expense for the operation, maintenance, supervision and management of the Program shall be paid from a City budget line identified by the City Comptroller after review and approval under current City policies and procedures for the payment of City expenses.

B. Grant Funding.

1. The City and RR2R will continue to pursue grant funding for which each party may be an eligible applicant.
2. Each party will provide the other party with supporting documentation upon the other party's request.
3. All grants received by either party will be transferred for deposit to the appropriate City budget line within thirty (30) days of receipt of the grant funds if permitted by terms of the grant or shall otherwise be deposited in appropriate restricted accounts of the party receiving the grant for use solely for the Program in accordance with the terms of the grant.

C. Community Development Block Grant (CDBG) Funding.

1. The City has entered into various funding agreements with the United States Department of Housing and Urban Development ("HUD"), which agreements provide funds ("CDBG Funds") to the City under the Federal Housing and Community Development Act of 1974 (42 USC Sections 5301 et seq.), as amended from time to time (the "Act"), and the regulations promulgated thereunder 24 CFR Sections 570 et seq. ("Regulations"), which together provide that the City may grant or loan the CDBG funds to nonprofit organizations for certain purposes allowed under the Act.
2. If the City determines that the Program or other services provided under this Agreement may be supported by CDBG funds, the parties will enter into a separate sub-recipient grant agreement consistent with the applicable laws, rules and regulations required by the HUD funding agreements providing CDBG funds to the City of Newburgh.

D. Solicitation of Private and Public funding.

1. RR2R shall use its best efforts to (i) actively solicit private support for the Program; (ii) actively solicit federal, state and local grants and other funds to support the operations and purposes of the Program; and (iii) apply all funds contributed to the Program from all sources to pay the expenses for the Program operation, provided that for the sake of clarity, this provision shall apply only to the extent that such funding is designated specifically for supporting the Program within the City, but shall not apply to revenues received by RR2R that are unrestricted, or revenues designated in support of RR2R's other program services and/or locations.
2. The City will use its reasonable efforts to assist RR2R in the solicitation of federal, state and county grants and other sources of public funding to support the Program operation.

E. Budgeting for Additional Funds. In the event that additional funding is received in support of the Program subsequent to the approval of an Operating Budget as set forth in Article 1, the parties shall meet within thirty (30) days in order to discuss and agree on how such funds will be incorporated into a revised Operating Budget, in accordance with the process established under Article 1, to the extent practicable and appropriate.

F. Books and records; retention; audit.

1. RR2R agrees to maintain separate and accurate books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.
2. RR2R agrees to retain all books, records and other documents relevant to this Agreement for three (3) years after the final payment or termination of this Agreement, whichever later occurs.
3. The City, or any State and/or Federal auditors, and any other persons duly authorized by the City, shall have full access and the right to examine any of said materials during said period, and such audits may include examination and review of the source and application of all funds whether from the City, State, the federal government, private sources or otherwise.

ARTICLE 4
SERVICES

A. Community Watch Program. RR2R will assist the City to organize and administer a program to reduce violence, particularly among teenagers and young adults, through the active participation of community residents in mediating the role of law enforcement in community policing.

1. The Program will consist of teams including, but not limited to, *violence interrupters* who identify and intervene in interpersonal conflicts and street violence, *credible messengers* who mentor the community's most challenging youth, and *hospital responders* who make referrals for emergency hospital services.
2. RR2R will administer a recruitment and training process which will introduce the Program to the City Officials, City staff, and community stakeholders.

B. RR2R Programs. Additional RR2R programs will be available to City teenagers and young adults through the Program. The City will collaborate and assist RR2R and other community stakeholders in developing City of Newburgh chapters of other RR2R programs.

C. The parties will support and encourage cooperation among other community stakeholder groups, entities, and organizations to the extent feasible and permitted by law, rule and regulation, acknowledging that such cooperation among other community stakeholder groups, entities and organizations may require additional bilateral and multilateral agreements and agree to facilitate and enter such agreements where necessary, appropriate and consistent with the annual Operating Budget.

ARTICLE 5
BUILDINGS, FACILITIES AND PARKING LOTS

A. City Buildings and Facilities

1. The Operating Budget for the initial year and each subsequent year of the Program shall include a list of all City-owned buildings and facilities expected to be available

for providing the Program services, along with a plan identifying the anticipated uses for each building and facility.

2. City buildings and facilities will be made available to the Program, rent-free for meetings, seminars, training classes, other non-commercial uses for Program purposes. Such use of the buildings and facilities by the Program: (i) shall not compete with or conflict with the programming of City for recreational and special event uses; and (ii) shall be scheduled in advance upon reasonable notice to the City Manager or the City Manager's designee pursuant to the City's approved scheduling policies for each building and/or facility.
3. It is understood and agreed that nothing in this Agreement conveys any vested right or ownership interest in any City property, building, and/or facility.
4. RR2R proposals to purchase any City-owned property shall be made in writing to the City Department of Planning and Development and subject to the same disposition policies and procedures applicable to the acquisition and purchase of City-owned properties.

B. City Parking Lots

1. The Operating Budget for the initial year and each subsequent year of the Program shall include the number of Program vehicles and parking spaces required. The parties will identify the City-owned parking lots and the number of spaces in each lot which will be needed to provide off-street parking for the Program vehicles.
2. Based on the annual Operating Budget, the City will provide a reasonable number of parking spaces in City-owned parking lots for Program vehicles.

ARTICLE 6
INSURANCE

A. Each of the parties shall procure and maintain insurance in full force and effect during the Term of this Agreement, at its own expense: (i) Workers' Compensation insurance; (ii) liability insurance covering personal injury and property damage; and (iii) such other insurance with stated minimum coverages as listed in this Article 6, and shall provide to the other party, a certificate or certificates of insurance evidencing such coverage.

B. Each party shall maintain such referenced insurance coverage at all times during the Term, and will not make any material modification or change from these specifications without the prior approval of the other.

C. Each insurance policy shall include a requirement that the insurer provide the other party at least thirty (30) days written notice of cancellation or material change in the terms and provisions of the applicable policy, provided that such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the other party.

Type of Coverage	Amount: Not less than	Party required to obtain coverage
Commercial general liability insurance (including bodily injury and property damage liability)	$1,000,000 for any one occurrence $3,000,000 aggregate ($1,000,000 for Personal Injury) ($1,000,000 for Property Damage)	City and RR2R
Workers compensation and disability coverage	As required by and in conformance with the laws of the State of New York	City and RR2R
Professional liability and employment practices liability	$1,000,000 per any one occurrence	City and RR2R

ARTICLE 7
CONFIDENTIALITY

A. Definition. "***Confidential Information***" means information that a party has or will develop, acquire, create, compile, discover or own, that has value in or to such party, is not generally known and that the party wishes to maintain as confidential, including: (a) information disclosed, developed or learned by a party during the course of the engagement under this Agreement, and (b) all information of which the unauthorized disclosure could be detrimental to the interests of a party, whether or not such information is identified as Confidential Information. For example, and without limitation, Confidential Information includes any and all non-public information that relates to actual or anticipated projects or business, research or development, or technical data, trade secrets or know-how, including, but not limited to, research, project plans or other information regarding a party's projects or services and markets therefor, community partners, project collaborators or donors, potential or target donors or collaborators, software, developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, finances, initiatives, events, personnel, human resources and results from any internal human resources investigations, and other business information disclosed by a party either directly or indirectly in writing, orally or by drawings or inspection of premises, parts, equipment or other property.

B. **Non-Use and Non-Disclosure**. Neither party shall, during or subsequent to the term of this Agreement, use the other party's Confidential Information for any purpose whatsoever other than the performance of the Services, or disclose Confidential Information to any third party. Prior to disclosure of Confidential Information when compelled by applicable law; a party shall (a) provide prompt prior written notice of such compelled disclosure and (b) use its commercially reasonable efforts to obtain a protective order or otherwise prevent public disclosure of such information. The Parties acknowledge that Confidential Information will remain the sole property of the party originating such information. The Parties shall take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information, including, but not limited to, having employees or consultants,

if any, with access to any Confidential Information, execute a nondisclosure agreement containing provisions substantially similar to this Article 7. Confidential Information does not include information that: (i) is known to a party at the time of disclosure, as evidenced by written records; (ii) has become publicly known and made generally available through no wrongful act of either party; or (iii) has been received from a third party authorized to make such disclosure.

C. **Third Party Information**. Each party recognizes that it may have received and in the future may receive from third parties associated with the other party (*e.g.*, consultants, licensors, licensees, partners, donors or collaborators (together, "***Associated Third Parties***")), confidential or proprietary information ("***Associated Third-Party Confidential Information***") subject to a duty to maintain the confidentiality of such Associated Third-Party Confidential Information and to use it only for certain limited purposes. Each party agrees that at all times during the term of this Agreement and thereafter, that such party will hold all such Associated Third-Party Confidential Information in the strictest confidence, and not to use it or to disclose it to any person, firm, corporation, or other third party except as necessary in carrying out services consistent with a party's agreement with such Associated Third Parties. For purposes of this Agreement, Associated Third-Party Confidential Information shall be deemed Confidential Information of a party.

D. **Return of Materials**. Upon the termination of this Agreement, or upon earlier request, each party shall deliver to the other party all of such party's property along with all Confidential Information that may be in that party's possession or control.

ARTICLE 8
OWNERSHIP

A. **Ownership of Deliverables**. The City understands and agrees that it is not obtaining any intellectual property rights from RR2R under this Agreement. The City further acknowledges that during the course of performing obligations under this Agreement, RR2R may utilize or create works of authorship (whether copyrightable or not), notes, records, drawings, designs, inventions (whether patentable or not), improvements, developments, discoveries, information and trade secrets (collectively, the "***Work Product***"), and that subject only to the City's rights in its Confidential Information, RR2R shall own all right, title and interest in such Work Product, including all intellectual property rights therein and thereto. If any Work Product is delivered to the City pursuant to or in connection with the performance of services under this Agreement (the "Deliverables"), RR2R shall retain all right, title and interest in such Deliverables, and hereby grants to the City a nonexclusive, worldwide right and license to use, execute, reproduce, display and perform any such Deliverables.

B. **Training Materials**. The City understands and agrees that it is not obtaining any intellectual property right in or to any training materials provided by RR2R to the City in connection with the Program (the "Program Materials"), other than the rights of use specifically granted under the terms of this Agreement. The City shall be entitled to keep and use all Training Materials provided by RR2R to the City, but without any other license to exercise any of the intellectual property rights therein, all of which are hereby strictly

reserved to RR2R. In particular and without limitation, the Training Materials may not be modified, translated, redistributed, disclosed to third parties, lent, hired out, made available to the public, sold, offered for sale, shared or transferred in any other way.

C. **Residual Rights**. Notwithstanding any provisions to the contrary herein, the City agrees that RR2R, along with its employees and agents, will be free to use and employ their general skills, know-how and expertise, and to use, disclose and employ any generalized ideas, concepts, know-how, methods, techniques or skills gained or learned during the course of any services performed under this Agreement, subject to its obligations respecting the City's Confidential Information pursuant to Article 6.

D. **City Materials**. The City hereby grants to RR2R a nonexclusive, non-transferable, royalty-free license to use any materials provided by the City to RR2R during the term of this Agreement, solely for the purpose of performing services under this Agreement, however the ownership of any City trademarks, trade names, logos and notices present on the Training Materials will be preserved by the City.

E. **Non-Compete; Royalties**. The City agrees not to create its own training program that in whole or in part use the Training Materials, unless the City has obtained RR2R's prior written approval, which may include the discussion and mutual agreement between the parties for the payment of a reasonable royalty fee in consideration of the licenses and rights granted therein.

F. **Warranty**. RR2R hereby represents and warrants that (a) all Work Product will be the original work of RR2R; (b) the Work Product and the use thereof as contemplated hereunder will not infringe the copyright, patent, trade secret or any other intellectual property right of any third party; (c) the Work Product will not be obscene, libelous or violate the right of privacy or publicity of any third party; (d) the Work Product will not contain any virus, trap door, worm or any other device that is injurious or damaging to software or hardware used in conjunction with the Work Product; (e) the Work Product will not contain any software or other materials that are subject to a license meeting the Open Source Definition (as promulgated by the Open Source Initiative) or the Free Software Definition (as promulgated by the Free Software Foundation), or any substantially similar license, including but not limited to any license approved by the Open Source Initiative, or any Creative Commons License; (f) RR2R has the authority to enter into this Agreement and to grant the assignments, rights and licenses hereunder, and to fully perform its obligations under this Agreement; and (g) services will be performed by RR2R employees or contractors who have validly, irrevocably and exclusively assigned to RR2R their rights in any copyrightable material, notes, records, drawings, designs, inventions, improvements, developments, discoveries and trade secrets arising out of or relating to the performance of services under this Agreement.

ARTICLE 9
GENERAL TERMS

A. Term; Termination.

1. This Agreement shall commence on _____, 2021 and shall terminate on _____, 20__, unless sooner terminated pursuant to the provisions of this subsection (A) of Article 9.
2. This Agreement may be extended and renewed for another term upon the mutual, written agreement of the parties hereto.
3. Either party may terminate this Agreement for cause by providing at least fifteen days' prior written notice to the other party, which notice shall include a list of deficiencies and the opportunity to cure the deficiencies within the fifteen-day period.

B. Independent Contractor. Each party shall operate as an independent contractor and agrees that neither party will hold itself out as, nor claim to be officers or employees of the other party, or of any department, agency or unit of the party because of this Agreement, and will not make any claim, demand or application to the other party for any right or privilege applicable to an officer or employee of a party.

C. Subcontracting/Assignment. This Agreement may not be assigned or subcontracted to any other party.

D. Indemnity.

1. RR2R shall and will indemnify and hold harmless the City, along with its officers, employees, agents and representatives, from any bodily injury to its employees, agents, students and licenses who enter upon the subject premises, including death, or property damage to RR2R, for any reason except in the event such bodily injury or property damage is caused by the negligence of the City, or its agents, servants and employees.
2. The City shall and will indemnify and hold harmless RR2R, along with its officers, employees, agents and representatives, from any bodily injury to its employees, agents, students and licensees who enter upon the subject premises, including death, or property damage to the City, for any reason except in the event such bodily injury or property damage is caused by the negligence of RR2R, or its agents, servants and employees.

E. Notices.

1. All notices required or permitted to be given pursuant to this Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, or by generally recognized, prepaid, overnight air courier services, to the address and individual set forth below. All such notices to either party shall be deemed to have been provided when delivered, if delivered personally, five (5) days after mailed, if sent by registered or certified mail, or the next business day, if sent by generally recognized, prepaid, overnight air courier services.

If to the City:	If to RR2R:
City of Newburgh 83 Broadway Newburgh, New York 12550 Attn: City Manager	

With a copy to:
Corporation Counsel
83 Broadway
Newburgh, NY 12550

With a copy to:
Foundation Counsel
c/o Handler Thayer, LLP
191 N. Wacker Drive, #2300
Chicago, IL 60606

The designation of the individuals to be so notified and the addresses of such parties set forth above may be changed from time to time by written notice to the other party in the manner set forth above.

F. New York Law. This Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this Agreement shall be brought in the New York Supreme Court, Orange County. All services organized and administered under this Agreement shall be in accordance with applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such services are rendered.

G. Modification. This Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

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

I. Counterparts; Signatures. This Agreement may be executed with original signatures in counterparts, each of which shall constitute an original, and all of which together shall constitute one and the same document. This Agreement may be executed by the parties and transmitted by facsimile or PDF-scanned signatures in counterparts, which will be deemed legally binding as fully as an original signature, and if so executed and transmitted, shall be effective as if the parties had delivered an executed original of this Agreement.

_____
Insert Name & Title
Ruff Ryders to the Rescue Foundation

_____
Joseph Donat, City Manager
City of Newburgh
Per Resolution No.

RESOLUTION NO.: 55 - 2021

OF

MARCH 22, 2021

RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BENEVATE, INC. D/B/A NEIGHBORLY SOFTWARE TO PROVIDE HOSTED SOFTWARE TO ADMINISTER THE CDBG-CV EMERGENCY INCOME PAYMENTS (RENT) PROGRAM AT A COST OF $9,200.00

WHEREAS, by Resolution No. 135-2020 of June 22, 2020, the City Council approved an amendment to the City of Newburgh Community Development Block Grant ("CDBG") Citizen Participation Plan; and

WHEREAS, by Resolution No. 136-2020 of June 22, 2020, the City Council adopted a substantial amendment to the City of Newburgh CDBG FY2019 annual action plan for the allocation of Coronavirus Aid, Relief, and Economic Security ("CARES") Act funding; and

WHEREAS, by Resolution No. 248-2020 of October 13, 2020, the City Council authorized the City Manager to enter into an agreement with Legal Services of the Hudson Valley for the establishment and implementation of an emergency income loss assistance program for eligible individuals or families; and

WHEREAS, Benevate, Inc., d/b/a Neighborly Software, has submitted a contract to provide hosted software for the enrollment, qualification, administration and reporting of the CDBG-CV Emergency Income Payments (Rent for Tenants Only) at a cost of $9,200.00 with funding derived from CDBG-CV-Administration Activity, CD1.8760.0400.8000.2020; and

WHEREAS, this Council finds it to be in the best interest of the City of Newburgh to enter into a contract with Benevate, Inc., d/b/a Neighborly Software, to provide said software services;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into agreements with Benevate, Inc., d/b/a Neighborly Software, hosted software for the enrollment, qualification, administration and reporting of the CDBG-CV Emergency Income Payments (Rent for Tenants Only) at a cost of $9,200.00.

BENEVATE INC. (dba NEIGHBORLY SOFTWARE) SAAS SERVICES ORDER FORM

Customer: City of Newburgh, New York	**Contact:** Ellen Fillo, Director, Community Development
Address: City Hall, 83 Broadway, Newburgh, NY 12550	**Phone**: (845) 569-7386 **Email:** efillo@cityofnewburgh-ny.gov
Director Name and Contact Information:	**Name:** **Phone:** **Email:**
Financial/Invoice Name and Contact Information:	**Name:** **Phone:** **Email:**
Services: Company will use commercially reasonable efforts to provide Customer the services described in the Services Statement of Work ("SOW") attached as Exhibit A hereto (the "Services").	
Services Fees: $7,200.00 per year, payable annually in advance, subject to the terms of Section 4 and Per User Pricing attached as Exhibit D hereto.	**Initial Service Term**: One year from Effective Date
Implementation Services: Company will use commercially reasonable efforts to provide Customer the services described in the Implementation Services Statement of Work attached as Exhibit C hereto ("Implementation Services"), and Customer shall pay Company the Implementation Fee at Effective Date. **Implementation Fee (one-time)**: $2,000.00	

SAAS SERVICES AGREEMENT

This SaaS Services Agreement ("Agreement") is entered into on this ____ day of _____ 2021 (the "Effective Date") between Benevate Inc with a place of business at 3423 Piedmont Rd. NE, Suite 550, Atlanta, GA 30305 ("Company"), and the Customer listed above ("Customer"). This Agreement includes and incorporates the above Order Form, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

BENEVATE Inc.:	**CITY OF NEWBURGH, NEW YORK**
By:_____	By: _____
Name: J. Jason Rusnak	Name:_____
Title: President, Benevate Inc ____	Title:

TERMS AND CONDITIONS

1. SAAS SERVICES AND SUPPORT

1.1 Company will use commercially reasonable efforts to provide Customer the services described in the Statement of Work ("SOW") attached as Exhibit A hereto.

1.2 Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services as described in accordance with the Service Level Terms attached hereto as Exhibit B.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Company or authorized within the Services); use the Services or any Software for timesharing or service bureau purposes

2.2 Customer represents, covenants, and warrants that Customer will use the Services in compliance with all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing.

2.3 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like (collectively, "Equipment").

2.4 Customer agrees that each set of login credentials (email address and password) for the Services may be used only by a single, named user ("Authorized User"). At no time is it permissible for an Authorized User to share their login credentials. The number of Authorized Users licensed hereunder is specified on Exhibit D: Per User Pricing or as formally requested in writing later in the contract term. Customer agrees to notify Company of any unauthorized user access of which Customer becomes aware.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Company includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Company to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use or divulge to any third person any such Proprietary Information.

3.2 Customer shall own all right, title and interest in and to the Customer Data, as well as any data that is based on or derived from the Customer Data and provided to Customer as part of the Services.

3.3 Company shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.4 Notwithstanding anything to the contrary, Company shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and Company will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business.

4. PAYMENT OF FEES

4.1 Customer will pay Company the then applicable fees described in the Order Form for the Services (paid annually in advance) and Implementation Services (at time of engagement) in accordance with the terms therein (the "Fees"). Company reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). Per User Pricing, set forth on Exhibit D, shall increase by no more than 3% (the "Renewal Price Cap"), applied to the then-effective Per User Pricing set forth on Exhibit D at the time of renewal. The aforementioned Renewal Price Cap shall be forfeited if the Services are not renewed prior to the termination date of the initial Service Term or then current renewal term; in which case, the fees for any subsequent renewal shall be calculated according to Company's then-current pricing.

4.2 Company may choose to bill through an invoice, in which case, full payment for invoices must be received by Company thirty (30) days after the mailing date of the invoice. The fees do not include any taxes, including, without limitation, sales, use or excise tax. If Customer is a tax-exempt entity, you agree to provide Company with a tax-exempt certificate. Otherwise, Company will pay all applicable taxes to the proper authorities and Customer will

reimburse Company for such taxes. If Customer has a valid direct-pay permit, you agree to provide us with a copy. For clarity, Company is responsible for paying Company's income taxes, both federal and state, as applicable, arising from Company's performance of this Agreement.

4.3 The parties acknowledge that appropriation of funds is a governmental function which the Customer cannot contractually commit itself in advance to perform and this Agreement does not constitute such commitment. The Customer's obligation to pay under this Agreement is contingent upon Customer's annual appropriation of funds for such purpose, and the non-appropriation of funding for such purpose in any fiscal year shall immediately relieve both parties of their respective obligations hereunder, as of the last day for which funds have been appropriated. The Customer shall endeavor, upon determining that sufficient funds will not be budgeted and appropriated in any fiscal year under this Agreement, to provide prompt written notice within 30 days of such event.

5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term"), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Customer will pay in full for the Services up to and including the last day on which the Services are provided.

5.3 Upon the termination of this Agreement Company shall, within five (5) business day following the termination of this Agreement, provide Customer, without charge and without any conditions or contingencies whatsoever (including but not limited to the payment of any fees due to Service Provider), with a final extract of the Customer Data in electronic format. Further, Company shall certify to Customer the destruction of any Customer Data within the possession or control of Company, but such destruction shall occur only after the Customer Data has been returned to Customer. This Section shall survive the termination of this Agreement.

6. WARRANTY AND DISCLAIMER

Company shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Company or by third-party providers, or because of other causes beyond Company's reasonable control, but Company shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, COMPANY DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

7. INDEMNITY

As permitted by law, Company shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Company is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Company will not be responsible for any settlement it does not approve in writing.

8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON OR PROPERTY DAMAGE, COMPANY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. INSURANCE

9.1 During the course of performing services under this Agreement, Company agrees to maintain the following levels of insurance: (a) Commercial General Liability of at least $2,000,000 in aggregate and $1,000,000 each occurrence; (b) Professional Liability (E&O) of at least $5,000,000; (c) Cyber Liability of at least $5,000,000; (d) Commercial Auto Insurance for Hire and Non-owned vehicles of at least $1,000,000; and (e) Workers Compensation complying with applicable statutory requirements. Company will add Customer as an additional insured, primary and noncontributory, to our Commercial General Liability policy. Company will provide Customer with copies of certificates of insurance upon Customer's written request.

10. MISCELLANEOUS

10.1 If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 This Agreement is not assignable, transferable or sublicensable by Customer except with Company's prior written consent. Company may transfer and assign any of its rights and obligations under this Agreement without consent.

10.3 This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein.

10.4 No agency, partnership, joint venture, or employment is created as a result of this Agreement and Customer does not have any authority of any kind to bind Company in any respect whatsoever.

10.5 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

10.6 Company may use Customer's name and logo in a list of customers section on its website.

10.7 This Agreement shall be governed and construed in all respects in accordance with the laws of the State of New York.

EXHIBIT A

Services Statement of Work

1. SaaS Services Description. Company will provide Customer with hosted software for the enrollment, qualification, administration and reporting of the following activities:

    a. CDBG-CV Emergency Income Payments (Rent for Tenants Only)

    Company will make available to Customer all updates, and any documentation for such updates, to the Services. Company will ensure that (i) new features or enhancements to existing features are synchronized with the previous version, and (ii) updates will not degrade the performance, functionality, or operation of the Services.

2. Training Services. Company will conduct one (1) eight (8) hour training session, which may be recorded by Customer. The purpose of the training sessions is to familiarize administrator personnel with the workflow and functionality of hosted software.

3. Technical Support. Company will provide Technical Support to Customer via electronic mail on weekdays during the hours of 9:00 am through 7:00 pm Eastern time, with the exclusion of Federal Holidays ("Support Hours"). Customer may initiate a helpdesk ticket during Support Hours by emailing support@neighborlysoftware.com. Company will use commercially reasonable efforts to respond to all Helpdesk tickets within one (1) business day.

4. Data Storage. Company agrees that any and all Customer data will be stored, processed, and maintained solely in data centers located in the United States.

5. Backup and Recovery of Customer Data. As a part of the Services, Company is responsible for maintaining a backup of Customer Data and for an orderly and timely recovery of such data in the event that the Services may be interrupted. Company shall maintain a contemporaneous backup of Customer Data that can be recovered within four (4) hours at any point in time.

6. Loss of Data. In the event of any act, error or omission, negligence, misconduct, or breach that compromises or is suspected to compromise the security, confidentiality, or integrity of Customer Data or the physical, technical, administrative, or organizational safeguards put in place by Company that relate to the protection of the security, confidentiality, or integrity of Customer Data, Company shall, as applicable: (a) notify Customer as soon as practicable but no later than twenty-four (24) hours of becoming aware of such occurrence; (b) cooperate with Customer in investigating the occurrence, including making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law or as otherwise required by Customer; (c) in the case of Personally Identifiable Information (PII), at Customer's sole election, (i) notify the affected individuals who comprise the PII as soon as practicable but no later than is required to comply with applicable law, or, in the absence of any legally required notification period, within five (5) calendar days of the occurrence; (d) in the case of PII, provide third-party credit and identity monitoring services to each of the affected individuals who comprise the PII for the period required to comply with applicable law, or, in the absence of any legally required monitoring services, for six (6) months following the date of notification to such individuals; I perform or take any other actions required to comply with applicable law as a result of the occurrence; Notification to affected individuals, as described above, shall comply with applicable law, be written in plain language, and contain, at a minimum: name and contact information of Company's representative; a description of the nature of the loss; a list of the types of data involved; the known or approximate date of the loss; how such loss may affect the affected individual; what steps Company has taken to protect the affected individual; what steps the affected individual can take to protect himself or herself; contact information for major credit card reporting agencies; and, information regarding the credit and identity monitoring services to be provided by Company. This Section shall survive the termination of this Agreement.

EXHIBIT B

Service Level Terms

The Services shall be available 99.5%, measured monthly, excluding holidays and scheduled downtime. Further, any downtime resulting from outages of third party connections or utilities or other reasons beyond Company's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Company's entire liability, in connection with Service availability shall be a "Performance Credit."

1) Definitions.

(a) "Actual Uptime" shall mean the total minutes in the reporting month that the Services were actually available for normal use.

(b) "Maintenance Window" shall mean the total minutes in the reporting month represented by the following day(s) and time(s) during which Company shall maintain the Services: Tuesday, Thursday, Saturday 11pm-3am ET.

I "Scheduled Downtime" shall mean the total minutes in the reporting month represented by the Maintenance Window.

(d) "Scheduled Uptime" shall mean the total minutes in the reporting month less the total minutes represented by the Scheduled Downtime.

2) Calculation. (Actual Uptime / Scheduled Uptime) * 100 = Percentage Uptime (as calculated by rounding to the second decimal point)

3) Performance Credit. Performance credits may not be redeemed for cash and will only apply a credit to the month in which the incident occurred.

(a) Where Percentage Uptime is equal to or greater than 99.5%, no Performance Credit will be due to Customer.

(b) Where Percentage Uptime is less than 99.5%, Customer shall be due a Performance Credit in the amount of 5% of the Services Fees (as calculated on a monthly basis for the reporting month)

EXHIBIT C

Implementation Services Statement of Work

This Implementation Services Statement of Work describes the Services to be performed, and Deliverables to be provided, by Company in completion and satisfaction of the Implementation Services.

1) **Company Key Roles**. Company will assign an Engagement Manager who will be Customer's primary contact person and who will coordinate all the activities of the Implementation team.

2) **Customer Key Roles**. Customer will assign a person to be the focal point to coordinate the user and technical support and resources needed for the implementation, and to be responsible for approvals and decisions. This person will coordinate data collection and reconciliation, review each stage of the implementation process, and provide end user involvement with systems and user acceptance training. Schedule and cost estimates assume that personnel acting in the roles noted above to be reasonably and readily available to the Company team as needed throughout the project. Additionally, all approvals and decisions are made within a reasonable time period.

3) **Implementation Steps**. The following are the general steps which make up the implementation process:
    - Kickoff meeting
    - Program Design and Documentation
    - System Configuration and Signoff
    - Data Review and Validation
    - Administrator Training
    - Historical Data Collection (if applicable)

4) **Implementation Deliverables.** The following are the items that will be delivered as part of implementation:
    a. Program Design and Documentation
        - List of all documents to be uploaded into the system as part of the Program
        - List of all documents to be generated by the system as part of the Program
    b. System Configuration
        - Create Administrator accounts in the system
        - Configure Customer enrollment application in the system
        - Configure Customer specific approvals and workflow in the system, including up to thirty (30) documents/images to be uploaded
        - Configure up to two (2) program documents to be generated by system
    c. Data Review and Validation
        - Provide up to five (5) business days for Customer to test and validate system data and configuration
    d. Administrator Training
        - Conduct one (1) eight (8) hour training session, which may be recorded by Customer.
    e. Historical data conversion
        - (Optional) Upload Customer historical "active" data (i.e. outstanding loans, grants, etc.) to be provided by Customer in an electronic format specified by Company and priced in Exhibit D.

5) **Customer Responsibilities**
    a. Design and approve data elements, program workflow, and eligibility criteria
    b. Identify all program documents required to be stored in the system
    c. Identify all program documents to be generated by the system
    d. Provide historical data in electronic format specified by Company
    e. Test and approve system configuration
    f. Provide final sign off that the system meets all requirements ("Go Live")
    g. Participate in administrator training session

EXHIBIT D

Per User/Program Pricing

Additional programs may be added at any time. Additional user/administrative licenses may be purchased, pro-rata to the Initial Service Term, based on the pricing table below. Each license is billed annually in advance.

Annual Recurring Fees	USER PRICE	FREQ	USERS	ANNUAL PRICE
Neighborly Software Per Administrator Fee (Users 1-10)	$200	Monthly	3	$7,200.00
Neighborly Software Per Administrator Fee (Users 11+)	$150	Monthly	0	$0.00
- Technical Support	Included			
- Hosting/Security in Microsoft Tier IV Data Center	Included			
- Data Strorage, Backup and Recovery	Included			

**2 license minimum*

ANNUAL TOTAL **$7,200.00**

One Time Implementation Fees	UNIT PRICE	FREQ	UNITS	AMOUNT
Software Implementation Per Program[a]	$2,000	One Time	1	$2,000.00
- Software Configuration to Client Design	Included			
- Administrator Training *(8 hrs Virtual)*	Included			
- Administrator Guide	Included			
- Travel *(no travel during COVID-19 pandemic)*	$800	Per Trip	0	$0.00
- Rushed Implementation or Delayed Implementation Fees may apply[2a, 2]	See notes	One Time	0	$0.00
Increased Database Server Capacity for CARES Act/CRF/Treasury	$2,500	Monthly	0	$0.00
Loan Migration per program	$2,000	Per Program	0	$0.00
- Additional fees for migrations beyond 5 business days	$100	Hour	n/a	$0.00
Craftsman Book Spec. Database-Cost Estimating	$500	Annually	0	$0.00

a - Includes configuration for the following programs:

(1) CDBG-CV Emergency Payments (Rent for Tenants only)

ONE TIME IMPLEMENTATION TOTAL **$2,000.00**

Year One Total: **$9,200.00**

Estimated Year Two Total: **$7,200.00**

Notes
1. **Recurring fees** are invoiced annually in advance.
2. **Implementation fees** are invoiced at engagement based on an eight-week implementation period.
2a. **Implementation greater than eight weeks:** The client is expected to dedicate the appropriate resources during the implementation period. If client requires implementation to be pushed beyond the eight-week period, Neighborly Software will charge $500 per week of delay until the program has gone live.
2b. **Rushed Implementation fee:** If the client requires a rushed implementation shorter than two-weeks, Neighborly Software will charge a one-time rushed implemenation fee of $1,000 in addition to the program implementation fee.
3. **Increased Database Server Capacity:** Neighborly Software will increase database server capacity on Microsoft Azure to ensure the availability of resources will meet expected demand (500+ applications) from the program. Pricing will be based on 2 months of surge capacity with the option to add additional months as needed.
4. **Loan Migration:** Neighborly Software will commit a staff person to dedicate 5 business days to complete the migration upon completion of the import template. We ask that the client commit resources to assist in this effort. Should the client cause the migration to extend beyond 5 business days, Neighborly Software will charge $100 / hour for the time expended to complete the loan migration project.

RESOLUTION NO.: _____56_____ - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE POLICE CHIEF, AS MANAGER'S DESIGNEE, TO EXECUTE AN INTER-MUNICIPAL AGREEMENT WITH THE COUNTY OF ORANGE CONFIRMING CITY OF NEWBURGH PARTICIPATION IN THE STOP-DWI PROGRAM FOR THE ENFORCEMENT PERIOD OF MARCH 1, 2021 TO JANUARY 1, 2022 AND TO ACCEPT AN AWARD NOT TO EXCEED $3,668.00 COVERING 70 PERSON-HOURS FOR THE FIRST ENFORCEMENT PERIOD OF 2021 (MARCH 12, 2021 – JUNE 1, 2021)

WHEREAS, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an Inter-Municipal Agreement for a full year of participation to provide for the funding of the STOP-DWI Program within the City of Newburgh and an award notification for the enforcement period of March 1, 2021 and ending January 1, 2022; and

WHEREAS, the City of Newburgh agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows: First Enforcement Period – March 12, 2021 through June 1, 2021, which includes St. Patrick's Day and the Memorial Day holiday weekend; Second Enforcement Period – July 2, 2021 through September 7, 2021, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns; and the Third Enforcement Period – November 6, 2021 through January 1, 2022, which includes Thanksgiving, Christmas and New Year's holiday enforcement campaigns; and

WHEREAS, the County shall reimburse the City of Newburgh for increased patrol and court time in connection with enhanced enforcement of laws prohibiting driving while intoxicated; and

WHEREAS, based on the data submittals submitted for the prior year the City of Newburgh is eligible for an award not to exceed $3,668.00 covering 70 person-hours for the First Enforcement Period of 2021; and

WHEREAS, the County will notify the City in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2021 by a separate written award letter prior to the commencement of each such enforcement period; and

WHEREAS, this Council has determined that entering into such agreement would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager or the Police Chief, as Manager's designee, be and he is hereby authorized to execute an Inter-Municipal Agreement with the County of Orange confirming the City's participation in the STOP-DWI Program for the period March 12, 2021 through January 1, 2022 in order to fund the additional cost of stepped-up police patrols and related court appearances and providing the City of Newburgh with an award not to exceed $3,668.00 covering 70 person-hours for the First Enforcement Period of 2021 (March 12, 2021 through June 1, 2021); and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh, New York that the City Manager or the Police Chief as Manager's designee be and he is hereby authorized to accept subsequent awards for the Second Enforcement Period (July 2, 2021 through September 7, 2021) and Third Enforcement Period (November 6, 2021 through January 1, 2022) covered by the 2021 STOP-DWI Agreement; and to execute all necessary documents to receive and comply with the terms of such Agreement and to carry out the program funded thereby.

City of Newburgh

GRANT APPLICATION FORM

Grant Requestor:
Please complete the following form and submit the form along with either a hard copy of the grant announcement or the grant announcement website address to the City of Newburgh Grants Coordinator for processing. You will be notified when your grant
request has been approved to be sent for City Council Resolution.

NOTE: All fields are required unless marked "OPTIONAL."

SECTION A. COMPLETED BY GRANT REQUESTOR		
NAME OF PROJECT FOR GRANT: STOP-DWI 2021	NAME OF DEPARTMENT REQUESTING GRANT: Police Department	NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT: Arnold Amthor Chief of Police
NAME OF GRANT/NAME OF AWARDING AGENCY: Orange County Traffic Safety	GRANT SUBMITTAL DATE: March 10, 2021	AMOUNT OF AWARD: Up To $11,500.00
MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND) NO	AMOUNT REQUIRED BY THE CITY OF NEWBURGH: NONE	(OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS:
PROJECT PLAN: Funds will be utilized to provide for proactive DWI enforcement patrols. There are 3 enforcement periods for the year :1st one from 3/12/21 to 6/1/21, 2nd one from 7/2/21 to 9/7/21, and 3rd one from 11/6/21 to 1/1/22. Contract period 3/1/2021- 1/1/2022. Attached is the award letter and contract. Scope of Project**:** Project Timeline: (ex. Dates)		

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: _____

INTER-MUNICIPAL AGREEMENT

THIS INTER-MUNICIPAL AGREEMENT ("IMA") is entered into this 1st day of March, 2021, by and between the **COUNTY OF ORANGE**, a County of the State of New York, with its principal offices at 255-275 Main Street, Goshen, New York, by and through its Department of Emergency Services ("COUNTY"), and the **CITY OF NEWBURGH,** a City of the State of New York, with its principal offices at 55 Broadway, Newburgh, NY 12550, by and through its Police Department ("MUNICIPALITY").

ARTICLE 1. SCOPE OF AGREEMENT

The COUNTY is a municipal corporation chartered under the authority of the State of New York. Among other powers and duties, the COUNTY, by and through its Department of Emergency Services, administers the COUNTY's Special Traffic Options Program for Driving While Intoxicated in accordance with New York State Vehicle and Traffic Law Section 1197 ("STOP DWI Program"). The purpose of the STOP DWI Program is to coordinate and fund Orange County's town, city, and village efforts to reduce alcohol-related traffic injuries and fatalities. To facilitate this goal the COUNTY and the MUNICIPALITY recognize that police patrol enforcement campaigns are an effective tool towards ensuring safe and sober roadways.

It is the intention of the COUNTY, in order to carry out the goals of the STOP DWI Program, to award to the MUNICIPALITY funds in the manner set forth on Schedule A to be used solely to reimburse the MUNICIPALITY for man-hours dedicated to enforcement campaigns during the applicable campaign periods as more particularly described on Schedule A. The expenditure of these funds and all activity of the MUNICIPALITY relating to such funds, shall be in full compliance with the terms and conditions of this IMA and federal, State of New York ("State"), and local laws.

ARTICLE 2. TERM OF AGREEMENT

The term of this IMA shall commence on March 1, 2021 and end January 11, 2022.

ARTICLE 3. PROCUREMENT OF AGREEMENT

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

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to immediately recover the funds paid hereunder from the MUNICIPALITY. This remedy, if effected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or to take any other action provided for by law or pursuant to this IMA.

ARTICLE 4. CONFLICT OF INTEREST

The MUNICIPALITY represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have an interest, and shall not acquire an interest, directly or indirectly which would or may conflict in any manner or degree with the performance of this IMA. The MUNICIPALITY further represents and warrants that in the performance of this IMA, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the COUNTY, nor any person whose salary is payable, in whole or in part, by the COUNTY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this IMA or in the proceeds thereof, unless such person (1) is required by the Orange County Ethics Law, as amended from time to time, to submit a Disclosure form to the Orange County Board of Ethics, amends such Disclosure form to include his/her interest in this IMA, or (3) submits such a Disclosure form and (a) discloses his/her interest in this IMA, or (b)

seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations or warranties, the COUNTY shall have the right to annul this IMA without liability, entitling the COUNTY to recover the funds. This remedy, if elected, shall not constitute the sole remedy afforded the COUNTY for such falsity or breach, nor shall it constitute a waiver of the COUNTY's right to claim damages or otherwise refuse payment to or to take any other action provided for by law in equity or, pursuant to this IMA.

ARTICLE 5. ASSIGNMENT AND SUBCONTRACTING

No party shall assign any of its rights, interest, or obligations under this IMA, or enter into a sub-contract relating to the funds, without the prior written consent of the COUNTY.

ARTICLE 6. BOOKS AND RECORDS

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

The MUNICIPALITY shall, within five (5) business days written notice from the COUNTY, have all records associated with the funds awarded and the enforcement campaigns available for a physical inspection and/or audit by the COUNTY.

ARTICLE 7. RETENTION OF RECORDS

MUNICIPALITY agrees to retain all books, records and other documents relevant to this IMA for six (6) years after the funds are delivered. The COUNTY, or any State and/or Federal auditors, and any other persons duly authorized by the COUNTY, shall have full access and the right to examine any of said materials during said period.

ARTICLE 8. AUDIT BY THE COUNTY AND OTHERS

All claimant certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said claimant's certification forms or invoices are based are subject to audit by the COUNTY. The MUNICIPALITY shall submit any and all documentation and justification in support of expenditures or fees under this IMA as may be required by the COUNTY, so that it may evaluate the reasonableness of the charges, and the MUNICIPALITY shall make its records available to the COUNTY upon request. All books, claimant's certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the COUNTY, the State, the federal government, and/or other persons duly authorized by the COUNTY. Such audits may include examination and review of the source and application of all funds whether from the COUNTY and State, the federal government, private sources or otherwise. The MUNICIPALITY shall not be entitled to any interim or final payment under this IMA if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 9. INDEMNIFICATION

The MUNICIPALITY agrees to defend, indemnify and hold harmless the COUNTY, its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including reasonable attorney fees and costs of litigation and/or settlement) arising out of any act or omission of the MUNICIPALITY, its employees, representatives, subcontractor, assignees, or agents, relating to this IMA or the funds.

ARTICLE 10. TERMINATION

The COUNTY may, by written notice to the MUNICIPALITY, effective upon mailing, terminate this IMA in whole or in part at any time (i) for the COUNTY's convenience, (ii) upon the failure of the MUNICIPALITY to comply with any of the terms or conditions of this IMA, or (iii) upon the MUNICIPALITY becoming insolvent or bankrupt.

Upon termination of this IMA, the MUNICIPALITY shall comply with any and all COUNTY closeout procedures, including, but not limited to, (i) accounting for and refunding to the COUNTY within thirty (30) days, any unexpended funds which have been paid and/or transferred to MUNICIPALITY pursuant to this IMA; and (ii) furnishing within thirty (30) days an inventory to the COUNTY of all equipment, appurtenances and property purchased by MUNICIPALITY through or provided under this IMA, and carrying out any COUNTY directive concerning the disposition thereof.

Notwithstanding any other provision of this IMA, the MUNICIPALITY shall not be relieved of liability to the COUNTY for damages sustained by the COUNTY by virtue of the MUNICIPALITY's breach of this IMA or failure to perform in accordance with applicable standards.

Any rights and remedies of the COUNTY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or this IMA.

ARTICLE 11. GENERAL RELEASE

The acceptance by the MUNICIPALITY, or its assignees, of the funds and of the terms of this IMA, shall constitute, and operate as a general release in favor of the COUNTY, from any and all claims of the MUNICIPALITY arising out of the performance of this IMA.

ARTICLE 12. SET-OFF RIGHTS

The COUNTY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the COUNTY's right to withhold for the purposes of set-off any monies otherwise due to the MUNICIPALITY (i) under any other agreement or contract with the COUNTY, including any agreement or contract commencing prior to or after the term of this IMA, or (ii) from the COUNTY by operation of law.

ARTICLE 13. GOVERNING LAW

This IMA shall be governed by the laws of the State of New York. The MUNICIPALITY shall utilize the funds in accordance with this IMA and applicable provisions of all federal, State, and local laws, rules, and regulations.

ARTICLE 14. ENTIRE AGREEMENT

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

ARTICLE 15. MODIFICATION

No amendment or modification of any of the terms and/or conditions of this IMA shall be valid unless reduced to writing and signed by both parties. The COUNTY shall not be bound by any changes made to this IMA that is not made in compliance with the above, and which imposes on the COUNTY any financial obligation. Unless otherwise specifically provided for therein, the provisions of this IMA shall apply with full force and effect to any such amendment, modification or change order.

ARTICLE 16. SEXUAL HARASSMENT CERTIFICATION

Pursuant to State of New York State Finance Law §139-l, by execution of this IMA, the MUNICIPALITY and the individual signing this IMA on behalf of the MUNICIPALITY certifies, under penalty of perjury, that the MUNICIPALITY has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the State of New York Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found on its website at:

https://www.ny.gov/programs/combating-sexual-harassment-workplace.

The COUNTY's policy against sexual harassment and other unlawful discrimination and harassment in the workplace can be found on the COUNTY's website at:

https://www.orangecountygov.com/1137/Human-Resources.

ARTICLE 17. SIGNATURES

A manually signed copy of this IMA delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal force and effect as delivery of an original signed copy of this IMA.

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

COUNTY OF ORANGE	**MUNICIPALITY**
By: _____	By: _____
Steven M. Neuhaus	Name:
County Executive	Title:
DATE: _____	DATE: _____

SCHEDULE A-1
NEW YORK STATE VEHICLE AND TRAFFIC LAW §1197 FUNDS

ENFORCEMENT CAMPAIGNS/AGREEMENT TO PARTICIPATE.

MUNICIPALITY agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows:

First Enforcement Period – March 12, 2021 through June 1, 2021, which includes St. Patrick's Day and the Memorial Day holiday weekend.

Second Enforcement Period – July 2, 2021 through September 7, 2021, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns.

Third Enforcement Period – November 6, 2021 through January 1, 2022, which includes Thanksgiving, Christmas, and the New Year's holidays enforcement campaigns.

Each of the three (3) enforcement campaigns coincides with state and national enforcement campaign efforts.

DATA SUBMITTAL.

MUNICIPALITY agrees to deliver to the COUNTY enforcement activity data in the form provided by the COUNTY, in its sole discretion, and required to be completed by the COUNTY, no later than ten (10) calendar days after the end of each enforcement period. Failure to timely submit the data may result in the MUNICIPALITY receiving the calculated minimum amount of hours/dollars for the next succeeding enforcement period or no award at all.

AWARD OF FUNDS.

Provided that MUNICIPALITY has performed in accordance with the terms of this IMA, the COUNTY, to the extent that funds are appropriated and available, will make up to three (3) awards of funds to support the MUNICIPALITY's STOP DWI Program enforcement campaigns. Each such award shall be data driven based upon the data submitted by the MUNICIPALITY to the COUNTY for enforcement activities occurring during the preceding enforcement period.

FIRST ENFORCEMENT PERIOD AWARD.

Based on data submittals from the MUNICIPALITY for the prior enforcement period November 6, 2020 through January 1, 2021, which submittals were required to be submitted to the COUNTY pursuant to a separate IMA between MUNICIPALITY and COUNTY, MUNICIPALITY is eligible for an award not to exceed **THREE THOUSAND SIX HUNDRED SIXTY-EIGHT AND 00/100 ($3668)** covering **70** man-hours for the first enforcement period of 2021. The actual award payment to MUNICIPALITY shall be that amount earned as a result of man-hours expended by the MUNICIPALITY for STOP DWI Program enforcement activities during each preceding enforcement period as supported by the data submitted by the MUNICIPALITY.

WRITTEN NOTIFICATION OF AWARDS FOR THE SECOND AND THIRD ENFORCEMENT PERIODS OF 2021.

COUNTY will notify MUNICIPALITY in writing of its eligibility for awards, if any, for the second and third enforcement period of 2021 by a separate written award letter delivered to MUNICIPALITY prior to the

commencement of such enforcement period. Each award letter shall state a not to exceed dollar value of the funds available to the MUNICIPALITY for reimbursement of man hours expended operating enforcement patrols during the applicable enforcement period and shall be annexed to and made a part of this IMA.

RESOLUTION NO.: _____62_____ - 2020

OF

MARCH 9, 2020

A RESOLUTION AUTHORIZING THE CITY MANAGER OR THE POLICE CHIEF, AS MANAGER'S DESIGNEE, TO EXECUTE AN INTER-MUNICIPAL AGREEMENT WITH THE COUNTY OF ORANGE CONFIRMING CITY OF NEWBURGH PARTICIPATION IN THE STOP-DWI PROGRAM FOR THE ENFORCEMENT PERIOD OF MARCH 13, 2020 TO JANUARY 1, 2021 AND TO ACCEPT AN AWARD NOT TO EXCEED $3,668.00 COVERING 70 PERSON-HOURS FOR THE FIRST ENFORCEMENT PERIOD OF 2020 (MARCH 13, 2020 – MAY 26, 2020)

WHEREAS, the County of Orange (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an Inter-Municipal Agreement for a full year of participation to provide for the funding of the STOP-DWI Program within the City of Newburgh and an award notification for the enforcement period of March 13, 2020 and ending January 1, 2021; and

WHEREAS, the City of Newburgh agrees to participate in three (3) STOP DWI Program enforcement campaign periods as follows: First Enforcement Period – March 13, 2020 through May 26, 2020, which includes St. Patrick's Day and the Memorial Day holiday weekend; Second Enforcement Period – July 3, 2020 through September 8, 2020, which includes the Independence Day and Labor Day holiday weekend enforcement campaigns; and the Third Enforcement Period – November 6, 2020 through January 1, 2021, which includes Thanksgiving, Christmas and New Year's holiday enforcement campaigns; and

WHEREAS, the County shall reimburse the City of Newburgh for increased patrol and court time in connection with enhanced enforcement of laws prohibiting driving while intoxicated; and

WHEREAS, based on the data submittals submitted for the prior year the City of Newburgh is eligible for an award not to exceed $3,668.00 covering 70 person-hours for the First Enforcement Period of 2020; and

WHEREAS, the County will notify the City in writing of its eligibility for awards, if any, for the second and third enforcement periods of 2020 by a separate written award letter prior to the commencement of each such enforcement period; and

WHEREAS, this Council has determined that entering into such agreement would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager or the Police Chief, as Manager's designee, be and he is hereby authorized to execute an Inter-Municipal Agreement with the County of Orange confirming the City's participation in the STOP-DWI Program for the period March 13, 2020 through January 1, 2021 in order to fund the additional cost of stepped-up police patrols and related court appearances and providing the City of Newburgh with an award not to exceed $3,668.00 covering 70 person-hours for the First Enforcement Period of 2020 (March 13, 2020 through May 26, 2020); and

BE IT FURTHER RESOLVED, that the City Council of the City of Newburgh, New York that the City Manager or the Police Chief as Manager's designee be and he is hereby authorized to accept subsequent awards for the Second Enforcement Period (July 3, 2020 through September 8, 2020) and Third Enforcement Period (November 6, 2020 through January 1, 2021) covered by the 2020 STOP-DWI Agreement; and to execute all necessary documents to receive and comply with the terms of such Agreement and to carry out the program funded thereby.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 3/9/20 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 10th day of MAR. 2020

Katrina Cotten

Deputy City Clerk

RESOLUTION NO.: 57 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NEW AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR REIMBURSEMENT OF THE COST OF WATER PURCHASED FROM THE NEW YORK CITY CATSKILL AQUEDUCT

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

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

WHEREAS, by Resolution No. 204-2016 of August 8, 2016, the City Council of the City of Newburgh authorized the City Manager to enter a Contract with the New York State Department of Environmental Conservation (the "Contract") for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct; and

WHEREAS by Resolution No. 326-2017 of November 27, 2017, Resolution No. 227-2018 of August 13, 2018, and Resolution No. 57-2021 of March 22, 2021, the City Council authorized Amendments No. 1, No. 2 and No. 3 to the Contract because the need for the temporary alternate source of drinking water was anticipated to extend past the original end date of the Contract; and

WHEREAS, the need to for the temporary alternate source of drinking water is anticipated to extend past the amended end date of Amendments No. 1, No. 2, and No. 3 to the Contract and the Parties have determined that a new Contract for reimbursement of the costs associated with providing a temporary alternate source of drinking water to City residents through the New York City Catskill Aqueduct is necessary, appropriate, and in the best interest of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter a new Contract with the New York State Department of Environmental Conservation for a term of 1 year with two 1-year extensions in an amount not to exceed $1,900,000.00 for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that Resolution No. 284-2019 of November 12, 2019 be and hereby is superseded.

AMENDMENT TO CONTRACT
between
CITY OF NEWBURGH
and
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

THIS AMENDMENT, entered into by and between the New York State Department of Environmental Conservation (hereinafter referred to as the Department), having offices at 625 Broadway, Albany, New York 12233, and the City of Newburgh (hereinafter referred to as Newburgh), having offices at 83 Broadway, Newburgh, New York 12550 is hereby attached to and becomes incorporated into the above referenced contract.

WITNESSETH:

WHEREAS, the parties entered into a prior Contract which was duly assigned Contract Number C010219 (and amended on January 31, 2018 and December 12, 2018) which said Contract the parties now desire to extend; and as amended

WHEREAS, both parties originally agreed that the Department would reimburse Newburgh for the costs of a temporary alternate source of drinking water for the residents of Newburgh; and,

WHEREAS, the need for the temporary alternate source of drinking water may extend past the previously amended end date of the Contract; and,

WHEREAS, Newburgh has remaining funds that were advanced under this contract that will be expended for costs associated with continued purchase of alternate source of water; and

WHEREAS, the Contract provides for amending the Contract in Article 3: Term.

NOW THEREFORE, the parties hereto agree as follows:

1. Article 3 is revised by extending the end date of the Contract to May 31, 2021.

2. Appendix A, dated January 2014, is hereby deleted and Appendix A, dated October 2019, is attached hereto.

3. Newburgh is authorized to expend funds from the advance payment held under this contract for costs incurred during the term of this contract.

4. All other terms and conditions of Contract Number C010219 as amended will remain in full force and effect.

SIGNATURE PAGE

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

NEWBURGH SIGNATURE	DEPARTMENT SIGNATURE
By:	By:
Print Name:	Print Name: Nancy Lussier
Title:	Title: Director, Management & Budget Services
Dated:	Dated:

Newburgh Acknowledgement

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

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

_____ Notary Public

ATTORNEY GENERAL SIGNATURE	COMPTROLLER SIGNATURE
Approved as to Form:	Approved: Thomas P. DiNapoli State Comptroller
Dated:	Dated:

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

October 2019

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

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

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

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

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

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

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012

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

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

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

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

RESOLUTION NO.: 58 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A NEW AGREEMENT WITH THE NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR REIMBURSEMENT OF THE COST OF WATER PURCHASED FROM THE NEW YORK CITY CATSKILL AQUEDUCT

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

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

WHEREAS, by Resolution No. 204-2016 of August 8, 2016, the City Council of the City of Newburgh authorized the City Manager to enter a Contract with the New York State Department of Environmental Conservation (the "Contract") for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct; and

WHEREAS by Resolution No. 326-2017 of November 27, 2017, Resolution No. 227-2018 of August 13, 2018, and Resolution No. ___ - 2021 of March 22, 2021, the City Council authorized Amendments No. 1, No. 2 and No. 3 to the Contract because the need for the temporary alternate source of drinking water was anticipated to extend past the original end date of the Contract; and

WHEREAS, the need to for the temporary alternate source of drinking water is anticipated to extend past the amended end date of Amendments No. 1, No. 2, and No. 3 to the Contract and the Parties have determined that a new Contract for reimbursement of the costs associated with providing a temporary alternate source of drinking water to City residents through the New York City Catskill Aqueduct is necessary, appropriate, and in the best interest of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter a new Contract with the New York State Department of Environmental Conservation for a term of 1 year with two 1-year extensions in an amount not to exceed $1,900,000.00 for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that Resolution No. 284-2019 of November 12, 2019 be and hereby is superseded.

NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CONTRACT C011789

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

WITNESSETH:

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

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

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

WHEREAS, there is a need to continue to provide a temporary alternate source of drinking water to residents of Newburgh; and,

WHEREAS, the Department and Newburgh are in discussions as to how provide for a permanent solution to the need for Newburgh water; and,

WHEREAS, Newburgh has access to New York City's Catskill Aqueduct as a backup source of drinking water; and,

WHEREAS, after fully examining all of its internal capabilities and thoroughly investigating possible alternative approaches, the Department has determined that this can best be accomplished through a Contract.

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

ARTICLE 1: SCOPE

A. Newburgh agrees to continue to obtain water from the Catskill Aqueduct for the use of its customers. Payment for the water will be made by Newburgh to New York City pursuant to a separate agreement between Newburgh and New York City.

B. The Department agrees to pay Newburgh for the actual cost of purchasing water from New York City as a temporary alternative water supply. Payment shall be based upon Article 2 of this Contract.

ARTICLE 2: PAYMENT

A. The Department shall pay to Newburgh and Newburgh shall accept from the Department as full compensation for the purchase of Catskill Aqueduct water an amount not to exceed $1,900,000.

B. Payment will be made to Newburgh at the established New York City Water Board rates in effect at the time of usage.

C. Upon approval of the contract by the Office of the State Comptroller, the Department will make an advance payment of $550,000 to Newburgh.

D. Newburgh shall submit invoices to the Department monthly, with supporting documentation demonstrating the actual costs incurred and paid by Newburgh during the previous month for the purchase of New York City water. The Department will reimburse Newburgh for the actual costs incurred and paid by Newburgh for the purchase of New York City water.

E. The Department will authorize payment within 10 days of receipt of invoices and supporting documentation submitted per paragraph D of this article. The Department will make best efforts to arrange payment within 30 days of receipt of those invoices and supporting documentation.

F. At the end of the contract, the Department will perform a final reconciliation and Newburgh shall return unused advance funds, if any, to the Department within 30 days from the Department's notice to Newburgh of any overpayment. Newburgh is authorized to expend funds from the advance payment held under contract for costs incurred during the term of this contract.

G. Newburgh will submit requests for payment, together with supporting documentation, to the Department. Request for payment must be submitted within 45 days of the end of each State fiscal year which is March 31. Failure to comply with this request or notify the Department in writing prior to March 31st regarding billing problems shall operate as a waiver by Newburgh for reimbursement by the Department.

H. If the term of this Contract encompasses more than one State fiscal year, Newburgh shall incur no costs hereunder in subsequent fiscal years without the express written authority of the Department.

I. Payments for expenditures incurred under this contract will be rendered electronically to Newburgh unless payment by paper check is expressly authorized by the Commissioner of the Department (Commissioner), in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. Newburgh shall comply with the Office of the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the Comptroller's website at www.osc.state.ny.us/epay/index.htm, or by e-mail at epayments@osc.state.ny.us. Newburgh acknowledges that it will not receive payment under this

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

ARTICLE 3: TERM

A. The term of this Contract shall be from June 1, 2021 to May 31, 2022. The Contract shall be effective upon approval by the Office of the State Comptroller.

B. This Contract may be extended for a maximum of two one-year periods upon the mutual written consent of both parties and the approval of the Office of the State Comptroller.

C. Amendments other than exercising the term options above must be in writing and submitted to the Attorney General and the Office of the State Comptroller for approval.

ARTICLE 4: NOTICES

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

Department:
George Heitzman
Assistant Director
Division of Environmental Remediation
NYS Department of Environmental Conservation
625 Broadway, 12th Floor
Albany, NY 12233-7014
Telephone Number: (518) 402-9662
E-Mail: george.heitzman@dec.ny.gov

Newburgh:

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

ARTICLE 5: LIABILITY

Newburgh shall be responsible for all damage to life and property due to activities of Newburgh, its subcontractors, agents, or employees, in connection with its Services under this Contract, and this obligation is in no way limited by the enumeration of insurance coverages hereunder. Further, it is

expressly understood that Newburgh shall indemnify and save harmless the Department, its officers, employees, agents, and assigns in accordance with the provisions of Appendix B, Clause II.

Nothing in this Contract is intended to obligate Newburgh to indemnify the State or any other party with respect to the PFOS contamination.

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

ARTICLE 6: DEFAULT AND TERMINATION

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

B. The State shall have the right to terminate this Contract for:

1) unavailability of funds

2) cause

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

3) convenience

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

ARTICLE 7: STANDARD CONTRACT CLAUSES

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

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

ARTICLE 8: ENTIRE CONTRACT

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

1. Appendix A
2. Appendix B
3. Appendix C
4. The Contract

ARTICLE 9: AFFIRMATIVE ACTION REQUIREMENTS

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

ARTICLE 10: INSURANCE CONSIDERATIONS

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

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

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

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

The following types of insurance are required for this Contract:

1. **Workers' Compensation:**

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

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

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

FORM #	FORM TITLE
C-105.2	Certificate of Workers' Compensation Insurance (September 2007, or most current version)
U-26.3	State Insurance Fund Version of the C-105.2 form
SI-12/ GSI-105.2	Certificate of Workers' Compensation Self-Insurance
CE-200	Certificate of Attestation of Exemption (when Contractor meets the requirements.)

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

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

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

2. **Disability Benefits:**

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

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

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

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

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

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

ARTICLE 11: SEVERABILITY

If any part of this Contract is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Contract, and the remaining parts of this Contract shall be enforced as if the invalid, illegal or unenforceable part were not contained therein.

ARTICLE 12: FORCE MAJEURE

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

ARTICLE 13: EXECUTIVE ORDER 177

A. Executive Order No. 177, Prohibiting State Contracts with Entities that Support Discrimination, orders that New York State's government will not do business with entities that promote or tolerate discrimination or infringement on the civil rights and liberties of New Yorkers. New York State is dedicated to ensuring that all individuals are treated equally, regardless of their age, race, creed, color, national origin, sexual orientation, gender identity, military status, sex, marital status, disability, or other protected basis. To that end, New York has enacted numerous laws, regulations, and policies,

and will continue to aggressively enforce its strong protections against discrimination to the maximum extent allowable by law.

B. In order to comply with this order, the Contractor is required to complete the Executive Order No. 177 Certification which certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

ARTICLE 14: COMPLIANCE WITH LAWS

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

SIGNATURE PAGE

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

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

NEWBURGH SIGNATURE	DEPARTMENT SIGNATURE
By:	By:
Print Name:	Print Name: Nancy Lussier
Title:	Title: Dir. Of Management and Budget
Dated:	Dated:

Newburgh Acknowledgement

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

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

_____ Notary Public

ATTORNEY GENERAL SIGNATURE	COMPTROLLER SIGNATURE
Approved as to Form:	Approved: Thomas P. DiNapoli State Comptroller
Dated:	Dated:

APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT
FOR FUTURE REFERENCE.

October 2019

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STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds $50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds $25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed $85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

4. WORKERS' COMPENSATION BENEFITS. In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

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

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

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

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

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of

$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of $100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of $100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

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

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over $25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

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

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

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

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)–(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than $1 million:

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

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

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

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5))) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

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

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

25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.
To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012

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

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

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

27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT. Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

APPENDIX B

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

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

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

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

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

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may, without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

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

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

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

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

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

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

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

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

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package

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

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

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

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

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

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

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

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

VII. **Compliance with applicable laws**

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

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

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

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

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

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

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

(1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or
(2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or
(3) Make a determination on the record as it exists.

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

The designated individual to hear disputes is:

Bureau Director
(Name and Title)

NYS Dept. of Env. Conservation - Remediation
625 Broadway, 12th FL, Albany, NY 12233-7012
(Address)

(518) 402-9764
(Telephone)

The designated appeal individual to review decisions is:

Division Director
(Name and Title)

NYS Dept. of Env. Conservation - Remediation
625 Broadway, 12th FL, Albany, NY 12233-7011
(Address)

(518) 402-9706
(Telephone)

The Chair of the Contract Review Committee is:

Department of Environmental Conservation
Nancy W. Lussier Chair
Contract Review Committee
625 Broadway, 10th Floor
Albany, NY 12233-5010
Telephone: (518) 402-9228

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

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

(2) Adopt the decision of the DAI; or

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

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

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

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

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

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

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

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

IX. **Labor Law Provisions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

XIX. **Article 15-Requirements**

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

(a) General Provisions

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

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

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

(b) Contract Goals

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

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

https://ny.newnycontracts.com

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

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

(c) Equal Employment Opportunity (EEO)

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

(i)Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

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

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

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

a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.

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

c. The Contractor shall request each employer Department, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employer Department, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the

implementation of the Contractor's obligations herein.

d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

e. **EEO Contract Goals** for the purposes of this procurement, the Department hereby establishes a goal of **10**% Minority Labor Force Participation**, 10%** Female Labor Force Participation.

(2) Staffing Plan Form

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

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

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

(ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

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

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

(d) MWBE Utilization Plan

(1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.

(2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.

(3)Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

(e) Waivers

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

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

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

(f) Quarterly MWBE Contractor Compliance Report

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

(g) Liquidated Damages - MWBE Participation

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

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

(i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and

(ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

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

(h) Forms

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

Appendix C

Standard Clauses for Ethics in all NYSDEC Contracts

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

I. Conflict of Interest

A. Procurement Phase:

1. An Offeror will disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated firm, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Offeror or former officers and employees of the Agencies and their Affiliates, in connection with the Offeror rendering services enumerated in this procurement. If a conflict does or might exist, the Offeror will describe how the Offeror would eliminate or prevent it. This description will include, but not be limited to what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.

2. The Offeror must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included in the Offeror's response indicating how any matter before the Commission was resolved or whether it remains unresolved.

3. The Offeror/Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect attached hereto), signed by an authorized executive or legal representative attesting that the Offeror's/Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Offeror/Contractor to breach any other contract currently in force with the State of New York, that the Offeror/Contractor will not act in any manner that is detrimental to any State project on which the Offeror/Contractor is rendering services.

B. Contract Phase:

1. The Contractor hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this contract. The Contractor shall have a duty to notify the Department immediately of any actual or potential conflicts of interest.

2. In conjunction with any subcontract under this contract, the Contractor shall obtain and deliver to the Department, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Department a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.

3. The Department and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing or establish new relationships. The Department will review the nature of any relationships and reserves the right to terminate this contract for any reason, or for cause, if, in the judgment of the Department, a real or potential conflict of interest cannot be cured.

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

5. The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid a conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be allowed by law or other applicable provisions of this contract regarding termination.

6. The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package.

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

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

   a. The Contractor, during the life of the work assignment and for a period of three (3) years after the completion of the work assignment, agrees not to enter into a contract with or to

represent any party with respect to any work relating to remedial activities or work pertaining to a site where the Contractor previously performed work for the Department under this contract without the prior written approval of the Department.

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

II. PUBLIC OFFICERS LAW

Contractors, consultants, vendors, and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a "lifetime bar" from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

III. ETHICS REQUIREMENTS

The Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the "Ethics Requirements").

The Contractor certifies that all of its employees and those of its subcontractors who are former employees of the State and who are assigned to perform services under this contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Contractor or its subcontractors and who is disqualified from providing services under this contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its subcontractors derived from this Contract. The Contractor shall identify and provide the State with notice of those employees of the Contractor and its Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions.

The State may request that the Contractor provide it with whatever information the State deems appropriate about each such person's engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State

shall have the right to terminate this Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

IV. SUBCONTRACTING

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the Department. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The Contractor may arrange for a portion/s of its responsibilities under this Contract to be subcontracted to qualified, responsible subcontractors, subject to prior approval of the Department. If the Contractor decides to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this contract must be fully explained by the Contractor to the Department. As part of this explanation, the subcontractor must submit to the Department a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the Contractor prior to execution of this contract.

The Contractor retains ultimate responsibility for all services performed under the contract.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this contract including, but not limited to, the body of this contract, Appendix A – Standard Clauses for New York State Contracts, Appendix B – Standard Clauses for All New York State Department of Environmental Conservation Contracts, Appendix C - Standard Clauses for Ethics in all New York State Department of Environmental Conservation Contracts, and the Solicitation Document.

Unless waived in writing by the Department, all subcontracts between the Contractor and subcontractors shall expressly name the State, through the Department, as the sole intended third party beneficiary of such subcontract. The Department reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the Department or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the Department.

The Department reserves the right, at any time during the term of the contract, to verify that the written subcontract between the Contractor and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this contract. The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the contract. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the contract.

If at any time during performance under this contract total compensation to a subcontractor exceeds or is expected to exceed $100,000, or as otherwise requested by the Department that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

Vendor Assurance of No Conflict of Interest or Detrimental Effect

The Firm offering to provide services pursuant to this Procurement/Contract, as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this Procurement/Contract does not and will not create a conflict of interest with nor position the Firm to breach any other contract currently in force with the State of New York.

Furthermore, the Firm attests that it will not act in any manner that is detrimental to any State project on which the Firm is rendering services. Specifically, the Firm attests that:

1. The fulfillment of obligations by the Firm, as proposed in the response, does not violate any existing contracts or agreements between the Firm and the State;

2. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Firm has with regard to any existing contracts or agreements between the Firm and the State;

3. The fulfillment of obligations by the Firm, as proposed in the response, does not and will not compromise the Firm's ability to carry out its obligations under any existing contracts between the Firm and the State;

4. The fulfillment of any other contractual obligations that the Firm has with the State will not affect or influence its ability to perform under any contract with the State resulting from this Procurement;

5. During the negotiation and execution of any contract resulting from this Procurement, the Firm will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

6. In fulfilling obligations under each of its State contracts, including any contract which results from this Procurement, the Firm will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;

7. No former officer or employee of the State who is now employed by the Firm, nor any former officer or employee of the Firm who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and

8. The Firm has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Firms responding to this Procurement/Contract should note that the State recognizes that conflicts may occur in the future because a Firm may have existing or new relationships.

The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Signature: _____
Date: _____
Name: _____
Title: _____

This form must be signed by an authorized executive or legal representative and returned with the Bid/Proposal/Contract.

Executive Order No. 177 Certification

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: _____

Signature: _____

Name: _____

Title: _____

Date: _____

RESOLUTION NO.: 59 - 2021

OF

MARCH 22, 2021

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ADOPTING THE CITY OF NEWBURGH POLICE REFORM AND REINVENTION COLLABORATIVE PLAN

WHEREAS, by Executive Order 203, Governor Andrew M. Cuomo has required each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law to perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color; and

WHEREAS, the City of Newburgh has commenced a comprehensive review of current police force deployments, strategies, policies, procedures, and practices in order to develop a plan to improve such deployments, strategies, policies, procedures, and practices; and

WHEREAS, the City of Newburgh developed a plan to improve such deployments, strategies, policies, procedures, and practices and consulted with stakeholders, including, but not limited to, local law enforcement, community members, non-profit and faith-based community groups, the Orange County District Attorney, the Legal Aid Society of Orange County, and local elected officials, regarding the plan; and

WHEREAS, the City Council of the City of Newburgh presented the draft plan to the public and duly convened and completed public hearings on January 25, 2021 and March 8, 2021; and

WHEREAS, the City Council has considered the public comments submitted on the draft plan, which have been incorporated into a final Plan, attached hereto and made part hereof; and

WHEREAS, the City Council has reviewed the final Plan and finds that adopting the final Plan is in the best interests of the City of Newburgh, its residents and stakeholders, and its further development;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York, duly adopts "The City of Newburgh Police Reform & Reinvention Collaborative Plan"; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute the New York State Police Reform and Reinvention Collaborative Certification Form on behalf of the City of Newburgh and transmit a copy of the Plan to the Director of the New York State Division of the Budget on or before April 1, 2021.

APPENDIX B

NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE PLAN CERTIFICATION FORM

Instructions: The Chief Executive of each local government must complete and submit this certification and a copy of their Plan to the Director of the New York State Division of the Budget on or before April 1, 2021 at EO203Certification@budget.ny.gov.

I, _____, as the Chief Executive of _____ (the "Local Government"), hereby certify the following pursuant to Executive Order No. 203 issued by Governor Andrew M. Cuomo on June 12, 2020:

☐ The Local Government has performed a comprehensive review of current police force deployments, strategies, policies, procedures, and practices;

☐ The Local Government has developed a plan, attached hereto, to improve such deployments, strategies, policies, procedures, and practices (the "Plan");

☐ The Local Government has consulted with stakeholders (including but not limited to: membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials) regarding the Plan;

☐ The Local Government has offered the Plan in draft form for public comment to all citizens in the locality and, prior to adoption of the Plan by the local legislative body, has considered the comments submitted; and

☐ The legislative body of the Local Government has ratified or adopted the Plan by local law or resolution.

_____

Name

_____

Signature

_____

Title

_____

Date

NYS Executive Order 203 Final Report

City of Newburgh

Police Reform & Reinvention Collaborative Plan

INTRODUCTION

The City of Newburgh is fully committed to implementing NYS Executive Order 203, and in doing so reforming and reinventing its Police Department. As you will see in the pages to follow, a tremendous amount of collaboration went into compiling this report, and the same amount of dedication will be applied to implementing the recommendations of this plan and continuing to work with the community and the wide array of stakeholders involved in the process.

In order to understand the issues that exist between the community and the police, it is important to note some background and historical information on the subject. As such, an honest and open history of policing in the City has been included below.

The City of Newburgh Police Department has existed since the late 1800's. As with most police departments of that time, officers were often ill-trained, if trained at all. It was not until the mid-1900's that police officers were mandated to attend formalized police training.

With specific regard to the last seventy-five year history of the City of Newburgh Police Department, many who are alive today can recall times of scandal. In the early 1970's several members of the Police Department were arrested and incarcerated for crimes ranging from on-duty burglaries, receiving graft from various criminals including houses of ill repute, gambling activities and other nefarious actions. Stories of police corruption resonate to this day.

Some officers, while not all, were believed to enforce the law arbitrarily, engage in discriminatory practices, routinely use excessive force and oftentimes not adhere themselves to the very laws they were sworn to enforce. The officers who chose not to participate remained complicit, and did nothing to address the activities of their co-workers. It was during those times that the department, consisting of mostly white males, policed the minority neighborhoods much differently than other areas of the City where the white population resided.

These facts served to entrench and fortify a serious mistrust of the police by the minority population, especially the Afro-American citizens, and much of this mistrust exists to this day despite strong efforts to improve police-community relations.

There is a disconnect between the City of Newburgh Police Department and a segment of the community. More positive interactions undoubtedly need to take place moving forward. This should be in the form of ongoing public forums, whereby opinions, experiences and discussions can take place between the police and the community in order to gain better mutual understanding.

Any effort towards bringing about positive change must include an ongoing, sincere and committed dialogue between the elected officials, the police and the entire community.

In order to truly accomplish any attempt to remedy the issues as they exist today our history has to be acknowledged, for both the good and the bad, and reconciliation must take place before we can move forward in a positive direction.

In the pages to follow, you will find a detailed account of our Police Reform and Reinvention Collaborative. The entire City of Newburgh wishes to thank all of those who were involved in this process including members of the public who provided valuable and insightful input all of which has been incorporated into the report included below.

The process of addressing these problems needs to remain fluid, ongoing and must be adaptable when addressing the many variables that exist in order to positively affect change.

We all must acknowledge that New York State Executive Order 203 process is a starting point, and all stakeholders must remain committed in the long-term in working collaboratively to remedy the mistakes of the past.

Moving forward, the City of Newburgh will continue to meet with the stakeholders involved in this process and expand its outreach throughout the City and host community meetings aimed at increasing communication and gaining a better mutual understanding.

This is the Executive Order in its entirety copied directly from the Governor's website (https://www.governor.ny.gov/news/no-203-new-york-state-police-reform-and-reinvention-collaborative).

No. 203

E X E C U T I V E O R D E R

NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE

WHEREAS, the Constitution of the State of New York obliges the Governor to take care that the laws of New York are faithfully executed; and

WHEREAS, I have solemnly sworn, pursuant to Article 13, Section 1 of the Constitution, to support the Constitution and faithfully discharge the duties of the Office of Governor; and

WHEREAS, beginning on May 25, 2020, following the police-involved death of George Floyd in Minnesota, protests have taken place daily throughout the nation and in communities across New York State in response to police-involved deaths and racially-biased law enforcement to demand change, action, and accountability; and

WHEREAS, there is a long and painful history in New York State of discrimination and mistreatment of black and African-American citizens dating back to the arrival of the first enslaved Africans in America; and

WHEREAS, this recent history includes a number of incidents involving the police that have resulted in the deaths of unarmed civilians, predominantly black and African-American men, that have undermined the public's confidence and trust in our system of law enforcement and criminal justice, and such condition is ongoing and urgently needs to be rectified; and

WHEREAS, these deaths in New York State include those of Anthony Baez, Amadou Diallo, Ousmane Zango, Sean Bell, Ramarley Graham, Patrick Dorismond, Akai Gurley, and Eric Garner, amongst others, and, in other states, include Oscar Grant, Trayvon Martin, Michael Brown, Tamir Rice, Laquan McDonald, Walter

Scott, Freddie Gray, Philando Castile, Antwon Rose Jr., Ahmaud Arbery, Breonna Taylor, and George Floyd, amongst others,

WHEREAS, these needless deaths have led me to sign into law the Say Their Name Agenda which reforms aspects of policing in New York State; and

WHEREAS, government has a responsibility to ensure that all of its citizens are treated equally, fairly, and justly before the law; and

WHEREAS, recent outpouring of protests and demonstrations which have been manifested in every area of the state have illustrated the depth and breadth of the concern; and

WHEREAS, black lives matter; and

WHEREAS, the foregoing compels me to conclude that urgent and immediate action is needed to eliminate racial inequities in policing, to modify and modernize policing strategies, policies, procedures, and practices, and to develop practices to better address the particular needs of communities of color to promote public safety, improve community engagement, and foster trust; and

WHEREAS, the Division of the Budget is empowered to determine the appropriate use of funds in furtherance of the state laws and New York State Constitution; and

WHEREAS, in coordination with the resources of the Division of Criminal Justice Services, the Division of the Budget can increase the effectiveness of the criminal justice system by ensuring that the local police agencies within the state have been actively engaged with stakeholders in the local community and have locally-approved plans for the strategies, policies and procedures of local police agencies; and

NOW, THEREFORE, I, Andrew M. Cuomo, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, in particular Article IV, section one, I do hereby order and direct as follows:

The director of the Division of the Budget, in consultation with the Division of Criminal Justice Services, shall promulgate guidance to be sent to all local governments directing that:

Each local government entity which has a police agency operating with police officers as defined under 1.20 of the criminal procedure law must perform a comprehensive review of current police force deployments, strategies, policies, procedures, and practices, and develop a plan to improve such deployments, strategies, policies, procedures, and practices, for the purposes of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness, and legitimacy, and to address any racial bias and disproportionate policing of communities of color.

Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program.

The political subdivision, in coordination with its police agency, must consult with stakeholders, including but not limited to membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials, and create a plan to adopt and implement the recommendations resulting from its review and consultation, including any modifications, modernizations, and innovations to its policing deployments, strategies, policies, procedures, and practices, tailored to the specific needs of the community and general promotion of improved police agency and community relationships based on trust, fairness, accountability, and transparency, and which seek to reduce any racial disparities in policing.

Such plan shall be offered for public comment to all citizens in the locality, and after consideration of such comments, shall be presented to the local legislative

body in such political subdivision, which shall ratify or adopt such plan by local law or resolution, as appropriate, no later than April 1, 2021; and

Such local government shall transmit a certification to the Director of the Division of the Budget to affirm that such process has been complied with and such local law or resolution has been adopted; and

The Director of the Division of the Budget shall be authorized to condition receipt of future appropriated state or federal funds upon filing of such certification for which such local government would otherwise be eligible; and

The Director is authorized to seek the support and assistance of any state agency in order to effectuate these purposes.

G I V E N under my hand and the Privy Seal of the State in the City of Albany this twelfth day of June in the year two thousand twenty.

BY THE GOVERNOR

Secretary to the Governor

REIMAGINING POLICING IN THE CITY OF NEWBURGH:

The diverse community that compromises the City of Newburgh, with a specific emphasis on the persons of color along with the leadership of the City of Newburgh Police Department, collectively acknowledge that serious and systematic issues regarding policing exist.

The process of addressing these problems needs to remain fluid, ongoing and must be adaptable when addressing the many variables that exist in order to positively affect change.

We all must acknowledge that New York State Executive Order 203 process is a starting point, and all stakeholders must remain committed in the long-term in working collaboratively to remedy the mistakes of the past.

INTRODUCTION AND THE COLLABORATIVE PROCESS:

On June 12, 2020 Governor Andrew Cuomo issued EXECUTIVE ORDER 203, known as the New York Statewide Police Reform & Reinvention Collaborative.

The requirements as set forth in this is as follows:

"The local government entity which has a police agency operating with police officers as defined under Section 1.20 of the Criminal Procedure Law must perform a comprehensive review of current force deployments, strategies, policies, procedures and practices, for the purpose of addressing the particular needs of the communities served by such police agency and promote community engagement to foster trust, fairness and legitimacy, and to address any racial bias and disproportionate policing of communities of color."

NYS Executive Order 203 requires a process which:

- Review the needs of the community served by its police agency, and evaluate the department's current policies and practices;
- Establishes policies that allow police to effectively and safely perform their duties;
- Involve the entire community in the discussions;
- Develops policy recommendations resulting from this review;
- Offers a plan for public comment
- Presents the plan for the local legislative body to ratify or adopt it, and;
- Certifies adoption of the plan to the State budget Director on or about April 1st, 2021

The City of Newburgh, and its police department in accordance with Executive Order 203, hereby submit this plan. It has been developed with the assistance of the resources provided by the State of New York, pursuant to the New York State Police Reform & Reinvention Collaborative.

It is important to note that at the time of issuance, the City of Newburgh Police Department was without a Chief-of-Police. The Department was being supervised by a lieutenant, serving in that capacity, until a new chief could be hired.

On July 20, 2020 the City of Newburgh announced its new police leadership team. Arnold W. Amthor would be hired back to his former position as deputy chief-of-police (acting) chief, and Senior Advisor Robert McLymore would be hired to assist with regards to the New York State Police Reform & Reinvention Collaborative (Executive Order #203).

Chief Amthor had previously served almost twenty years with the City of Newburgh Police Department, attaining the rank of deputy chief. At the time of re-hire he was serving as chief-of-police for the Town of Montgomery and Village of Maybrook police departments. In total, Chief Amthor has thirty-five years of cumulative police experience, over twenty of which has been at the supervisory level.

Senior Advisor Robert McLymore is a police lieutenant with the Town of Wallkill Police Department, and is approaching twenty years-of-service as a police officer. He is also Pastor of RDM Ministries/Life Restoration Church in the City of Newburgh. He and his family have deep roots in the City, and are well-respected members of the community.

It was during this time that the City of Newburgh began the process of reinventing and reforming its police department as required by Executive Order 203. The process was broken down into three separate phases pursuant to the guidance provided by the State of New York and the Division of Criminal Justice Services.

PLANNING PHASE:

In response to the directive to convene a group of local stakeholders, the City of Newburgh formed a committee that would ultimately serve as the cornerstone to this process. In doing so, the City named the local NAACP President, Ray Harvey, to chair this group and help the City with naming additional stakeholders to the committee.

The Committee was formed based off of the guidance and directives provided in the Executive Order, namely:

> *"Each chief executive of such local government shall convene the head of the local police agency, and stakeholders in the community to develop such plan, which shall consider evidence-based policing strategies, including but not limited to, use of force policies, procedural justice; any studies addressing systemic racial bias or racial justice in policing; implicit bias awareness training; de-escalation training and practices; law enforcement assisted diversion programs; restorative justice practices; community-based outreach and conflict resolution; problem-oriented policing; hot spots policing; focused deterrence; crime prevention through environmental design; violence prevention and reduction interventions; model policies and guidelines promulgated by the New York State Municipal Police Training Council; and standards promulgated by the New York State Law Enforcement Accreditation Program".*

Multiple public announcements were made soliciting interested candidates to serve on the newly created ***Police Advisory Committee***, later referred to as the ***Police Reform Committee*** and ultimately named the ***EO 203 Oversight Committee***. Each name change was made at the request of the Committee Chair, and was done in an effort to further illustrate the task as hand.

The Committee selection process was achieved collaboratively with the Committee Chair and culminated into the selection of the following individuals to serve on the Committee:

- Mr. Ray Harvey, Chairman and President of the Newburgh/Highland Falls Chapter of the NAACP*
- Mr. Phil Howard, retired Newburgh firefighter and Newburgh Enlarged City School District (NECSD) vice president*
- Bishop Jeff Woody, Christian Ministerial Fellowship
- Pastor Willie Mays, Christian Ministerial Fellowship*
- Bishop Terry Dorsey**(*)

- Ms. Tanika Amicy, Community Voices Heard
- Mr. Rene Mejia, Nobody Leaves Mid-Hudson
- Mr. Isaiah Valentine, N.U. Voters Movement
- Pastor Obed Almeyda, Fountain of Life Church
- Ms. Sertaira Boyd, Chairperson of the Police Community Review & Relations Board
- Michelle McKeon*, Chief Operating Officer of RECAP
- Philippe Pierre, resident and restauranteur
- Barbara Smith, resident
- Ramona Monteverde, Councilmember (Ex Officio)
- Robert Sklarz, Councilmember (Ex Officio)
- Omari Shakur**, Councilmember (Ex Officio), not originally on Committee but replaced Councilwoman Patty Sofokles
- Ms. Luisa Fuentes, Attorney**

*Denotes a resignation from the Committee
**Denotes an add-on from the original Committee

All official meetings of the Committee were live-streamed so that the community could observe and participate in the overall process.

The scope of the Committee remained unchanged throughout the process, and included addressing the following elements of policing:

- Use of Force
- Training
- Data collection, disclosure and transparency
- Community Engagement
- Oversight and Discipline
- Complaint Procedure
- Equipment

In August the State of New York issued a *Resource Guide for Public Officials and Citizens* pursuant to the New York State Police Reform and Reinvention Collaborative. The intent of this manual was to provide guidance and suggestions on how to proceed with the process. It was made clear that each municipality

utilize it in formulating a plan that is specifically designed for each individual locale, while following the mandates as set forth in E.O. #203.

Also, on October 1st, 2020 the entire command staff of the City of Newburgh Police Department had a staff meeting and attended the NYS Division of Criminal Justice Services ***"Perspectives on Police Reform"***.

Furthermore, over 50% of the current officers in the Newburgh Police Department have received formalized training in De-Escalation & Crisis Intervention. The Department is committed to continuing to send more officers to this training when offered. In 2020, all sworn members of the police department attended eight (8) hours of Implicit Bias training.

Police Reform & Reinvention Collaborative Plan

Pursuant to the process initiated in the City of Newburgh as per the mandates set for the New York State Executive Law 203, the following is our plan of action. The implementation process has already begun, and will continue throughout 2021 until all aspects of this plan have been completed.

ITEM #1-Increase the annual department-wide training in-service curriculum to include the following:

- COMMUNITY RELATIONS Minimum of Four (4) Hours Annually
- IMPLICIT-BIAS Minimum of Four (4) Hours Annually
- CULTURAL AWARENESS/ANTI-RACISM Minimum of Four (4) Hours Annually
- DE-ESCALATION Minimum of Four (4) Hours Annually

ITEM #2-Data Collection Management and Disclosure:

The police department, as of January 1st 2021 will conduct an annual review of the following:

- All incidents whereby any Use-of-Force/Response to Resistance event occurs, type(s) of force utilized and the findings of the follow-up investigations.
- All Civilian-Complaints, type(s) of complaints, and their findings.
- All Field Interviews/Stops conducted as per the "Right-to-Know" Local Law, including race, gender and locations of contacts.

This data will be compiled and included in a formal Annual Report of the Police Department.

ITEM #3-The police department will increase its transparency to the community it serves:

- All General Orders, Policies & Procedures will be placed on the police website.

- The police website will be improved in order to be more informational.
- Monthly crime statistics, police activity reports by shift and productivity will be added.
- A Community Opinion Survey will be added.
- An online Civilian Complaint Form will be added.

ITEM #4-Equipment:

- The police department will examine additional less-than-lethal options that may exist and may not be presently deployed.
- The existing Body Worn Camera (B.W.C.) system, over five years old, will be replaced with a new one.

ITEM #5-General Orders Review:

During the 203 process the Committee reviewed several policies, as a result several changes were made based upon some recommendations made by Committee members. During our meetings the following General Orders of the Department were reviewed:

- General Order #A-011 (Response to Resistance)
  -Ban the use of chokeholds
  -Place K-9 use in the Force Continuum
  -Add "Duty to Intervene" section
- General Order #O-005 (Vehicle & Traffic Stops)
- General Order #O-039 (Crisis Intervention & Assisting the Mentally Ill)
- General Order #T-002 (In-Service Training)
  -Add above-stated additional training annually
- General Order #A-021 (Warrants)
- General Order #O-038 (Body Worn Cameras)
  -Upgrade existing system
- General Order #O-039 (Crisis Intervention Team)
- General Order #A-015 (Department Discipline)
  -Remove any reference to NYS Civil Service Law 50-A
- General Order #A-014 (Internal Affairs)
  -Create new Civilian Complaint Forms in English & Spanish
  -Send two supervisors to Internal Affairs Investigation Training

ITEM #6-Police Practices:

- The problem of homelessness, including many who are mentally ill, is clearly evident in our City. This population needs to be provided services and treatment, including case management and appropriate clinical follow-up, which is beyond the scope of responsibilities our law enforcement staff is trained to provide. The police department will issue a letter to several outside agencies requesting participation in joint meetings, in order to discuss the utilization of mental health services to assist with police in responding to and handling of persons in crisis.

ITEM #7-Police Operations:

- The police department will examine its current deployment of uniformed patrol officers by the present "zone system", and consider re-aligning the system to better reflect the current demographics of the City.
- The City will prioritize the re-location of the current police headquarters to a new location, while remaining downtown, within 12-18 months.
- The police department will conduct a comprehensive review of the use of canines for apprehension and crowd control.

ITEM #8-Recruitment Process:

- The police department is committed to, and will remain so, the hiring of minority police officers.
- In 2021 and beyond members of the community will be encouraged to participate in the hiring process of all new police officers.

ITEM #9-Community Meetings:

- Community meetings will be held routinely, and conducted by Ward. The process will be overseen by the Chief-of-Police and a designated "ward contact" (Sergeant) from within the department. Opportunities for all to engage in an honest, open and transparent dialogue with police representatives will take place regularly. Additionally, any one of many organizations including the N.A.A.C.P. and others will be encouraged to attend.

ITEM #10-Police Chaplaincy Unit

- The police department will organize a diverse group of members of the clergy, equally balanced to reflect current City of Newburgh demographics. This unit will work with the police and the community in order to enhance relationships, respond to critical incidents and serve to support officers, crime victims and families in times of crisis

ITEM #11-"Subpoena Power" for the Police Community Relations & Review Board (PCRRB) and/or City Council.

- The City commits to a thorough and complete legal review of increasing the current authority of the PCRRB and/or City Council to have subpoena power when investigating complaints against members of the police department.

ITEM #12-"Hopes not Handcuffs"

- The police department will introduce this program within the City of Newburgh in an effort to provide alternatives to arrest when dealing with persons who suffer from substance abuse addiction. The Newburgh Christian Ministerial Fellowship will also be an active participant in this collaborative.

ITEM #13-Enhance the SNUG Program to include the Christian Ministerial Fellowship as a stakeholder

- The police department and its SNUG partners have recently began, and will continue to develop an action plan for engaging at-risk individuals of gun violence, along with the newly joined Christian Ministerial Fellowship.

Upon review of the NYS Executive Law 203, and its mandates this Report, reflects that the City of Newburgh is in full compliance despite many hurdles. We acknowledge that much work needs to be done, and are committed to fulfilling all of the recommendations as outlined herein.

In the pages to follow, you will find a narrative elaborating on the work that went into the plan listed above. Once the local Committee was formed, its efforts were focused primarily on the two phases listed below. Guidance on these phases and the work that went into them, was taken directly from the resource guide provided by the State of New York.

LISTENING & LEARNING PHASE:

The listening and learning sessions were conducted by the Committee along with the Chief-of-Police, and Senior Advisor. The City Manager attended multiple pre-planning meetings, along with facilitating all interactive sessions held with the general public.

The Committee, absent the Chief-of-Police, Senior Advisor or City Manager held an unofficial meeting on or about September 16th, 2020. Members specifically expressed concerns over the fact that an unknown individual attended. When asked, she stated she was a former assistant district attorney. According to multiple Committee members, she appeared to "take over" the meeting, making demands for all of the Police Department's general orders. Sources also advised she made mention to working in some capacity with an elected official from the City of Newburgh.

After looking into the incident, it was learned that this person was Ms. Luisa Fuentes. Ms. Fuentes is a former assistant district attorney with the Orange County District Attorney's Office, and is presently a defense attorney.

The issue with regard to Ms. Fuentes required a formal decision. Several members of the Committee expressed the desire that she not be allowed to continue to participate, and that Councilman Shakur should not be allowed to expand the Committee or designate a "proxy".

Ms. Fuentes continued her involvement with the Committee and in doing so served as a proxy for City of Newburgh Councilman Omari Shakur.

MEETING PHASE:

The first formal meeting of this phase was held on October 6th, 2020. The Committee opted for in-person meetings and allowed for members and the public to participate and observe via Zoom.

The following items were discussed:

- Collective dialogue regarding the purpose and intent of the Committee, the process, general questions and answers.

- A demand from Ms. Fuentes that the police department provide the Committee with all of the General Orders of the Police Department. The chief-of-police stated publicly that there was no objection of providing all of the Departmental General Orders as part of the process.

- Review of the Department's **Response to Resistance General Order #A-011**. At that time specific emphasis was on the recommended changes that were made pursuant to the September 2020 New York State Division of Criminal Justice Services recommendations, as well as the use of chokeholds.

- Demographic information regarding the current make-up of the police department.

- Hiring practices with an emphasis on minority, city-resident and Spanish-speaking persons interested in becoming city police officers.

- Review of the Department's **Vehicle & Traffic Stop General Order #O-005***.*

- Review of the Department's **Crisis Intervention & Assisting the Mentally Ill General Order #O-039***.*

- Review of the Department's **In-Service Training General Order #T-002**.

- Review of the Department's **Warrants General Order #A-021***.*

- Questions were asked and answered regarding police equipment, role and purpose of the Department, and total number of officers.

- Questions were asked regarding the utilization of outside law-enforcement agencies in the City of Newburgh. This included specific references to the New York State Police and Orange County Sheriff.

- The chief-of-police and senior advisor were given a letter which contained several questions (a copy of which is contained in this Report). The Committee-at-Large began to question its origins, and many members stated they had no part whatsoever in drafting the letter. It was nevertheless received and the questions were responded to by the chief-of-police in a subsequent e-mail to Chairman Harvey directly.

- Members stated that moving forward all items of correspondence should be discussed with the entire Committee.

The second Committee meeting of this phase was cancelled by Chairman Harvey due to an unexpected scheduling conflict. The meeting was rescheduled for October 27th, 2020 and took place on that date. The following items were discussed at that time:

- The name change of the Committee.

- Placing periodic updates of the progress being made on the City's website.

- Discussion as to whether or not it could be possible to include city resident(s) in collective bargaining negotiations between City and the Police Benevolent Association (PBA) and Police Superior Officer's Association (PSOA).

- Recommendations regarding mandatory yearly drug testing for all sworn members of the Department. This would include mandatory drug and alcohol testing immediately following any critical incident involving the use of deadly physical force.

- The Committee recommended the current aged Body Worn Camera (BWC) system be replaced with a more up-to-date one. It was recommended to consider changing the BWC policy so as to mandate that every time an officer exits his cruiser that he shall activate the camera.

- The Committee opined regarding having sworn officers qualify with their service weapons once, instead of twice per-year, and instead replace the second session with de-escalation training. Some felt that the practice of

qualifying twice per-year should still take place, but that additional suggested training cycles focus on other recommended areas

- Recommendations were made to significantly increase annual training for all sworn personnel to cover areas such as Implicit-Bias, Verbal Judo, and Race Relations. Recommendations to add annual training in the areas of physical restraint tactics, impact weapons, and less-than-lethal alternatives.

- The Committee recommended that the police department consider discontinuing the utilization of police K-9's for criminal apprehension and crowd control.

- A dialogue took place when one member expressed the need to bring people to the meetings who have had negative experiences with the police. It was advised that this would be part of a public comment forum to be held later.

The third meeting of this phase was held on November 13th, 2020. The following General Orders were reviewed, and recommendations made:

- **Crisis Intervention Team General Order #O-39**
  Note: This General Order has been combined with an extended section and is now called the Crisis Intervention Team & Assisting the Mentally Ill.
  The Committee discussed the need to review the current Curriculum for the training received by CIT officers. Additionally, they recommended that professional mental health providers respond to all calls related to mental health-related issues.

- **Department Discipline General Order #A-015**
  The Committee requested that the Department consider modifying Section XI. (D), to increase the number of years from two (2). No recommendation was made as to the actual number for it to be increased to. It was also suggested that the Department issue an annual report of all incidents involving use of force, and civilian complaints with dispositions. The chief-of-police recommended that these items be made part of an annual report.

- **Internal Affairs General Order A-014**
  The Committee discussed this General Order, with much of the dialogue pertaining to it centered on its relationship to the Police Community Relations Review Board (PCRRB).The chief-of-police advised that certain portions of this Order, as well as certain related items on the City's website needed to be amended based upon the repeal of Section 50A of the NYS Civil Service Law.

PUBLIC INFORMATION & COMMENTS SESSIONS:

A plan was made to move forward and conduct two (2) public information and comment sessions, originally set for December 1st and December 15th, 2020.

The initial public hearing was postponed a week in an effort to increase attendance and further publicize the event.

December 8, 2020 – Public Information & Comment Session

Approximately fifteen (15) people signed up for the public comment forum that was held immediately following the power point presentation meant to update the community on the work achieved by the committee.

Following the presentation public comments were taken. The entire forum was recorded, and is a matter of formal record.

December 15, 2020 – Public Information & Comment Session

A total of five (5) people signed up for the meeting. The Power Point was again presented, this time by the chief-of-police.

The forum was again recorded, and is a matter of formal record.

A copy of the presentation is included in the pages to follow, and was also posted to the City website.

In addition to the two public information and comment sessions listed above, the Newburgh City Council was also provided with an update during the Work Session meeting held on January 7, 2021.

The City Council then scheduled a Public Hearing regarding the City of Newburgh Executive Order 203 Plan on January 25, 2021. Prior to the public hearing, the

draft plan was prepared by the Committee and released to the public. Members of the Committee were on hand during the Public Hearing and provided an additional update to the Council and the community. The overall report contained in this document was subsequently finalized and released to the public for additional comment and feedback.

CONCLUSIONS:

It is clear that there is a disconnect between the City of Newburgh Police Department and a segment of the community. More positive interactions undoubtedly need to take place moving forward. This should be in the form of ongoing public forums, whereby opinions, experiences and discussions can take place between the police and the community in order to gain better mutual understanding.

The community is justifiably angered by recent national events, such as the death of George Floyd and others. These events have also affected law-enforcement officers, who feel that they all "own" in some way the actions of the officers involved in these tragic incidents.

Stories of police-involved encounters flow regularly throughout the community. Oftentimes they are partly or even wholly inaccurate versions of events as they actually have occurred. The level of mistrust is such that even when shown evidence that is contradictory and proves the "street rumors" are untrue, the facts are still not believed. This occurs even when incidents are captured on officer's Body Worn Cameras (BWC). The false narrative is perpetuated by a few who seem to want to escalate tensions between the police and the community, which ultimately cause harm and further division.

The process of addressing these problems needs to remain fluid, ongoing and must be adaptable when addressing the many variables that exist in order to positively affect change.

We all must acknowledge that New York State Executive Order 203 process is a starting point, and all stakeholders must remain committed in the long-term in working collaboratively to remedy the mistakes of the past.

Moving forward, the City of Newburgh will continue to meet with the stakeholders involved in this process and expand its outreach throughout the City and host community meetings aimed at increasing communication and gaining a better mutual understanding.

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DAVID M. HOOVLER
District Attorney

February 12, 2021

Statement on City of Newburgh Police Reform and Reinvention Collaborative Plan

District Attorney David M. Hoovler said, "The Orange County District Attorney's Office has long supported the use of body-worn cameras, police training on topics such as Implicit Bias, and other efforts to improve police-community relations. The Police Reform and Reinvention Collaborative Plan put forth by the City of Newburgh takes important and concrete first-steps toward improving the relationship between police and members of the community that they serve. Police training mandates which focus on community relations and de-escalation, increased transparency through the on-line posting of the rules that the City of Newburgh Police operate under, and specific plans to have more community involvement in the hiring of new police officers, can only improve police-community relations. Most importantly, this plan recognizes that it is only part of an ongoing process and provides a mechanism for the collection and review of data to aid in future improvements to the Police Department."

NAACP
Newburgh-Highland Falls Branch #2162
naacpnewburghhighlandfalls.blogspot.com

November 23, 2020

Mr. Joseph Donat, City of Newburgh Manager
City Hall
83 Broadway
Newburgh, NY 12550

Dear City Manager Donat,

These are indeed times for us to be more systematic and intentional to address racial disparities. Such a tool is the NYS Police Reform & Reinvention Collaborative Executive Order #203.

The City of Newburgh, NY assembled a group now called the "Police Advisory Committee" hereafter to be referred in this letter as "Newburgh, NY EO#203 Commission". It is our position that the use of "Advisory" in the title, the City's selection process and meeting format are not the intent of the NYS Police Reform & Reinvention Collaborative Executive Order #203 (NYS EO #203).

As representatives of the NAACP of Newburgh-Highland Falls (NBHF) we support collaboration and are prompted to write our concerns pertaining to building community trust and about the lack of progress toward Executive Order #203 goals.

Why we need to sound this alarm of concern---

We the NAACP NBHF, are compelled to sound the alarm after numerous attempts to collaborate with the City of Newburgh, and to inform of gross negligence on behalf of the City of Newburgh to carry out the requirements set forth in NYS Police Reform & Reinvention Executive Order #203 (EO#203). What we have experienced causes grave concern. The gravity of ending racial disparities using EO#203, as one tool, continues without a set path for completion, although 5 months into the process.

> On or about August 24, 2020, a committee was appointed by elected officials of the City of Newburgh and City Manager to advise the Police Department on strategies to comply with EO#203. The process chosen to convene was in the absence of agreed collaboration and does not build public trust. This directly counters the community trust that is to be nurtured during the described process, which states that the "**chief executive of such local government** shall convene….. stakeholders in the community and consult with members of the community, not limited to those listed in EO#203, and all interested parties, ….to develop such plan tailored to the specific needs of the community, based on trust, fairness, accountability, and transparency ….to reduce any racial disparities and bias in policing of communities of color".

As the City Manager, (chief executive) it appears you have directed a committee appointment process to be carried out by proxies, the police chief and a senior advisor with some elected government officials. The results of some of those assembled continue to challenge a stakeholder-influenced agenda. One result is that the name "Police Advisory Committee" was adopted with little challenge.

NAACP NBHF Timeline of focus:

- March 2020---NAACP begins adjustments to hold virtual meetings and communicate during COVID.
- April 23, 2020—NAACP NBHF sends a letter of concerns for next steps to City Manager; copies to Council, and Mayor regarding hiring practices, Police Chief selection process, Police shooting , Choke holds vs Strangle holds, Body Cam release and collaboration next steps. Same letter sent to Orange County DA David Hoovler and Attorney General at Large in Poughkeepsie.
- June 12, 2020 ---Governor Andrew Cuomo is joined by Rev. Al Sharpton, Hazel Dukes, NY State NAACP Pres., Valerie Bell; the mother of Sean Bell, Gwen Carr; the mother of Eric Garner, New York State Senator Andrea Stewart-Cousins and Assembly Speaker Carl Heastie, in New York City (fig.1attached)
- June (~10th) ---City held meeting with some stakeholders. Minutes were not recorded or images taken for reference.
- The NAACP contacted the City Manager, in preparation to host a meeting. Phone prep meeting with City Manager between NAACP NBHF and City Manager (audio):
- July 17, 2020 --(email from City Manager), follow up Community Forums were promised. NAACP NMHF Responded with dates regarding community forums.
- June 18th ---Meeting hosted by NAACP NBHF (video available) . Meeting included the Mayor and other invitees by City Manager. Agenda included issues from April and now added EO#203 process. (Recorded and written minutes available)
- July 20, 2020--- Police Chief and Senior Advisor Announced
- NAACP is told that members within the Branch may not serve on Committee unless they are residents of the City of Newburgh, NY.
- One meeting was set up then cancelled by the city
- August 7, 2020. City Announced process to join Committee:
- August 24, 2020 Inaugural Meeting Members Announced
- August 25, 2020 Inaugural Meeting Held
- Sept.2020----No Newburgh EO#203 activity found
- October 6, 2020—Meeting posted on City website
- October 20, 2020---Meeting cancelled
- November 12, 2020—(Make up meeting for Nov. 3rd)---Ray addresses committee about receiving data, police culture , and asks for tools not provided. (videos available, image below)
- November 17, 2020---Chair relegated to being referred to by police chief and senior advisor

- November 19, 2020---We find EO#203 meeting videos posted under a different committee title, and outdated information for another policing committee

I. Next steps we support :

- The Name of Commission to be officially changed to reflect the work
- The present composition of the Commission be organized and implemented to reflect the described inclusion of stakeholders that assures ongoing Stakeholder/Community inclusion.
- Using NYS EO#203 provided materials for EO# to build public trust .
- A Digital Platform with easy access by Commission members holding documents and resources for Newburgh EO#203 Commission and information to educate the public and facilitate input and feedback.
- Hard copies be made available to Commission members.
- Meeting norms and procedures that foster respect be established and used :
    1. Posting selection process after applications were received, including how those not accepted for the Newburgh EO#203 Commission were notified.
    2. Publicly listed roster of all current members and who they represent
    3. Technology support to enable the ability to see and hear all meeting participants during meetings, use documents, and make and receive presentations
    4. Robert's Rules of Order implemented
    5. A timeline for intentional progress
    6. Publicly sharing each meeting agenda, dates and establishing additional work sessions to complete the work
    7. Official minutes with meeting outcomes/progress be posted and available for review
    8. The use of published support documents from both NYS and NAACP
    9. Public forums as described in EO#203
    10. Comparable attention to meeting quality be implemented with added language (bylaws/procedures) that govern ongoing public forums.

A timely response is requested to our concerns to be forwarded to our email naacpnewburghhighlandfalls@gmail.com and to the public. It is our fervent position that you intentionally connect the work of addressing racial disparities in policing communities of color to develop the required action plan (with an April 1, 2021 deadline) that qualifies for future funding without changing the titles or described processes found in the NYS Police Reform & Reinvention Collaborative EO#203 upon which the work is to be implemented.

Sincerely,

Ray Harvey, NAACP Newburgh-Highland Falls President

NAACP Newburgh-Highland Falls Support EO#203 Committee:
Sabrina Dolfinger, Treasurer
Kyle Conway, Community Engagement

Booker Curtis, Legal Redress
Malvina Holloway, Media Diversity/Technology,Secretary
Claire Dowdy
Mary Kostenblatt
Richie Rosencrans
Mary Wagner

Cc: Torrence Harvey, City of Newburgh Mayor
City of Newburgh City Council
Steven M. Neuhaus, Orange County Executive
David M. Hoolver, Orange County DA
Robert McClymore, City of Newburgh Senior Advisor
Arnold Amthor, Newburgh Police Chief
James Skoufis, NYS Senator
Jonathan Jacobsen, Assembly member
Sean Patrick Maloney, New York US Representative
Ernest Klepeis District Director
Vinita Kamath, Attorney General At Large Poughkeepsie, NY
Brandon Hicks, NYS Director of African American Affairs
Wilbur Aldridge, NAACP NYS Conference Regional Director

Figure 1:

Gov. Cuomo signs NYS Reform/Reinvention Act June 12, 2020
Rev. Al Sharpton, NAACP NYS Conference Pres. Hazel Dukes with
Valerie Bell, Mother of Sean Bell, Gwen Carr, Mother of Eric Garner
Senate Majority Leader Andrea Stewart-Cousins and Assembly Leader Carl Heastie

CITY OF NEWBURGH

Office of the City Manager

83 Broadway, Newburgh, New York 12550

(845) 569-7301/Fax (845) 569-7370

December 7, 2020

Mr. Ray Harvey
President, NAACP
Newburgh Highland Falls Chapter
PO Box 301
Newburgh, NY 12551

Dear Mr. Harvey,

I write regarding the implementation of New York State Executive Order 203 in the City of Newburgh.

I was surprised and disappointed to receive the NAACP's letter dated November 23, 2020. The contents, allegations, and statements made are misrepresentations of the important work that we have achieved together.

Please know, your involvement with fulfilling the requirements of Executive Order 203 is most certainly needed and by all means welcomed. It is my hope that you will continue to work with the City regarding this and other matters moving forward. However, it is critical that I respond to your letter and ensure that our collaborative efforts are accurately represented.

Over the last several months, the City of Newburgh has made significant progress with the Police Reform and Reinvention Collaborative. As seen in our recent community update, we have identified areas where change is needed and compiled those recommendations into a draft report. The City has held multiple public hearings regarding this matter, and will continue to do so throughout the duration of this process. All applicable comments will be incorporated into a final report that will ultimately be presented to the Newburgh City Council.

Aside from opinions expressed regarding lack of progress, the letter sent by the NAACP also questioned the selection process for members of the local committee that you chair. As you may recall, you have stated publicly that you assisted in the recruitment and appointment of committee members, which is a position that current members corroborate. At your suggestion, eligible applicants not selected for appointment were provided with the chance to serve as alternates in the event the committee wished to nominate additional members at a later date. In addition, the NAACP letter requests several items that were previously agreed upon and incorporated prior to the letter being sent, including your suggestion to change the name of our committee to the City of Newburgh 203 Oversight Committee.

I learned from our meeting last month that you may not have been involved with the drafting of the aforementioned letter sent on your behalf. As such, I can understand how such statements contained therein could have been made without your direct involvement, knowledge or approval. Whatever the case may be, I remain open to working together and hope that we can agree upon the need for continued professionalism and respect as we embark upon the critical work ahead.

Sincerely,

Joseph P. Donat
City Manager

NAACP
Newburgh-Highland Falls Branch #2162
naacpnewburghhighlandfalls.blogspot.com

Mr. Joseph Donat, City of Newburgh Manager
City Hall
83 Broadway
Newburgh, NY 12550

Dear City Manager Donat,

I hope this letter finds you safe and well.

I am writing in response to your letter dated December 7, 2020 which is the official City response to the letter we sent dated November 23, 2020. The purpose of this letter will be to respond to points raised in your letter, and to note that we continue to expect meeting norms to be established, transparency throughout the process, and involvement of the community at all stages.

I want to eliminate all doubt. The letter you received dated November 23, 2020 was penned by myself and members of NAACP Newburgh Highland Falls EO #203 Support Team. I personally feel, as does the NAACP Highland-Falls chapter, that the Newburgh Police Department is not adhering to the guidelines established by Governor Cuomo regarding review and reform within the Newburgh PD. It appears to us and to the public with which we have verbally surveyed, that the Newburgh PD is not taking the tasks laid out in EO #203 seriously, and is encouraging obstruction of progress. Such obstruction can be illustrated in the following example: During the December meeting of the Newburgh EO #203 Oversight Committee, I publicly repeated requests for resources which led to my being interrupted by council members and accused of wasting time asking for a website, data and other tools necessary for this work. Accusations about my leadership can also be heard, while Deputy Chief Amthor was appealed to for clarity.

In our November 23rd letter, we neither made allegations nor merely expressed opinions, but rather presented factual issues with the EO #203 process within Newburgh. The following are responses to points raised in your December 7th letter.

A. Regarding our use of allegations and opinions:

We described our experiences. All of what we've written is supported by emails, recordings and notes which correspond to our experiences in seeking collaboration for this EO #203 with the city since April of 2020.

B. Regarding the documentation and committee name:

The Committee name should include "commission" in the name not "oversight". The name connected to the work of our Commission is: Newburgh EO #203 Commission.

C. Regarding Roster of Commission members:

1. We are glad to see member names finally posted. Further action is needed. The role of each member and who they represent within the community is needed. Missing are the names of

Deputy Chief and Special Advisor. Your role should also be included for public trust and information to know that you are (I believe) the responsible person that uses the "Plan Certification Form" (Page 122, EO #203 Handbook)

2. A list of all applicants as well as resumes are requested. Additionally, we are requesting documentation of the screening procedures and process for choosing candidates for the committee. We also request copies of the resignation letters from all applicable committee members.
3. Those that **must** be included still are needed. Your website details an abbreviated list from the Handbook, leaving out local district attorney and local public defender (Page 113).
4. We **need** to hear from those with experiences. Detailed below are those who have been left out of the process, and who should be included based on recommendations of the EO 203 Handbook and in order to fully represent the Newburgh community:

- Residents who have had interactions with the police;
- Residents who have been incarcerated
- Any local police unions;
- Local education officials and educators;
- Local neighborhood, homeless, and housing advocates;
- LGBTQIA+ leaders and advocates;
- The Local Health Department and healthcare leaders and advocates;
- Mental health professionals;
- Business leaders;
- Transportation and transit officials; and
- Legal and academic experts.

D. Regarding the City of Newburgh holding multiple public hearings on EO #203:

1. Two "public comment" sessions were held, one on December 8, 2020 and one on December 15, 2020. The sessions were advertised as interaction with the public, but both meetings included presentations by the police department and a lack of response to the statements and questions from the public. The meetings were absent the required dialogue necessary to foster a positive relationship with the public and failed to address concerns of the public. Speaking limit was 3 minutes per person, despite numerous comments from the public that 3 minutes was not sufficient for these meetings. Only these two meetings have been advertised to the public to my knowledge.
2. Said advertising occurred only a few days before the first meeting, and only on the website. No other advertisements were originally made on social media or other platforms. Additionally, in order to be able to speak in the meetings, registration was required and the cut off was slated for noon the day before the meeting.
3. Participants who were unable to arrive at the virtual meeting by 6 pm reported that they were unable to enter the meeting.
4. At the December 15th meeting, the microphones were muted when individuals were speaking. Additionally, 19 minutes and 20 seconds of the 33 minute 01 second meeting was a presentation by the police department, not public comment. Multiple individuals were unable to speak due to microphone muting, and Chief Amthor stated that he would come back to those individuals who were not responding. He never called their names again to receive their comments.
5. EO #203 meetings are not included on the calendar on the City's website, while other meetings are. There are also no Zoom links posted for the public to access EO #203 meetings in order to review Commission progress and participate in the general meetings.

6. Notification and registration for meetings regarding EO #203, as well as Police Community Relations, are often posted only 1-2 days before the scheduled meeting with registration cut-offs at noon the day before the meeting. This is not an acceptable time frame of notification for participation with the public.

The NAACP and myself stand by our claims that Stage 1 of the EO #203 process was not properly carried out. We are now focused on what is to happen during this next segment of time for the Newburgh EO #203 Commission work completion.

For your consideration, I present the following agenda for our upcoming meeting--focusing on time use, inclusion, and how to gauge that we are on track.

I. Timeline and RoadMap: Getting on track (Page 112) and attached:

Suggested Workplan

Community engagement is imperative throughout the process, with a way for people to provide feedback and for us to post the arising topics. One suggestion is to post upcoming topics on the website, inviting the public to comment and participate in the discussion. We uphold that reliable tech support continues to be needed.

I. Action Plan Format selection: As action plans are developed during this process the results from "Listening & Learning" and later "Public Comment" would shape what comes from the public. Additional questions from experts and commission members may also shape this.
   A. Goals---What is to happen
   B. What policy, deployment, strategy, practice or procedure is being addressed
   C. Categories—What area within the department
   D. Person/People responsible
   E. Budget with timeline for implementation
   F. Description with Start and End date
   G. Monitoring criteria with dates

The developing action plan would be filled in as the committee considers the proposals and uses public input. The action planning document and other resources used in meetings would be available to the public. This will show the public that the Newburgh PD desires openness and transparency during this process, and will foster trust and improved relations with the public.

Using the comprehensive review data and establishing a timeline is priority for the January meeting in order to put us on track for completion. Attached is a draft document for use.

Considerations:

- Deciding whether additional meetings need to be added
- Completing the roster for the committee
- Building public trust----For an intentional and transparent process attached is a Working Roadmap

As you should note, the Newburgh EO #203 committee is lacking many of the critical components needed for success in Phase 1 and 2. It is critical to rectify these issues in order to transition into future phases and promote positive, community-centered and community-approved changes. Necessary changes include public access to all documentation (memos, meeting minutes, etc necessary for transparency), engaging the community and specifically persons of color to review current policies, creation of collaborative dialogue with the community, inclusion of missing parties outlined in the above letter under Section C, part 4, and the holding of public forums led by the Mayor, City Manager, or other City Officials. Without including these critical elements, myself nor the NAACP NBHF Support Committee cannot in good-faith condone moving forward with the current Newburgh EO #203 plan, as thus far the community has not had sufficient inclusion or say in the path forward. We fervently hope you will consider making necessary adjustments to the process in order to be in compliance with the EO #203 Handbook.

Sincerely,

Ray Harvey, NAACP Newburgh-Highland Falls President

NAACP Newburgh-Highland Fall Support EO #203 Committee
Sabrina Dolfinger
Kyle Conway, Community Engagement
Booker Curtis, Legal Redress
Claire Dowdy
Malvina Holloway, Media Diversity/Technology
Mary Kostenblatt
Richie Rosencrans
Tamie Hollins

The following is a Newburgh, NY Working Roadmap for EO #203 Work

This document is to be an aid to plot pace and success of Newburgh EO #203 Commission.

PHASE ONE (tentative time frame: July 2020 - November 2020)
Preliminary Scoping and Review ---(driven by public via BIPOC focus group / steering commission/committee)

Goals:

- Ensure that scope of review is determined by BIPOC members of the public, not City officials
- Create a space that protects and prioritizes BIPOC perspective
- Ensure confidentiality and candid dialogue

- Ensure productive and efficient collaboration
- Provide a foundation for broader community discourse in Phase Two

Objectives:
- Establish initial scope of review (administration serving as facilitators/clarifiers)
- Develop preliminary findings and recommendations
- Release preliminary findings and recommendations
- Organize necessary documentation to support community forums in Phase Two

TRANSITION: Planning for Phase Two should include input from broader public (1-2 sessions)

City of Newburgh, New York

Overarching Components : Strategy for Newburgh EO #203 Commission work---

1. Commission Name/Dynamics/Environment
2. Building, Establishing, Sustaining Community Trust
3. Accessibility to the Resources and Documents for work through March 2021
4. Short and Long term goals –Functional Human Rights Commission

I. Public documents and Publics experience with police. ---- Reference: EO #203 Section 17

A. Brady information regarding lawsuits and settlements, including City Council voting on settlements

B. Public inclusion ---For a broader community beginning in PHASE ONE and with support continues discourse in PHASE TWO
   1. 5 minutes for individual to speak to Newburgh EO #203 Commission
   2. Online testimonials
   3. Community Forums as discussed in summer with NAACP
      a. Documentation to support referencing materials

C. Manuals, Policies, Memos and Directives
   a. Platform to support referencing materials
   b. Model policies & guidelines promulgated by NYS Municipal Police Training Council & Standard by NYS Law Enforcement Accreditation Program AND How Newburgh rates with the standards

D. Work sessions to review and understand documents
   1. Schedule
   2. Discuss and prioritize

E. How final action plan is to be submitted identified by City of Newburgh government

PHASE TWO (tentative time frame: November 2020 - January 2021)

Community Visioning (driven by public via series of community forums, facilitated by Mayor, Board and Steering Committee

Goals:
- Foster a shared understanding of existing local systems (governance structure, policies, practices, systems of accountability and responsibility, etc.)
- Allow for public participation in identifying gaps and proposing solutions
- Invite and empower community partners (nonprofits, businesses, individuals)
- Transition responsibility from public to City Board of Trustees

Objectives:

- Utilize first phase documentation to present details of existing local systems
- Share preliminary findings and recommendations
- Confirm (or expand) scope of review
- Generate additional recommendations and reactions from the broader community
- Identify areas that require community and individual action
- Identify areas that require action from the City Board

TRANSITION: Phase Three should commence with acknowledgement of public feedback

Mayor / city official facilitates forums

I. Community Visioning –Community forums facilitated by Mayor
II. Identify areas that require Community and individual action
    A. Forums continue
    B. Examples
        1. Shooting investigations
        2. Asking passengers in vehicles for identification
        3. Using minor traffic infractions to search vehicles
        4. Walking with open container and searched
III. Shared preliminary findings recommendations from requested materials
IV. Checking Progress/Feedback after each meeting

PHASE THREE (tentative time frame: January 2021 - March 2021)
Formalize and implement City's action plan (driven by City Council via Regular Meetings)

Goals:
- Ensure the City Board can commence its formal process with understanding of residents' desires
- Create the conditions for enduring change by fostering buy-in and consensus
- Ensure clarity of purpose for City's action plan
- Promote community commitment to racial equity

Objectives:
- Prioritize key commitments
- Identify necessary budget adjustments
- Elicit feedback from City staff
- Establish timelines for implementation
- Release draft action plan and invite further feedback from public
- Ratify action plan by April 2021
- Implement action plan according to established timelines

TRANSITION : Approval (Public and State) for Implementation

Section 18. ---Action Plan

I. Commission Action plan directly connected to identified racial disparities is put together and offered for public comment
    A. Residents and community desires are understood and part of the formal plan

II. Ratification of the plan---- Section 19

A. During March
B. Ratification or adopted by local law or resolution, as Appropriate, no later than April 1, 2021 (City of Newburgh Government confirms procedure during PHASE ONE) to NYS Director of the Division of the Budget.

Source : NYS Police Reform & Reinvention Collaborative

Revised: 11/11/2020-----NAACP NBHF EO #203 ST

City of Newburgh Community Update
Police Reform & Reinvention Collaborative

"The key to effective police-community relations is building trust between members of the community and members of law-enforcement, community members should be encouraged to play an active role in the policing process."

NYS Executive Order 203

New York State Executive Order 203

This law, signed by Governor Andrew Cuomo on June 12th, 2020, set forth statewide mandates for all municipalities that have police departments.

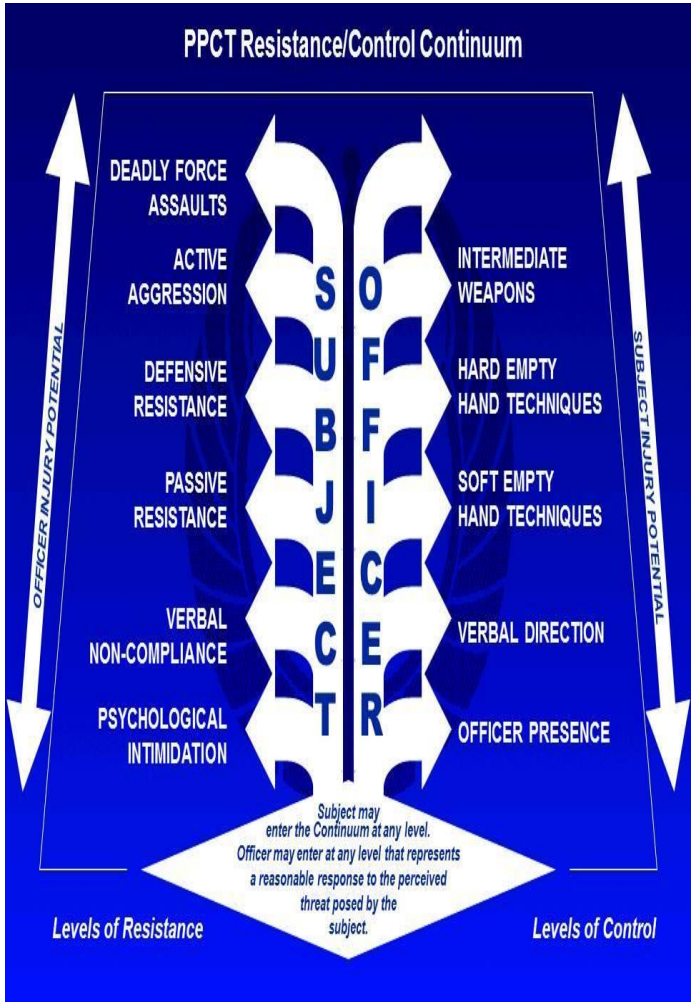
The process as specified in this law must be completed no later than April 1st 2021.

New York State Executive Order 203

- Perform a comprehensive review of policing operations, with a focus on any issues that may exist regarding racial bias and disproportionate policing of communities of color.
- Convene the head of the police agency, along with community stakeholders, to develop a plan aimed at improving policing operations and functions.
- Offer plan for public comment to all citizens, and after consideration of such comments present the plan to the legislative body, which shall ratify by local law or resolution no later than April 1, 2021.

Use of Force

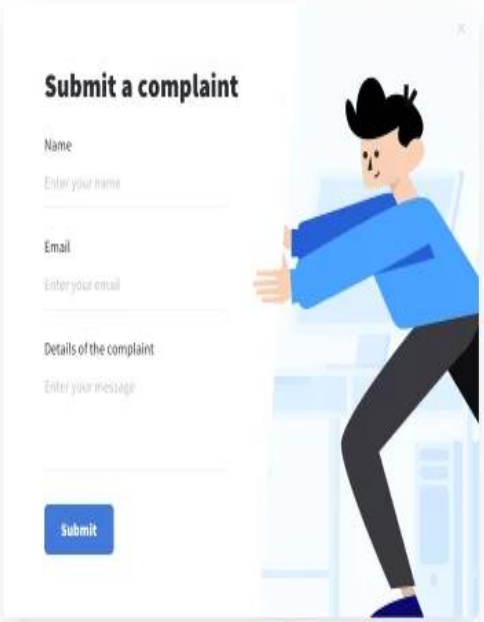
- The Use of Force/Response to Resistance General Order has been amended to include the “Duty to Intervene” provision as recommended by the NYS Division of Criminal Justice Services.
- The department will conduct a comprehensive review of the use of canines for apprehension and crowd control.
- The department will issue an annual report of use of force incidents.



Civilian Complaint Procedure

- The police department will create an Online Complaint Form.

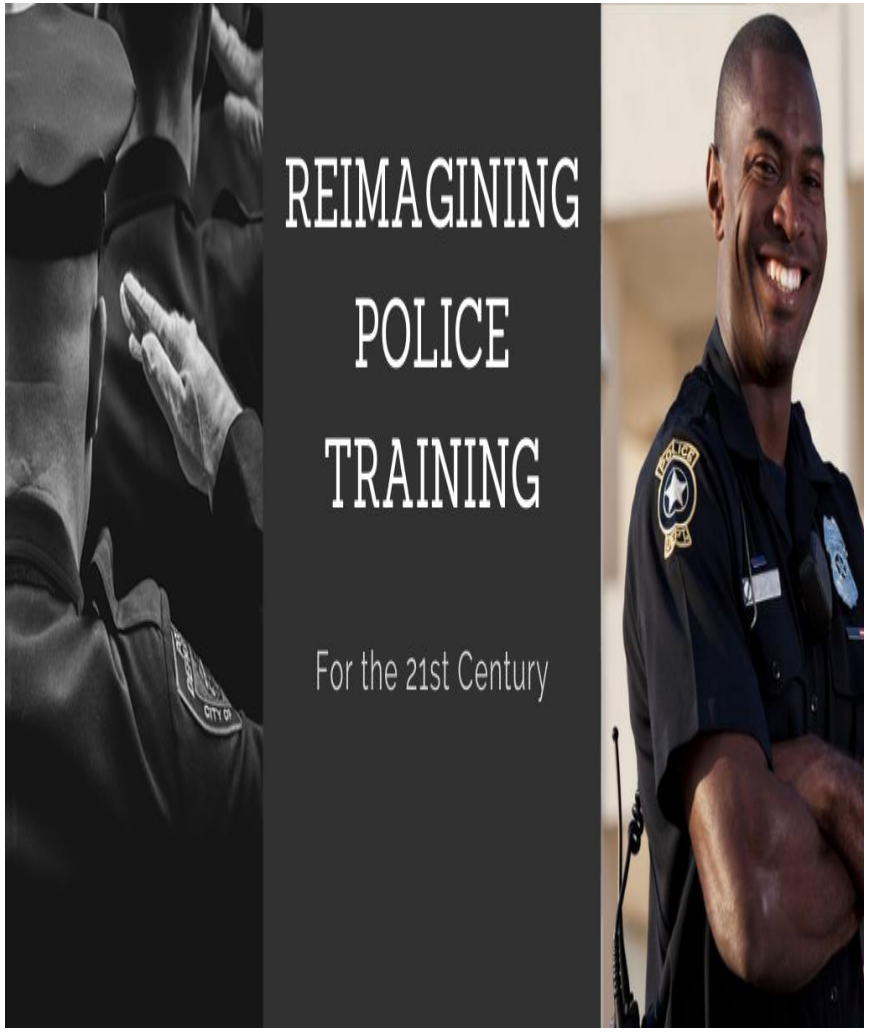
- A Civilian Complaint Report will be done annually, and disseminated. It will include the types of complaints, dispositions and demographic information.



Training

Annual In-Service Training will include:

- Implicit-Bias Training
- Cultural Awareness
- Verbal Judo
- De-Escalation Tactics
- Impact Weapons
- Less-than-Lethal & Defensive Tactics

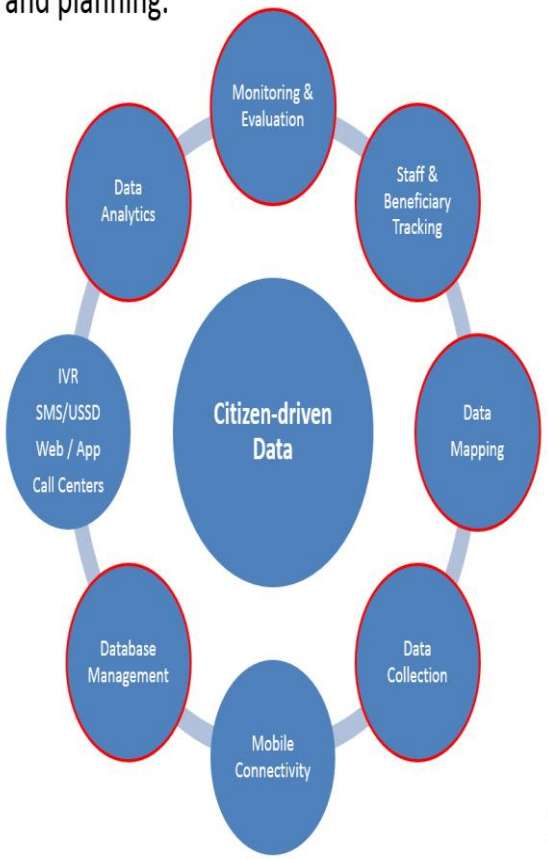


Data Collection & Management

- Will collect data that details racial, ethnic, gender and location related to all police stops and daily blotter reports.
- Will conduct an annual review of the data collected, and publish the information in a Departmental Annual Report.

"Law enforcement must be transparent with respect to discipline, misconduct and data integrity". (NYS EO 203).

Collected citizen-driven data plays a key role in decision making and planning.



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Transparency

- All police policies, practices, and procedures will be made public and accessible on the police website.
- The police department will improve the use of social media to better inform the public and disseminate information.
- A community opinion survey will be created and put on the police website.

" Information must be disseminated quickly and accurately in order to dispel inaccurate or erroneous information."

(NYS EO 203)

Equipment

- New Body Worn Cameras
- Examine less-than-lethal options not currently deployed
- New Duty Uniforms
- New ‘Field Activity Forms’

General Orders

- Field Interviews, Stops & Field Activity Form 80-3
- Crisis Intervention & Assisting the Mentally Ill
- Addressing Bias Policing
- Disclosure of Status Information
- Internal Affairs

Police Practices

- The police department will consult with various outside agencies with a specific focus on utilizing services in dealing with mentally ill persons (Mobile Crisis Response Unit).
- Other responsibilities currently handled by police that are not directly related to its functions will be discussed with outside agencies, such as dealing with the homeless.

Mobile Crisis Response

Community Support Team

"In order for Police-Community relations engagement to be effective both sides must feel they are valued and mutually respected." NYS EO 203

Police Operations

- Will consider re-aligning patrol sectors to reflect the changing demographics.
- The PD needs to relocate police headquarters from its present location, while remaining downtown, in order to better serve the citizenry.

CREATING COMMUNITY PARTNERSHIPS
FOR A SAFE FUTURE

Recruitment process

- Selected members of the community will be encouraged to participate in interviews of potential new hires in the police department.
- All current practices that promote the hiring of city residents, minorities and Spanish-Speaking persons should be continued.

Trust & Respect Works Both Ways

- Community members must feel that the police will engage in fair and unbiased policing.
- The police must in turn feel the community will respect and support them.

Sir Robert Peel, the Father of Modern Day Policing said:

"The police at all times should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police are the only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the intent of the community welfare."

(Principles of Law Enforcement, 1829)

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GENERAL ORDER NO. A-011

ISSUE DATE: 11/13/20	EFFECTIVE DATE: 11/30/20	NEW ORDER	LAST REVIEWED: 10/2/20
SUBJECT: **RESPONSE TO RESISTANCE**			
DISTRIBUTION: **Sworn Personnel**	RE-EVALUATION DATE	NYS ACCREDITATION STANDARD NUMBER(S): **20.1, 20.4, 20.6, 20.7,**	**PAGE 1 OF 6**
ISSUING AUTHORITY: **Chief Arnold Amthor**			

I. PURPOSE

To establish use of force guidelines for members of the City of Newburgh Police Department. It is impossible to regulate what kind and to what extent of force may be used in every situation, as this decision is dependent on the actions of the individual and events that are unique to almost every situation where force may be appropriate.

II. POLICY

The policy of the City of Newburgh Police Department is that members exhaust every reasonable means to effectively bring an incident or person under control prior to using force. If force is necessary, members shall use only the amount of force that is reasonable and necessary in light of the circumstances to effectively and safely bring an incident or person under control, while protecting themselves or others. “Reasonable” and “Necessary” must be judged from the perspective of the reasonable officer on the scene at the time of the incident, and must embody allowance for the fact that officers are often called upon to make split-second decisions about whether to use any force, and how much force to use, during situational factors that are tense, dangerous and rapidly-evolving.

III. RESPONSE TO RESISTANCE

A. Members of this department may use physical force in the performance of official duties only when it is necessary to:
   1) Affect an arrest.
   2) Prevent the escape from custody of a person whom the officer reasonably believes to have committed an offense.
   3) Defend the member or another person from what the officer reasonably believes to be the use or imminent use of physical force.
   4) Restrain or subdue an uncooperative or resistant person.
   5) Safely and effectively control or prevent an unlawful, hazardous, or dangerous situation.

B. A number of factors are taken into consideration when an officer selects force options and when evaluating whether the officer used reasonable force. Officers must be able to articulate the facts and circumstances surrounding the force used in a particular situation. Factors that affect an officer's force selection include, but are not limited to:
   1) Officer / Subject factors
      a. Age
      b. Size
      c. Strength
      d. Skill level
      e. Exhaustion
      f. Injury
      g. Officer / subject ratio
   2) Seriousness of the offense
   3) Influence of drugs / alcohol
   4) Subject's emotional condition / mental instability
   5) Physical condition / disability
   6) Proximity to weapons
   7) Immediate availability of other options

C. Any use of force, which is not reasonably necessary in view of the circumstances confronting the officer is prohibited.

D. Officers shall at all times applicable, utilize professional presence, communication skills, and verbal direction in an effort to defuse a potential physical confrontation.

E. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved, nothing in this General Order requires an officer to actually sustain or unreasonably risk physical injury before applying reasonable force.

F. Members of the department shall follow a force continuum (as outlined in Section V and VI of this General Order) when responding to resistance. It shall be stressed that dependent on actions of the suspect; it will not always be possible for the officer to follow the force continuum in order.

G. The use of non-department issued or approved impact weapons is permitted only when no other reasonable immediate alternative is present.

IV. DUTY TO INTERVENE

A. Any officer present and observing another officer using force that he/she believes to be clearly beyond that which is objectively reasonable under the circumstances shall intercede to prevent the use of unreasonable force, if and when the officer has a realistic opportunity to prevent harm.

B. An officer who observes another officer use force that exceeds the degree of force described in subdivision A of this section shall promptly report these observations to a supervisor.

V. USE OF DEADLY PHYSICAL FORCE

Members of the City of Newburgh Police Department shall resort to the use of deadly physical force only within Department General Orders and New York State Law. City of Newburgh Police Officers shall only use deadly physical force when they possess the objectively reasonable belief that they must protect themselves or another person from imminent death or serious bodily injury.

VI. PROHIBITED FORCE

A. Force shall not be used by any officer for the following reasons
   1. To extract an item from the anus or vagina of a subject without a warrant, except where exigent circumstances are present;
   2. To coerce a confession from a subject in custody;
   3. To obtain blood, saliva, urine or other bodily fluid or cells from an individual for the purpose of scientific testing in lieu of a court order where required;
   4. Against persons who are handcuffed or restrained unless it is used to prevent injury, escape or otherwise overcome active or passive resistance posed by the subject.

B. Warning shots may not be fired under any circumstances.

C. Firing at or from moving vehicles is prohibited except where the officer reasonably believes that there is imminent threat of death or serious physical injury to himself or a third party and that it is the only reasonable means of protecting themselves and/or a third party.

D. Strangle / choke holds and other similar holds which restrict the ability to breathe or that restrict the flow of blood to the brain are prohibited, unless in the event that deadly physical force is justified.

E. Head strikes with any impact weapon are prohibited, unless in the event that deadly physical force is justified.

F. Officers shall not carry or use any of the below listed weapons during the course of their duties:

   1) Switchblade knife
   2) Metal knuckles
   3) Blackjack
   4) Non-folding knives

5) Knives with blades larger than 4 inches.
6) Any other weapon not authorized by the Chief of Police

V11. DOCUMENTATION OF RESPONSE TO RESISTANCE

A. All incidents whereupon any use of force is exercised, shall be documented within the narrative portion of the Offense/Incident Report as well as on a Response to Resistance Report.

The categories of reportable Use of Force incidents are as follows:

1.) **Display a chemical agent**- to point a chemical agent at a

subject.

2.) **Use/Deploy a chemical agent**- the operation of the chemical against a person in a manner capable of causing physical injury.

3.) **Brandishes/Uses/Discharges a firearm**- the operation of a firearm against a person in the manner capable of causing physical injury.

4.) **Brandishes/Uses/Deploys an impact weapon or electronic control weapon**- the operation of an impact weapon or electronic control weapon against a person in a manner capable of causing physical injury.

6.) Conduct that resulted in death

7.) **Serious bodily injury**- bodily injury that causes:

- A substantial risk of death; or
- Unconsciousness; or
- Serious and protracted disfigurement; or
- Protracted loss or impairment of the function of any bodily member, organ or mental faculty.

B. The Response to Resistance Report and the Offense / Incident Report shall be reviewed by the officer's immediate supervisor. The officer's immediate supervisor shall determine, based upon the information at the time, if the response was appropriate. The supervisor's determination shall be marked on the Response to Resistance Report in the appropriate area. Both reports shall then be forwarded to a Lieutenant designated by the Chief of Police for review.

C. The use of force investigator designated by the Chief of Police shall review all Response to Resistance Reports to determine if the response is consistent with New York State Law and the General Orders of the City of Newburgh Police. The use of force investigator designated by the Chief of Police shall also be responsible for forwarding any responses that were

inappropriate to the Chief of Police.

D. State Reporting Requirements will be handled by an employee designated by the Chief of Police

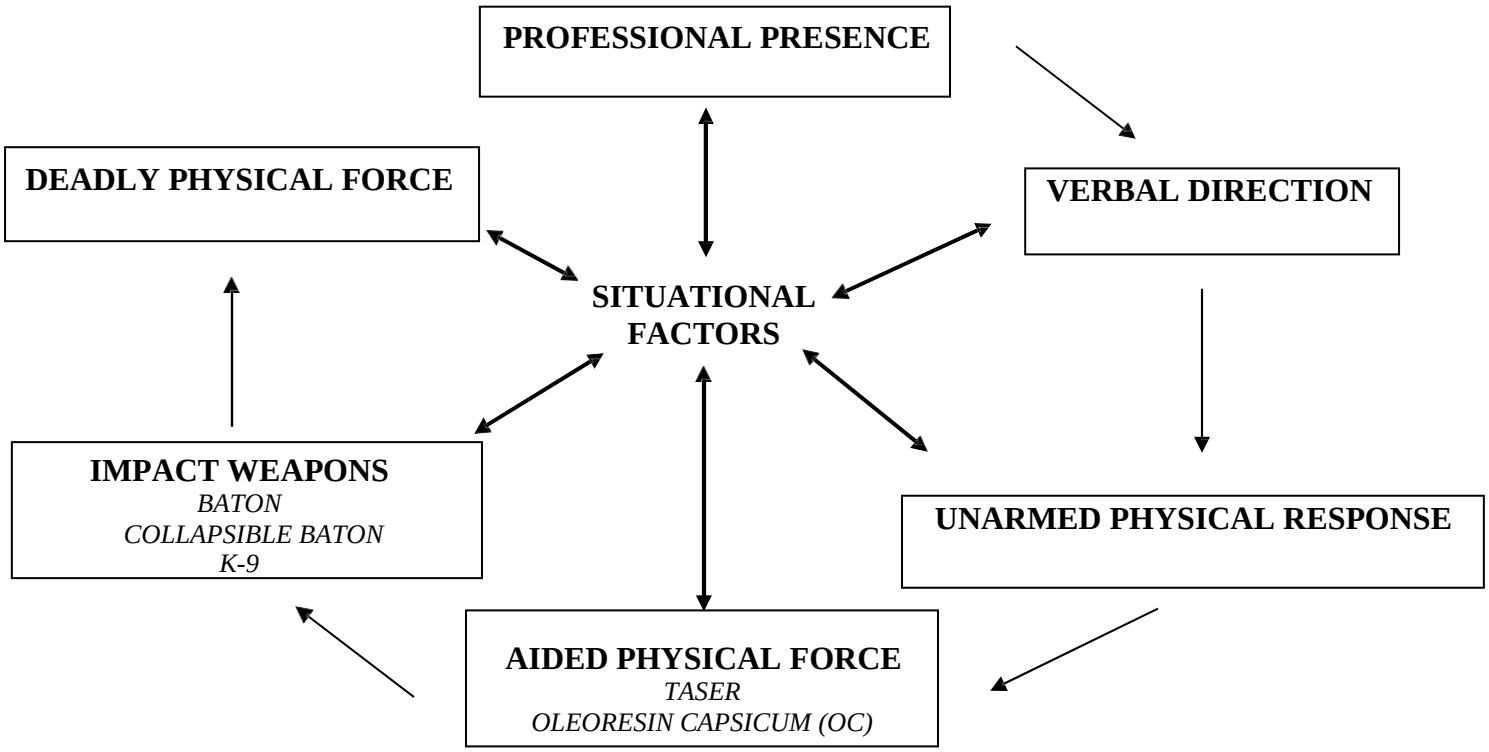
E. Response to Resistance Reports shall be maintained indefinitely by the use of force investigator designated by the Chief of Police.

VII. PROCEDURES FOLLOWING USE OF DEADLY PHYSICAL FORCE

A. Psychological Services: In all cases where any person has been seriously injured or killed as a result of a deadly force incident involving an officer, or any incident as determined by the Chief of Police, the involved officer(s) will be required to undergo a debriefing with a department provided psychological professional as soon as possible after the incident. The purpose of this debriefing is to deal with the emotional and/or psychological after-effects of the incident. The debriefing shall not be related to any department investigation of the incident.

B. Administrative Leave: Any officer involved in a deadly force incident shall be placed on Administrative Leave directly upon the completion of their preliminary report of the incident. This leave shall be without loss of pay or benefits pending the results of the investigation. The assignment of Administrative Leave shall not be interpreted to imply or indicate that the officer acted improperly. While on Administrative Leave, the officer shall remain available at all times for official department business, including interviews and statements regarding the incident and any legal proceedings, and administrative or internal police department protocols. The officer may be recalled to duty at any time. Upon returning to duty, the officer may be assigned to Administrative Duty for a period of time deemed appropriate by the Chief of Police, in consultation with the officer and any involved psychological professional.

VIII. FORCE CONTINUUM – SITUATIONALLY DEPENDENT OPTIONS



Arnold Amthor
Chief of Police

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GENERAL ORDER NO. A-014

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **INTERNAL AFFAIRS**			
DISTRIBUTION: **All personnel**	RE-EVALUATION DATE **04/17**	NYS ACCREDITATION STANDARD NUMBER(S): **25.1, 25.2, 25.6, 25.8**	**PAGE 1 OF 6**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

I. PURPOSE

This General Order sets forth the policy and procedure for the management and supervision of complaints concerning members of the City of Newburgh Police Department, consistent with the goal of maintaining the highest standards of integrity of the members of the Department. The Chief of Police shall designate a Lieutenant with responsibility for administration of this policy and related matters.

II. POLICY

The City of Newburgh Police Department encourages all persons to report legitimate complaints regarding possible misconduct, poor performance and/or inadequate police service. Each allegation shall be received by the Department professionally with courtesy and investigated without delay. Members of the Department are to assist and cooperate in the impartial processing of a complaint consistent with established procedures. A complaint shall be handled with due regard for the rights of member(s) of the Department who may be the subject of a complaint.

III. TYPES OF COMPLAINTS

A. Platoon / Unit / Individual Complaint: Generally, any alleged violation of department procedure.

B. Misconduct Complaint: an allegation of improper or unlawful conduct which includes but is not limited to:

1) Abuse of authority;
2) Conduct which is criminal on its face;
3) Unnecessary or excessive use of force;
4) Abusive or discourteous behavior;
5) Unprofessional demeanor.

C. Informal Complaint: A verbal complaint in which the complainant meets with a police supervisor and the matter is resolved without a formal complaint being filed.

D. Formal Complaint: A complaint filed on a City of Newburgh Police Citizen Complaint and Compliment Form.

E. Inter-departmental investigation: Any member of the department may initiate an internal affairs investigation by completing an Internal Affairs Investigation Request and forwarding it to the Lieutenant designated by the Chief of Police.

IV. RECEIVING COMPLAINTS

A. Any person wishing to make a complaint against a member of the department, a department policy or procedure, or any aspect of the department's operation shall be allowed to make such complaint.

B. When a complaint involves only whether the party is guilty or innocent of a charge, the complainant shall be instructed to address the matter during a court appearance.

C. All officers will, upon request, provide and/or explain the procedure for making a complaint as outlined in this General Order. Complaint/compliment forms shall be in both English and Spanish.

D. Any person wishing to make a complaint shall be directed to the on-duty Patrol Supervisor, or if known, the employee's direct supervisor if the supervisor is on-duty. (Hereafter referred to collectively as "supervisor")

E. The supervisor shall attempt to resolve the complaint. If the complaint cannot be resolved to the satisfaction of the complainant, or if the substance of the complaint is not considered by the supervisor to be a low-level matter, the complainant shall be given a Citizen Complaint and Compliment Form.

F. Examples of higher level complaints that should require a formal complaint include but are not limited to: corruption, brutality, death or serious injury, criminal misconduct, interference with a person's civil rights, purposeful violations of department general orders and gross violations of department general orders.

G. When a person wants to make a formal complaint, or in instances of higher level complaints, the complainant shall be given a Citizens Complaint and Compliment Form (hereafter "complaint form"). The supervisor shall assist the complainant as needed. The substance of the complaint, the identity of the complainant and the identity of the member(s) of the Department involved shall be maintained as confidential and disclosed only by the Lieutenant designated by the Chief of Police as necessary in the course of the investigation or as directed by the Chief of Police.

H. Upon completion of the complaint form, the supervisor shall photocopy the completed form and give the copy to the complainant. The original form shall than be sealed in a department envelope, clearly marked on the front and back of the envelope "Confidential", and forwarded to the Lieutenant designated by the Chief of Police. In the event that the Lieutenant is not on duty the supervisor shall secure the envelope in the Chief's office.

I. Upon receiving the formal complaint, the Lieutenant shall assign a log number; enter identifying information in the Department's records system, including the date the complaint form was completed, the date the complaint form was received by the Lieutenant, and the assigned log number.

J. Upon receipt of the complaint form, the Lieutenant shall commence an investigation of the matters alleged at the earliest possible time.

K. The Chief of Police may at times designate the Lieutenant to investigate alleged or suspected misconduct within the Department, whether or not a complaint has been filed.

L. Matters for which there is cause to believe constitute misconduct or incompetence shall be handled according to the Department General Order regarding Department Discipline.

V. INVESTIGATING FORMAL COMPLAINTS

A. The Lieutenant or any person assigned by the Chief of Police shall investigate all formal complaints.

B. The Lieutenant shall forward a written acknowledgement of receipt to the complainant within (10) business days. The letter shall inform the complainant that the complaint is being investigated and provide the complainant with the Lieutenants contact information.

C. All formal complaints shall be thoroughly investigated, and an investigative report completed. The investigative report shall detail the action(s) taken to investigate the matter, summarize the evidence received, and identify all items of evidence, notes, and recordings generated in the course of the investigation. The investigative report shall clearly state a recommendation for the disposition of the complaint, using the categories listed below, and the rationale for the disposition. The investigative report shall be forwarded to the Chief of Police for review.

D. Materials and files related to completed and pending investigations shall be maintained by the Lieutenant in an orderly manner and afforded confidentiality unless and until directed otherwise the Police Chief.

E. At the completion of the investigation the Lieutenant shall send a formal letter to the complainant informing them of the disposition of the investigation.

F. The Chief of Police or his designee will maintain a close liaison with the District Attorney's Office in investigations alleging criminal conduct.

VI. INVESTIGATIVE INTERVIEWS OF EMPLOYEES

Two types of investigations may take place: administrative or criminal. Different rules govern interviews of employees in each case.

A. Administrative Interviews: If the Chief of Police or his designee wishes to compel an employee to answer questions directly related to his or her official duties with the understanding that under the law the employee's answer to questions specifically, directly, and narrowly relating to the performance of the employee's duties or fitness for office cannot be used in a criminal prosecution of the employee himself. The Chief of Police or his designee shall advise the employee of the following:

1) The purpose of the interview is to obtain information, which may determine whether disciplinary action is warranted. The answers obtained may be used in disciplinary proceedings resulting in reprimand, demotion, suspension, or dismissal.
2) The employee shall be notified in writing that he or she has the right to representation by his or her certified or recognized employee organization and/or an attorney.
3) Any questions specifically related to employment must be answered truthfully, accurately and completely. Refusal to answer may result in disciplinary action for insubordination.
4) No answer given or any information obtained by reason of such statements may be used against the employee at any criminal proceeding involving charges against the employee personally.
5) Officers have the protection of the "Bill of Rights" as stated in the applicable contractual agreements.
6) The employee shall read or have read to them the following:

"I wish to advise you that you are being questioned as part of an official investigation of the police department. You will be asked questions specifically directed and narrowly related to the performance of your official duties or fitness for office. You are entitled to all the rights and privileges guaranteed by the laws and the constitution of this state and the constitution of the United States, including the right not to be compelled to incriminate yourself.

I further wish to advise you that if you refuse to testify or to answer questions relating to the performance of your official duties or fitness for duty, you will be subject to departmental charges, which could result in your dismissal from the police department. If you do answer neither your statements nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding against you personally. However, these statements may be used against you in relation to subsequent departmental charges."

B. Criminal Interviews: If the Chief of Police or his designee believes criminal prosecution is a possibility and wishes to use statements against the employee in a criminal proceeding, or at least wishes to maintain the option of their use, the Chief of the Chief's designee shall:

1) Give the employee Miranda rights.
2) Advise the employee that if he asserts his right not to answer questions, no adverse administrative action will be taken based upon the refusal.
3) The employee shall be notified in writing that he or she has the right to representation by his or her certified or recognized employee organization and/or an attorney.
4) If the employee decides to answer questions at this point, the responses may be used in both criminal and disciplinary proceedings.
5) Officers have the protection of the "Bill of Rights" as stated in the applicable contractual agreements.

VII. MEDIATION

A. The Department recognizes that oftentimes complaints arise from miscommunication and/or misunderstanding between an officer and citizen. As such, mediation shall be utilized to address a low-level complaint such as rudeness, discourteous behavior etc.

B. Any formal complaint may be considered for resolution in mediation. The mediation procedure will be arranged by the Chief of Police, or his designee, and may include involvement from the community including but not limited to:

1) Involved officer, supervisor;
2) City Management;
3) Community Leaders;
4) Clergy;
5) Orange County Mediation Project.

VIII. DISPOSITION

A. After a complete and thorough investigation, the complaint shall be closed under one of the following dispositions:

1) UNFOUNDED: Complaint or incident is false or circumstances are not factual.

2) EXONERATED: Complaint or incident did occur but the actions of the employee(s) were lawful and proper.

3) NOT SUSTAINED: The complaint or incident is not supported by sufficient evidence of misconduct or incompetence by the employee(s).

4) SUSTAINED: The complaint or incident is supported by sufficient evidence of misconduct or incompetence by the employee(s).

5) POLICY FAILURE: The employee acted properly within department policy; however the complaint was valid and justifiable. The complaint may have given reason or reasons to review current practices, policies and/or procedures.

Daniel C. Cameron
Chief of Police

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GENERAL ORDER NO. A-015

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **DEPARTMENT DISCIPLINE**			
DISTRIBUTION: **All Personnel**	RE-EVALUATION DATE **04/17**	NYS ACCREDITATION STANDARD NUMBER(S): **14.4**	**PAGE 1 OF 7**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

I. PURPOSE

This General Order shall provide employees with an understanding of the department's disciplinary system, and the ramifications for non-conformance to the department's code of ethics and standards of performance.

II. POLICY

It shall be the policy of the City of Newburgh Police to maintain an effective disciplinary system in order for the department to effectively achieve its goals and objectives. Discipline issues shall be handled by department supervisors and/or in some cases the Lieutenant designated by the Chief of Police.

III. SUPERVISOR ROLE

A. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of the department shall be with the employee and the first line supervisors.

B. Police supervisors shall familiarize themselves with the employees under their supervision, and closely observe their general conduct and appearance on a daily basis.

C. Police supervisors should remain alert for indications of behavioral problems or changes that may affect an employee's normal job performance. Such information should be documented by the supervisor.

D. When a police supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation, and determine the most appropriate action.

E. Disciplinary matters will be handled in a manner that assures the confidentiality of and privacy for both the employee and for substance of the discipline.

F. Nothing established herein should preclude the supervisor from regularly instructing members of this department on their performance.

G. If a police supervisor determines that a policy violation or other incident has occurred and their preliminary investigation cannot determine who is responsible they must complete an Internal Affairs Investigation Request form and forward it to the Lieutenant designated by the Chief of Police.

IV. DISCIPLINARY CONSIDERATIONS

A. When considering discipline, a supervisor should take into consideration the following factors:

1) The seriousness of the misconduct;
2) The impact of the misconduct on others;
3) The employee's prior disciplinary record; and
4) The length and quality of the employee's service with the department.

B. Progressive Discipline:

1) When circumstances allow, and in instances of relatively minor misconduct, the concept of progressive discipline should be followed. This entails an administration of increasingly severe disciplinary actions for subsequent acts of misconduct.
2) In instances of serious misconduct the concept of progressive discipline will not be applicable.

C. Training as a function of discipline:

1) When training / counseling is used as a function of discipline, such training shall be documented in the employee's personnel file.

D. Counseling as a function of discipline:

1) Used to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
2) Used to review and discuss order violations, and to discuss the substance and importance of the orders with the employee.

E. Suspension, formal departmental charges and/or relief from duty shall be considered for serious misconduct or incidents.

V. VERBAL WARNING

A. A reprimand to the employee from a supervisor describing the way in which the employee's conduct or performance has failed to meet prescribed standards.

B. The verbal warning shall include:

1) A statement of the alleged acts or omissions;
2) A recommendation for corrective action(s); and
3) A warning that additional violations may lead to more stringent disciplinary procedures.

C. Any supervisor of the City of Newburgh Police is authorized to give a verbal warning.

VI. LETTER OF COUNSELING

A. A Letter of Counseling is a formal report documenting a formal contact by a supervisor with an employee.

B. The Letter of Counseling shall include:

1) The allegations being made against the employee;
2) What order the employee is in violation of;
3) What actions need to be taken to correct the problem; and
4) Ramifications if the behavior continues.

C. Letters of Counseling shall be signed by the employee and the supervisor issuing the Letter of Counseling.

D. Employees shall be afforded an opportunity to respond to the Letter of Counseling. Any response shall be submitted to the Chief of Police in writing.

E. Upon completion, a copy of the Letter of Counseling shall be provided to the counseled employee. The original Letter of Counseling shall be sealed in a department envelope, labeled as confidential and either given to the Police Chief in person or secured in the Chief's office.

F. Letters of counseling shall stay in personnel files for a length of time determined by the Chief of Police per incident.

G. Any supervisor of the City of Newburgh Police is authorized to issue a Letter of Counseling.

VII. COMMAND DISCIPLINE

A. The Chief of Police, or his designee, shall have the authority to correct violations through the offering of a Command Discipline option given to the employee charged.

B. After considering the allegations made against the employee, the Chief of Police, or his designee, may provide the employee with a penalty option in lieu of formal department charges.

C. Employees have the right to accept the penalty, or have the matter resolved through formal departmental charges and a hearing.

D. Command Discipline Option is not to be read as a threat in any manner, nor as any sort of coercion or intimidation to waive any employee right, it is merely an option open to the employee if they so desire.

E. The offering of Command Discipline is the prerogative of the administration and that, as such, it is not a right of any individual employee. The Command Discipline Option is not to be understood as establishing a practice or procedure for any particular violation or violations in particular or in general; and should not be accepted by members of the department as establishing any practice or procedure which they are entitled to as a right.

F. An offer of Command Discipline shall be in writing and shall advise the employee of the penalty, their rights to decline the discipline and their right to formal departmental charges and a hearing.

G. To accept the offer of Command Discipline the employee must sign a waiver of their right to formal departmental charges and a hearing.

H. Command Discipline shall be placed in the employees personnel file for an amount of time determined by the Chief of Police based on the specific Command Discipline incident.

VIII. RELIEF FROM DUTY

A. Any City of Newburgh Police Supervisor shall have the authority to relieve an employee from duty when the supervisor determines that the employee is unfit for duty, or that there is reasonable cause to believe that the continued presence of the employee represents a potential danger to persons or property, or the employee's presence will interfere with operations.

B. The supervisor shall immediately notify the Chief of Police and complete a written report prior to the end of the shift.

C. If the circumstances of the relief from duty require it, the supervisor may mandate that the employee remain at headquarters for further action.

D. The supervisor and the employee shall be summoned to the meet with the Chief of Police, within a reasonable time, as determined by the Chief of Police.

E. A relief from duty shall not be considered a suspension of any type.

IX. SUSPENSION

A. The Chief of Police has the authority to suspend an employee.

B. Upon any suspension, the suspended employee must surrender to a supervisor their City of Newburgh Police Identification Card, any badges, building keys, department-issued equipment, and all handguns they possess under the authority of their City of Newburgh Police Identification.

C. The supervisor shall see the proper safeguarding of the property by turning the property over to the Crime Scene Unit, who shall secure the property until authorized by the Chief of Police or his designee to return the property.

D. A suspended employee is not permitted to be inside the City of Newburgh Police Station unless authorized by the Chief of Police and escorted by a supervisor.

E. Police entrance combination locks shall be immediately changed.

F. Notification of the suspension shall be made to all employees.

G. Suspended Police Officers are not permitted to take any police action nor identify themselves as a police officer.

H. The City Manager, as the legal appointing authority, or the Police Chief may suspend any member(s) of the department who has been charged with a crime.

X. FORMAL DEPARTMENTAL CHARGES

A. With the exception of a Command Discipline option, no non-probationary member of the police department shall be removed, reduced in rank, suspended, fined, or otherwise punished or disciplined except upon formal charges as prescribed by collective bargaining agreements and Civil Service Law.

B. Formal charges may be constructed by the Chief of Police or the City Manager.

C. Charges shall be in writing and sufficiently specific to apprise the employee of what he/she is being charged with to enable him/her to defend them.

D. The charges may be served to an employee personally or by mail. The employee is then entitled to at least eight days in which to answer the charges in writing. The response must be directed to the charging authority.

E. After charges have been preferred, they may be altered or amended by the Charging Authority or he/she may cause new charges to be prepared. Slight errors in names, dates, amounts and clerical errors may be corrected by the Charging Authority. All such amendments shall be provided in writing to the member charged.

F. All subsequent action including hearings and appeals shall be in accordance with the provisions of the New York State Civil Service Law, New York State Public Employment Relations Board and Collective Bargaining Agreements.

XI. RECORDS OF FORMAL DEPARTMENTAL CHARGES

A. If found guilty, a copy of the charges, his/her written answer thereto, a transcript of the hearing, and the determination shall be filed in the City Manager's office and a copy filed with the City of Newburgh Civil Service Commission.

B. Any investigative notes or records and if applicable, a transcript of the trial and disposition shall be secured in a separate file in the office of the City Manager and the office of the City of Newburgh Corporation Counsel and/or the office of the City of Newburgh Civil Service Commission.

C. The complaint form and a disposition of the charges shall be kept in the personnel record of the accused member.

D. After a lapse of (2) years, the determination that an accused member was guilty of the charges preferred against him/her shall not be considered against him/her upon application for promotion, nor shall it affect, after the lapse of two (2) years, any right or privilege to which he/she would otherwise be entitled were it not for such determination.

XII. RESIGNATIONS, SEPARATION FOR CAUSE

A. The Chief of Police shall cause to be placed in the personnel file of any member resigning or separating from the department for cause, all the facts pertinent to the action.

B. All personnel records of resigned or separated employee's shall be kept on file permanently.

Daniel C. Cameron
Chief of Police

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GENERAL ORDER NO. A-021

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **Warrants**			
DISTRIBUTION: **Sworn Personnel, Dispatchers**	RE-EVALUATION DATE **04/17**	NYS ACCREDITATION STANDARD NUMBER(S): **8.12, 8.13**	**PAGE 1 OF 3**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

I. PURPOSE

This General Order shall establish the system for requesting, maintaining, and serving warrants of arrest and bench warrants.

II. POLICY

It shall be the policy of the City of Newburgh Police Department to maintain an up to date and active arrest/bench warrant file that is accessible to all sworn personnel and dispatchers 24 hours a day. All sworn personnel are responsible for periodically reviewing the Warrant List in an effort to serve the active warrants.

III. PROCEDURE

A. Requesting Officer's Responsibilities:

1) Where practical, officers are permitted to attempt to locate a suspect prior to applying for an arrest warrant. If the officer does not locate the subject within the same tour of duty they must notify their direct supervisor. The supervisor must approve or deny the delay of the warrant based on the circumstances. The responsible officer must keep the supervisor informed as to the status of the case. This section (III. A) does not apply to Detectives.

2) Complete a Criminal Information, Warrant Cover Sheet, Warrant, Incident Report, and any other applicable paperwork.
3) Attach a photograph of the suspect in either a department wanted poster, or eJustice photo when available.
4) Forward all completed paperwork to their immediate supervisor for review.
5) Monitor the status of warrants that the officer generated and make attempts, when practical, to serve those warrants. Attempts to serve the warrant shall be listed on the Warrant Cover Sheet.
6) Notify the District Attorney's Office if you apply for a felony warrant.

B. Supervisor Responsibilities:

1) Review paperwork for thoroughness.
2) Forward the Criminal Information, Warrant Cover Sheet, Warrant, photo and any other applicable paperwork to City Court.

C. Employee assigned to warrant administrative duties responsibilities:

1) Receiving and filing all City of Newburgh Court active warrants.
2) Upon receiving a warrant they shall complete a warrant file folder containing the defendant's name, date of birth, and photo if available.
3) Entering the wanted person into eJusticeNY in a timely manner.
4) Maintain a current Warrant List and the current warrants in communications. The Warrant List and the current warrants shall be accessible 24 hours a day.

D. Communication Personnel Responsibilities:

1) Check for active warrants on a subject when requested, or during the course of their duties.
2) Upon receiving notification from City of Newburgh Court instructing a warrant to be vacated;
    a. Remove the name from the Warrant List;
    b. Remove the warrant from the warrant drawer;
    c. Remove the warrant from eJusticeNY;
    d. Forward vacate notice and warrant to the responsible court.
3) Assist arresting officers in removing the warrant from eJusticeNY.

E. Arresting Officer Responsibilities:

1) Cancel the warrant in eJusticeNY. The responsibility of cancelling the warrant in eJusticeNY rests solely on the arresting officer. If the officer is not familiar with the procedure of cancelling the warrant in eJusticeNY, they must seek out the assistance of communications personnel. If communications personnel are unable to assist then the arresting officer must notify the Patrol Supervisor.
2) Remove the name from the Warrant List.

3) Write in the date served on the Warrant Cover Sheet and forward it to the Patrol Supervisor who shall then forward it to the employee assigned to warrant administrative duties.
4) If officers check an address specifically for the purpose of executing the warrant and do not locate the suspect, the officer shall note the attempt on the Warrant Cover Sheet.

Daniel C. Cameron
Chief of Police

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GENERAL ORDER NO. O-005

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **VEHICLE TRAFFIC STOPS AND UNIFORM TRAFFIC TICKETS**			
DISTRIBUTION: **SWORN PERSONNEL**	RE-EVALUATION DATE **02/17**	NYS ACCREDITATION STANDARD NUMBER(S): **47.1, 47.2**	**PAGE 1 OF 5**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

PURPOSE:

The purpose of this General Order is to establish procedures for stopping, approaching and addressing traffic law violators. This General Order also addresses the issuing and accountability of Uniform Traffic Tickets.

POLICY:

Traffic law enforcement involves all activities or operations, which relate to observing, detecting, and preventing traffic law violations and taking appropriate action under the circumstances. Enforcement not only involves arrests and citations, but also includes warnings to drivers and pedestrians, which help prevent them from committing minor violations. Traffic enforcement may involve observed violations, at accidents, or in response to community concerns; or may be proactive to prevent traffic violations.

I. TYPES OF ENFORCEMENT ACTIONS:

A. Warnings - Officers may issue verbal warnings to a violator whenever a minor traffic infraction was committed in their presence.
B. Uniform Traffic Ticket - A UTT may be issued by an officer to a violator whenever a minor traffic infraction has been committed in their presence, with the exception of accident investigations.
C. Physical Arrest – Officers may make a physical arrest where applicable.

II. HANDLING SPECIAL CATEGORIES OF VIOLATORS:

A. Out-State Residents – Officers may consider use of warnings for non-residents who commit minor, non-hazardous violations.

B. Juveniles - Persons less than 16 years of age shall be detained and steps for handling juveniles shall be followed as outlined in the departments Juvenile Contact Procedures.

C. Foreign Nationals - Generally, there are immunity provisions that apply to Foreign Nationals. Refer to the General Order regarding Foreign Nationals.

D. Lt. Governor and Legislatures - During the session of the General Assembly and for five days before and after the session, the Lieutenant Governor, a member of the Assembly, or the clerk thereof, and their assistants, shall be privileged from custodial arrest except for treason, a felony, or a breach of the peace. Officers may issue traffic summonses for a moving offense.

E. Military Personnel – Active Military Personnel are permitted under law to lawfully operate a motor vehicle with an expired drivers license. Officers must confirm that the violator is Active Military through Military Identification.

F. Members of Congress - May not be detained for the issuance of a summons while they are in transit to or from the Congress of the U.S. If a member of Congress is stopped for a traffic infraction, he shall, upon presentation of valid credentials, be immediately released. The officer may then obtain a summons for the member of Congress covering the observed violation and make arrangements to serve the summons at a time when the member of Congress is not in transit to or from Congress, or on official business.

III. TRAFFIC STOPS:

A. Making the Vehicle Stop - Whenever possible, all traffic stops will be conducted in a safe location while the primary concern of the officer should be his/her safety and that of others. Varying conditions regarding the engineering of the particular traffic way, the urgency to stop the violator, and the existing volume of traffic may require adjusting or altering the recommended procedure. Under ideal conditions, follow these procedures if possible:

1. Locate a safe spot to stop the vehicle.
2. Activate the emergency red lights and, when necessary, siren to signal the vehicle to stop.
3. Officers should position the police vehicle approximately one- half to one car length behind the violator's vehicle. The police vehicle shall be positioned so that it will offer the officer some protection from oncoming traffic. This position provides maximum safety to the violator, the officer, and all other traffic.
4. Advise communications of the location of the stop and the vehicle’s license plate number and/or other descriptions when necessary prior to approaching the vehicle.
5. Officers shall properly utilize the emergency lights / spot lights after the vehicle stops to maintain safety.

B. Approaching the Violator - The following steps in approaching a traffic violator are intended to provide maximum safety for the officer, the violator,

and other users of the roadway.

1. The officer shall leave the patrol vehicle and be continuously alert for any suspicious movement or actions on the part of the violator or other occupants in the violator's vehicle.
2. Occupants should be directed to remain in the vehicle if they attempt to exit without officer's instruction.
3. The officer should approach from the rear of the violator's car, looking into its rear seat and stop behind the trailing edge of the left front door. From this position, the officer can communicate with the violator, keeping him in a slightly awkward position and at the same time keep all occupants of the vehicle in view.

C. Communication with the Violator - In transacting their business with the violator, the officer shall:

1. As soon as practical, request the required paperwork for the stop, and then advise the violator of the reason that they were stopped.
2. Officers shall remain courteous and professional.
3. If the driver has no driver's license, obtain another document of identification.
4. Complete the forms required for the enforcement action taken or exercise a verbal warning, if appropriate.
5. Explain to the violator exactly what they are supposed to do in response to the action taken.
6. If the enforcement action requires a court appearance, make sure the violator knows where and when to appear. You may explain any alternatives to the violator, but you may not predict the actions of the court.

D. Ending the Stop

1. Give a copy of the summons to the violator and explain the process of answering the summons.
2. Return the violator's driver's license, registration, and insurance card.
3. Remain at the stop until the violator re-enters the roadway.

IV. HIGH-RISK VEHICLE STOPS:

Officers shall use high risk vehicle stop procedures when necessary to apprehend a suspect, who is or could potentially be dangerous. High-risk stops are vehicle contacts that may increase the probability of violence usually associated with armed suspects or violent criminal activity.

A. Prior to making the stop

1. Notify communications of a location, description of vehicle and occupants if possible, and request additional units.
2. The initial officer will now be considered the control officer unless a supervisor takes command.
3. Request radio silence if necessary.

B. Making the stop

1. The control officer should maintain radio contact with their back up

units and coordinate the stop accordingly. The control officer will decide the stop location based on available back up units, terrain, lighting, traffic, and any other circumstance that may apply.

2. Once the location has been decided, the control officer should position themselves behind the violator vehicle and activate emergency lights, and siren if applicable.
3. Once the violator vehicle is stopped, the control officer should attempt to position their police vehicle approximately two car lengths behind and to the left of the violator vehicle. Back up units should position their vehicles in a manner that creates a barrier between them and the violator vehicle but does not obstruct the control unit or place anyone in a position of possible cross fire scenarios.
4. The control officer and back up units should be tactically ready to engage the violator and/or any passengers in the vehicle.
5. If other back up units are available, they may be used to block or divert traffic.
6. In situations where the stop is conducted in a routine manner and it is determined that the stop has turned high-risk the officer should change the stop to high-risk procedures.

C. Making contact with the occupants

1. In a clear and loud commanding voice (utilize PA if needed) the control officer should order the occupant's to place their hands in a position determined by the control officer. This position should be in a manner where the occupants hands can be seen by officers.
2. If possible, the control officer should order that the vehicle's keys be removed from the ignition.
3. Occupants should be ordered out of the vehicle one at a time in a manner determined by the control officer.
4. Occupants that have been ordered out should be secured by back up units when so directed by the control officer.
5. If the occupants of the vehicle do not comply with verbal orders then officers shall refer to the Department General Order regarding Response to Resistance.
6. Once all occupants are out of the suspect vehicle and secured, officers shall cautiously check the trunk and interior of the suspect vehicle for suspects who may be hiding.

V. ACCOUNTABILITY AND ISSUING OF UNIFORM TRAFFIC TICKETS (UTT):

A. The Records Division Supervisor or his designee shall be responsible for:

1. The ordering of Uniform Traffic Tickets from the New York State Department of Motor Vehicles.
2. Accounting of Uniform Traffic Tickets received by the City of Newburgh Police Department.
3. Reporting any lost, damaged, or voided UTT numbers to the New York State Department of Motor Vehicles.
4. Approval and retaining all voided UTTs with their Voided Summons Affidavit for a period of not less than five (5) years.

5. Replenishing Patrol Division (Patrol Supervisor's Office) with supplies of new Uniform Traffic Ticket books and accounting of books placed in the Patrol Supervisor's office.
6. Recording of all issued Uniform Traffic Tickets and forwarding completed white (arrest record) copy to the Department of Motor Vehicles.
7. The maintenance and data storage of Uniform Traffic Tickets issued via the TraCS (Traffic and Criminal Software) system and the subsequent transmission of the data to the State as prescribed in the City of Newburgh Police Department Use and Dissemination Agreement.

B. The Patrol Supervisor shall be responsible for:
1. Issuing Uniform Traffic Ticket books and Parking Ticket Books and recording, in a logbook, the Uniform Traffic Ticket numbers and Parking Ticket numbers received by and issued to an officer. All UTT's and parking tickets must be assigned by a supervisor and a supervisor signature must be recorded on the sign out sheet.
2. The proper distribution of issued and voided Uniform Traffic Tickets to the Records Division.
3. Voiding TRACS traffic tickets, when authorized, within 48 hours of issuance.

C. The Officer shall be responsible for:
1. Accounting for all the tickets in the Uniform Traffic Ticket book(s) they receive from the Patrol Supervisor and initialing the logbook for receiving all of their numbered Uniform Traffic Tickets or reporting any missing or damaged UTTs.
2. Properly preparing and issuing the Uniform Traffic Ticket in accordance with Section I of this General Order.
3. Completing and forwarding a voided summons request to a patrol supervisor within 24 hours of the issuance of the summons.
4. Completing a start shift and end shift using the TRACS system to issue a UTT in accordance with training.
5. Officers who are trained and equipped for the TRACS system must only use the TRACS system when issuing UTT's.

D. Communications Personnel shall be responsible for recording the officer's status in CAD and reporting the final disposition resulting from the vehicle stop. i.e. - warned, issued, arrested, etc.

Daniel C. Cameron
Chief of Police

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GENERAL ORDER NO. O-038

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **Body Worn Camera (BWC) Pilot Program**			
DISTRIBUTION: **Sworn Personnel IT Department**	RE-EVALUATION DATE **02/17**	NYS ACCREDITATION STANDARD NUMBER(S):	**PAGE 1 OF 5**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

I. POLICY STATEMENT:

It is the policy of the City of Newburgh Police Department to use all available legal means to enhance our ability to gather evidence. One such option is the use of a Body Worn Camera (BWC).

The video and/or audio recordings produced by this device are admissible in a court of law as an impartial witness to events as they occurred.

Recordings shall be used to facilitate the conviction of an arrestee and/or violators and to review situations which result in personnel complaints. Recordings shall not be routinely reviewed to monitor officer performance, but will be reviewed on a regular basis to determine the utilization and functioning of the equipment. Minor policy and procedural violations observed during routine review of a recording shall be the subject of counseling and training only. In the event any illegal activity by Law Enforcement personnel is discovered during the routine review, those recordings will be forwarded to the proper authority.

II. PURPOSE:

The City of Newburgh Police Department recognizes that the use of BWC's in the State of New York is in its infancy and that best practices and practicalities are still being explored by major police departments within the state. As part of this evaluation, the City of Newburgh Police Department has conducted a 90-day pilot program that consisted of the use of 3 BWC's that were assigned to primary volunteer officers and alternate secondary officers. A fourth BWC was designated for training purposes and served as a backup camera if one shall require service. At the completion of the 90-day pilot program a report by the Chief of Police was prepared. The report called for the implementation of 20 BWC's to be utilized by officers working in a patrol capacity. It is recognized that this program is still in development and due to potential unforeseen circumstances, the ability to equip all on duty patrol operations personnel might not be practical at all times. The implementation of the 20 BWC's will be evaluated regularly by the Department Policy Review Board.

III. TRAINING

A. Officers shall complete a training course provided by the City of Newburgh Information Systems Technology Department and shall familiarize themselves with the BWC prior to being authorized to use and be assigned a BWC.

B. Supervisors shall complete a training course provided by the City of Newburgh Information Systems Technology Department and shall familiarize themselves with the BWC prior to being authorized to use and be assigned a BWC.

C. Upon completion of required training, Officers and Supervisors will complete a training credit form and submit it to the Administrative Lieutenant or their designee.

D. Only those Officers and Supervisors that have completed the required training for the BWC's are authorized to use BWC's.

IV. OPERATING PROCEDURES

A. BWC's will be assigned to officers working in the capacity of patrol operations and officers assigned to special patrol details which report to the Patrol Supervisor.

B. At no time will more than one half of the in-service BWC's be assigned on one shift. This is required in order to ensure adequate download and charge time for upcoming shifts.

C. Priority for assignment of BWC's is as follows:

1. Personnel assigned to routine road patrol
2. Patrol Supervisor
3. Patrol Officer partnered up with an officer that is assigned a BWC
4. Patrol Officer assigned to a special assignment

D. At the beginning of an officer's tour of duty, officers are to ensure that the BWC is powered on and that the BWC is ready for recording when triggered.

E. Officers will verify a charged battery on the BWC.

F. Officers will sign out the BWC.

G. Officers will secure the BWC on his/her person in accordance with the recommendations of the BWC manufacturer.

H. The Body Worn Camera (BWC) shall be used and activated prior to initiating or as soon as practical after initiating the following police actions:

1. All enforcement encounters where there is at least reasonable suspicion the person(s) has committed, is committing or may be involved in criminal activity. This includes, but is not limited to self-initiated stops and calls for service.
2. All enforcement encounters where there is reason to believe that the individual is committing a violation or petty offense for which a summons may be issued.
3. All vehicle stops.
4. When taking or attempting to take an individual into custody.
5. Any public interaction, regardless of context, that escalates and becomes adversarial, so long as it is not one of the prohibited situations in subdivision IV-J of this G.O. listed below.
6. Officers should consider activating the BWC during any activities where, in the Uniformed Patrol Officer's judgment, it would be beneficial to record, so long as it is not one of the prohibited situations in IV-J of this G.O listed below.
7. The BWC is not required to be activated if it is unsafe or impractical to do so or where a malfunction or other mechanical issue impeding the use of the device exists. Such instances are to be reported immediately to the on-duty Patrol Supervisor.

I. Authority to stop the recording once it has begun:

1. When the Officer clears the call and is in service for other calls.
2. When the Officer has not cleared the call but returns to Police Headquarters.
3. Upon the direction of a Supervisor.
4. When speaking in regard to the recording of a BWC, Officers and Supervisors shall use the designated 10 code.

J. The Body Worn Camera (BWC) is not to be activated to record any of the following:

1. Encounter not directly related to official activities in the proper performance of Police duties.
2. Performance of non-enforcement functions or administrative duties within a department facility.
3. Any area where a reasonable expectation of privacy exists (unless taking police action as outlined above in IV-H of this G.O.) such as, but not limited to, hospital emergency rooms, locker rooms and restrooms.
4. A potential witness who requests to speak to an Officer confidentially or desires anonymity, provided that doing so does not violate any other portion of this order.
5. A victim or witness who requests that he or she not be recorded, the situation is not confrontational and the Officer is comfortable in doing so.
6. A victim who requests that he or she not be recorded as a condition of their cooperation, the interests of justice requires their cooperation and providing the Officer is comfortable in doing so.

K. The public does not have to be informed that they are being recorded. If the public inquires if an audio/video recording is being made, the Officer may confirm or deny the presence of the audio/video recording based on the totality of the circumstances.

L. Officer and public safety are of the utmost importance during any incident. Officers shall not sacrifice safety for the sake of making a video. As soon as practical, turn it on if it applies to IV-H of this G.O.

VI. REQUESTS FOR DOWNLOAD OF RECORDED BWC VIDEO

A. Only a member of the Command Staff, Administrative Staff or the IT Department may download BWC video.

B. All requests to download BWC shall be made by completing the BWC Video Requisition form and emailing the form to BWCRequests@cityofnewburgh-ny.gov.

C. Officers will have access to view BWC footage that they have recorded.

VII. STORAGE AND MAINTENANCE:

A. At the conclusion of the officer's shift they shall place the BWC and the mounting hardware in the charger docking station.

B. All recordings downloaded from the BWC onto the server's hard drive will further be preserved for a period of not less than 30 days, with the exception of test recordings which will be preserved for a period of 5 days.

C. Damage to the BWC or any of its components, as well as malfunctioning components, are to be reported to the Patrol Watch Commander as soon as discovered.

1. The Patrol Watch Commander will then notify the Patrol Lieutenant or their designee.
2. The Patrol Lieutenant shall immediately notify the IT help desk.
3. The City of Newburgh's IT department will maintain a log of BWC downtime and immediately notify the Patrol Lieutenant when the BWC is repaired and back in service.

D. When a BWC needs to be taken out of service for maintenance or repair, the Patrol Lieutenant shall be notified immediately.

E. The Patrol Lieutenant or their designee will authorize and maintain the list of users for the BWC's after each user completes his or her training.

F. No recorded videos shall be used for non-law enforcement purposes without the approval of the Chief of Police.

Daniel C. Cameron
Chief of Police

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GENERAL ORDER NO. O-039

ISSUE DATE: **11/15/20**	EFFECTIVE DATE: **11/30/20**	NEW ORDER	LAST REVIEWED: **10/2/20**
SUBJECT: **CRISIS INTERVENTION AND ASSISTING THE MENTALLY ILL**			
DISTRIBUTION: **SWORN PERSONNEL**	RE-EVALUATION DATE	NYS ACCREDITATION STANDARD NUMBER(S):	**PAGE 1 OF 6**
ISSUING AUTHORITY: **Chief Arnold Amthor**			

I. PURPOSE

The purpose of this policy is to set forth principles and procedures of the Newburgh Police Department regarding persons suffering from mental health issues.

II. POLICY

It is the policy of the Newburgh Police Department t provide a consistently high level of service to all community members. Department personnel shall afford people who have mental health issues/illnesses the same rights, dignity and access to police and other government and community services as are provided to all citizens and provide those services with respect and sensitivity to the person.

III. DEFINITIONS

A. Mentally Ill: A person who has a mental or emotional condition which has substantial adverse effects on their ability to function and who requires care and treatment.

B. Americans with Disabilities Act (ADA): A federal law that applies to people who have a physical or mental impairment, a record of such impairment or who are regarded as having such impairment that substantially limits one or more of their major life activities, including the following:

1. The ability to communicate
2. Be gainfully employed or to care for themselves

C. The term "substantially limits" is not a clinical term. It is a practical term to distinguish between people who have a mild physical or mental impairment and those whose impairment substantially limits one or more life activities.

IV. GENERAL GUIDELINES AND CONSIDERATIONS

A. The Americans with Disabilities Act (ADA) entitles people with mental health illness or disabilities the same services and protections that law enforcement agencies provide to anyone else. They may not be excluded from services or otherwise be provided with lesser services or protection than are provided to others.

B. The ADA calls for law enforcement agencies to make reasonable adjustments and modifications in their policies, practices or procedures on a case-to-case basis. For example, if a person exhibits symptoms of mental illness (such as access to medication), officers and dispatchers may need to modify routine practices and procedures, take more time or show more sensitivity to extend the services or protections that would be extended to someone else in a similar circumstance.

C. This policy is intended to address the varying role officers play in their encounters with people with mental illness. As first responders and law enforcers, they may encounter victims, witnesses or suspects who have mental health illnesses. As service personnel, they may be called upon to help people obtain psychiatric attention or other needed services. Helping people with mental illnesses and their families obtain the services of mental health organizations, hospitals, clinics and shelter care facilities has increasingly become a prominent role for police.

D. No single policy or procedure can address all of the situations in which officers, communications personnel and other agency personnel may be required to provide assistance to persons who have mental illness. This policy is intended to address the most common types of interactions with people who have mental illness.

E. In all contacts by members of the Department with persons who are mentally ill or exhibit signs of mental illness, members must show sensitivity, understanding and respect, finding alternatives to address the situation with the use of minimum force.

V. PROCEDURES

A. Training

1. All sworn personnel of the Department will be provided training in the managing of the mentally ill. This training may consist of the New York State Municipal Police Training during the Police Academy or Chief approved equivalent.

B. Recognizing characteristics of mental illnesses

1. While many people with mental illnesses control symptoms successfully with the use of medications, others who do not have access to mental health services, fail to take their medications or do not recognize that they are ill and can experience psychiatric difficulties.
2. Symptoms for different mental illnesses may include , but are not limited to the following
   a. Loss of memory;
   b. Delusions;
   c. Depression, deep feelings of sadness, hopelessness or uselessness;
   d. Hallucinations;
   e. Excited Delirium;
   f. Manic behavior, accelerated thinking and speaking or hyperactivity;
   g. Confusion;
   h. Incoherence;
   i. Extreme paranoia
3. The degree to which these symptoms exist varies from person to person according to the type and severity of mental illness.
4. Many of these symptoms represent internal, emotional states that are readily observable from a distance, but are noticeable in conversation with the individual.
5. The dispatcher or officer responding to the scene is not expected to diagnose a mental illness, but to decide on the appropriate response to the individual and situation. Recognizing that symptoms may indicate mental illness will help officers decide on an appropriate response and disposition.
6. Obtaining relevant information from family members, friends or others at the scene who know the individual and his or her history or seeking advice from mental health professionals, can also assist officers in taking the appropriate action.
7. Officers on the scene will also have to determine the severity of the behavior, the potential for change in the behavior and the potential for danger represented by the individual to themselves and others.

VI. ASSISTING THE MENTALLY ILL

A. Once sufficient information has been collected about the nature of the situation and the situation has been stabilized, there is a range of

options officers should consider when selecting the appropriate disposition.

1. Referral or transport for medical attention if he or she is injured or abused.
2. Refer or transport to mental health services.
3. Refer or transport to substance abuse services.
4. Assist in arranging voluntary admission to a mental health facility, if requested;
   a. Release
   b. Release to care of family, care giver or mental health provider.
   c. When appropriate, arrest, if probable cause exists that a crime has been committed.

VII. CRISIS INTERVENTION TEAM

A. PURPOSE:

The Crisis Intervention Team initiative involves specialized training for officers in dealing with individuals in crisis due to mental health issues and includes training in suicide intervention. Only those officers that have completed the forty hour Crisis Intervention course will be considered a member of the Crisis Intervention Team.

B. PROCEDURE:

1. Upon receiving a call for service that involves an individual suffering a crisis due to mental health issues or involving an individual known by the caller to have a mental illness, Police Headquarters personnel will make every effort to dispatch on duty Crisis Intervention Team officers to the call.

2. In the event no Crisis Intervention Team officers are available, regular patrol officers may be dispatched. Headquarters personnel will also ensure that calls involving emotionally disturbed persons are properly coded as such in the C.A.D. system.

3. In the event a call for service starts out with a different designation but officers on the scene determine it involves an emotionally disturbed person, it is recommended and encouraged for the officer to request an on duty CIT officer respond to the scene. In this situation, headquarters personnel will also ensure the call type is changed to an E.D.P. call.

4. All E.D.P. calls for service involving Crisis Intervention Team officers shall be documented with the minimum of a blotter entry.

C. STAFFING:

1. The Chief of Police will designate a department supervisor who has completed the forty hour Crisis Intervention course as the Crisis Intervention Team Coordinator.

2. The Crisis Intervention Team Coordinator or his designee shall:
3. Oversee the daily operation of the Crisis Intervention Team.
   i. Ensure a City of Newburgh Police Crisis Intervention Team incident report is completed at the conclusion of each call for service.

   ii. Ensure each completed report is forwarded to the designated entities involved with the Crisis Intervention Team initiative.

   iii. Maintain the completed reports in the Police Departments computer folder marked "Completed C.I.T. Reports"
   iv. Complete a monthly report of all E.D.P. related calls for service.
   v. Maintain a list of current Crisis Intervention trained officers.

   vi. Provide additional in-service training to Crisis Intervention Team officers as needed.
4. Crisis Intervention Team officers shall:

   i. Utilize their crisis intervention training and skills to assess the mental health of the subject of the call for service.

   ii. If, in the assessment of the officer, the individual meets the criteria set forth under M.H.L. 9.41, the officer will ensure the individual is transported to a designated M.H.L. 9.39 facility for a psychiatric evaluation. The transport of the individual may be in a police vehicle or an ambulance provided the officer accompanies the subject to the facility. The officer will ensure the M.H.L. 9.41 paperwork is completed and turned over to hospital staff upon arrival.

   iii. In the event the County's Mobile Mental Health Team (MMH) is on scene and determines the individual requires transport to a designated M.H.L. 9.39 facility under M.H.L. 9.45, officers will transport the individual. The transport of the individual may be in a police vehicle or an ambulance provided the officer accompanies the individual to the facility. MMH will provide the officer with the M.H.L. 9.45 paperwork, which the officer will turn over to hospital staff upon

arrival.

iv. Should force be necessary in a situation that involves an individual being mandated for psychiatric evaluation, under either M.H.L. 9.41 or M.H.L. 9.45, officers will write a detailed narrative in the Crisis Intervention Team incident report and complete a response to resistance report in compliance with departmental general orders. A copy of each will be printed out and provided to the patrol supervisor. A copy of each will be submitted through e-mail to "PD-CIT Supervisors"

v. If, in the assessment of the officer, the individual does not meet the M.H.L. 9.41 criteria, officers will discuss, with the individual and any family or friends present, resources available for assistance.

vi. Officers, at the conclusion of the call, will complete a crisis intervention incident report, including a brief narrative on their assessment and any recommendations for follow-up.

vii. Officers will ensure the completed reports are forwarded to the police departments e-mail group headed "PD- CIT supervisors"

viii. Officers may divert the arrest of an individual who has committed a criminal offense for mental health treatment if they believe the needs of the individual requires immediate psychiatric evaluation. The decision to divert an arrest for mental health treatment must be approved by a supervisor. In the absence of an on duty Crisis Intervention Team supervisor, the Crisis Intervention Team officers shall be under the authority of the patrol watch commander.

ix. On any call for service, if in the officer's opinion the assessment is not obvious, it is recommended and encouraged that the County Mobile Mental Health team be requested to respond when available.

Arnold Amthor
Chief of Police

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GENERAL ORDER NO. T-002

ISSUE DATE: **08/05/16**	EFFECTIVE DATE: **08/05/16**	NEW ORDER	LAST REVIEWED: **07/16**
SUBJECT: **IN-SERVICE TRAINING**			
DISTRIBUTION: **Sworn**	RE-EVALUATION DATE **03/17**	NYS ACCREDITATION STANDARD NUMBER(S): **32.4, 33.1, 33.2, 34.1, 34.2, 35.1, 35.2, 35.3**	**PAGE 1 OF 2**
ISSUING AUTHORITY: **Chief Daniel C. Cameron**			

I. PURPOSE

To establish an on going training program for police officers in order to continually update their skills, knowledge and abilities.

II. IN-SERVICE TRAINING

A. All police officers must attend a minimum of 21 hours of in-service training each year. Training shall be scheduled in accordance to union contracts. The training must include, but not limited to the following topics:

1. Firearms, at least twice a year.
2. Use of physical and deadly physical force, at least once per year.
3. Communicable Diseases and Prevention, at least once a year.
4. Legal updates as necessary, and as required by the Chief of Police.
5. Other police related topics as necessary and as required by the Chief of Police, including periodic re-training for those officers's who carry less-than-lethal substances.

B. To be excused from any scheduled in-service training a written request must be made to the Training Supervisor. The Training Supervisor shall evaluate the request, deny or excuse as appropriate and mandate make-up as required.

C. All first line supervisors must complete a police supervision course within one year of appointment that meets or exceeds Municipal Police Training Council course requirements. If the one year time limit cannot be met, an extension must be obtained from DCJS. All supervisors shall subsequently receive annual training to enhance supervisory skills.

III. INSTRUCTORS

A. All in-service training will be given by:

1. Certified instructors whose qualifications meet or exceed those established in Part 6024 or 6025 of the New York State Codes, Rules and Regulations or,
2. Instructors who have sufficient technical expertise and/or advanced academic credentials in the topic in which they instruct, however instructors who are not certified must have a certified instructor review and approve both the qualifications of the presenter and the content of the lesson plans.

B. All instructors are required to give a copy of their lesson plan to the training supervisor before giving a training course, and the lesson plan will be kept on file indefinitely by the training supervisor.

IV. TRAINING RECORDS

A. The training supervisor will keep official training records on departmental personnel along with course curriculum and/or lesson plans. These records shall include at a minimum; dates attended, total hours and course name.

B. All officers must notify the training supervisor upon acceptance to a program or school and a copy of the course curriculum and any documentation received that indicates course completion must be given to the training supervisor for permanent retention in the department's training files.

C. A copy of lesson plans, course curriculum and/or course description will be maintained indefinitely by the training supervisor for both in-service training and City of Newburgh Police sponsored courses.

Daniel C. Cameron
Chief of Police

APPENDIX B

NEW YORK STATE POLICE REFORM AND REINVENTION COLLABORATIVE PLAN CERTIFICATION FORM

Instructions: The Chief Executive of each local government must complete and submit this certification and a copy of their Plan to the Director of the New York State Division of the Budget on or before April 1, 2021 at EO203Certification@budget.ny.gov.

I, _____, as the Chief Executive of _____ (the "Local Government"), hereby certify the following pursuant to Executive Order No. 203 issued by Governor Andrew M. Cuomo on June 12, 2020:

☐ The Local Government has performed a comprehensive review of current police force deployments, strategies, policies, procedures, and practices;

☐ The Local Government has developed a plan, attached hereto, to improve such deployments, strategies, policies, procedures, and practices (the "Plan");

☐ The Local Government has consulted with stakeholders (including but not limited to: membership and leadership of the local police force; members of the community, with emphasis in areas with high numbers of police and community interactions; interested non-profit and faith-based community groups; the local office of the district attorney; the local public defender; and local elected officials) regarding the Plan;

☐ The Local Government has offered the Plan in draft form for public comment to all citizens in the locality and, prior to adoption of the Plan by the local legislative body, has considered the comments submitted; and

☐ The legislative body of the Local Government has ratified or adopted the Plan by local law or resolution.

_____

Name

_____

Signature

_____

Title

_____

Date

City of Newburgh Police Department

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Arnold W. Amthor
Chief of Police

Joseph P. Donat
City Manager

Police Reform & Reinvention Collaborative Plan

Pursuant to the process initiated in the City of Newburgh as per the mandates set for the New York State Executive Law 203, the following is our plan of action. The implementation process has already begun, and will continue throughout 2021 until all aspects of this plan have been completed.

ITEM #1-Increase the annual department-wide training in-service curriculum to include the following:

- COMMUNITY RELATIONS — Minimum of four (4) Hours Annually
- IMPLICIT-BIAS — Minimum of Four (4) Hours Annually
- CULTURAL AWARENESS/ANTI-RACISM — Minimum of Four (4) Hours Annually
- DE-ESCALATION — Minimum of Four (4) Hours Annually

ITEM #2-Data Collection Management and Disclosure:

The police department, as of January 1st 2021 will conduct an annual review of the following:

- All incidents whereby any Use-of-Force/Response to Resistance event occurs, type(s) of force utilized and the findings of the follow-up investigations.
- All Civilian-Complaints, type(s) of complaints, and their findings.
- All Field Interviews/Stops conducted as per the "Right-to-Know" Local Law, including race, gender and locations of contacts.

This data will be compiled and included in a formal Annual Report of the Police Department.

ITEM #3-The police department will increase its transparency to the community it serves:

- All General Orders, Policies & Procedures will be placed on the police website.
- The police website will be improved in order to be more informational.
- Monthly crime statistics, police activity reports by shift and productivity will be added.
- A Community Opinion Survey will be added.
- An online Civilian Complaint Form will be added.

ITEM #4-Equipment:

- The police department will examine additional less-than-lethal options that may exist and may not be presently deployed.

- The existing Body Worn Camera (B.W.C.) system, over five years old, will be replaced with a new one.

ITEM #5-General Orders Review:

During the 203 process the Committee reviewed several policies, as a result several changes were made based upon some recommendations made by Committee members. During our meetings the following General Orders of the Department were reviewed:

- General Order #A-011 (Response to Resistance)
  -Ban the use of chokeholds
  -Place K-9 use in the Force Continuum
  -Add "Duty to Intervene" section
- General Order #O-005 (Vehicle & Traffic Stops)
- General Order #O-039 (Crisis Intervention & Assisting the Mentally Ill)
- General Order #T-002 (In-Service Training)
  -Add above-stated additional training annually
- General Order #A-021 (Warrants)
- General Order #O-038 (Body Worn Cameras)
  -Upgrade existing system
- General Order #O-039 (Crisis Intervention Team)
- General Order #A-015 (Department Discipline)
  -Remove any reference to NYS Civil Service Law 50-A
- General Order #A-014 (Internal Affairs)
  -Create new Civilian Complaint Forms in English & Spanish
  -Send two supervisors to Internal Affairs Investigation Training

ITEM #6-Police Practices:

- The police department will issue a letter to several outside agencies requesting participation in joint meetings, in order to discuss the utilization of mental health services to assist with police in responding to and handling of persons in crisis.

ITEM #7-Police Operations:

- The police department will examine its current deployment of uniformed patrol officers by the present "zone system", and consider re-aligning the system to better reflect the current demographics of the City.
- The City will prioritize the re-location of the current police headquarters to a new location, while remaining downtown, within 12-18 months.

ITEM #8-Recruitment Process:

- The police department is committed to, and will remain so, the hiring of minority police officers.
- In 2021 and beyond members of the community will be encouraged to participate in the hiring process of all new police officers.

ITEM #9-Community Meetings:

- Community meetings will be held routinely, at least 1-2 times per-month. These meetings will be conducted by Ward, and overseen by the Chief-of-Police and a designated "ward contact" (Sergeant) from within the department. Opportunities for all to engage in an honest, open and transparent dialogue with police representatives will take place regularly. Additionally, any one of many organizations including the N.A.A.C.P. and others will be encouraged to attend.

ITEM #10-Police Chaplaincy Unit

- The police department will organize a diverse group of members of the clergy, equally balanced to reflect current City of Newburgh demographics. This unit will work with the police and the community in order to enhance relationships, respond to critical incidents and serve to support officers, crime victims and families in times of crisis.

ITEM #11-"Subpoena Power" for the Police Community Relations & Review Board (PCRRB)

- The City commits to a thorough and complete legal review of increasing the current authority of the PCRRB to have subpoena power when investigating complaints against members of the police department.

ITEM #12-"Hopes not Handcuffs"

- The police department will introduce this program within the City of Newburgh in an effort to provide alternatives to arrest when dealing with persons who suffer from substance abuse addiction. The Newburgh Christian Ministerial Fellowship will also be an active participant in this collaborative.

ITEM #13-Enhance the SNUG Program to include the Christian Ministerial Fellowship as a stakeholder

- The police department and its SNUG partners have recently began, and will continue to develop an action plan for engaging at-risk individuals of gun violence, along with the newly joined Christian Ministerial Fellowship.

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Reforma Policial y Plan de Reinvención Colaborativa

Conforme con el proceso iniciado en la Ciudad de Newburgh según los mandatos establecidos para la Ley Ejecutiva del Estado de Nueva York 203, el siguiente es nuestro plan de acción. El proceso de implementación ya ha comenzado, y continuara a lo largo de 2021 hasta que se hayan completado todos los aspectos de este plan.

ITEM #1- Aumentar el currículo anual de capacitación en servicio en todo el departamento para incluir lo siguiente

- RELACIONES COMUNITARIAS — Mínimo de Cuatro (4) Horas Anuales
- PREJUICIO IMPLICITO — Mínimo de Cuatro (4) Horas Anuales
- CONCIENCIA CULTURAL/ANTIRACISMO — Mínimo de Cuatro (4) Horas Anuales
- DESESCALACIÓN — Mínimo de Cuatro (4) Horas Anuales

ITEM #2- Administración de Colección de Datos y Divulgación:

El departamento de policía, a partir del 1 de enero de 2021 llevara a cabo una revisión anual de los siguientes:

- Todos los incidentes por los cuales se produzca cualquier evento de Uso-de-Fuerza/Respuesta a Resistencia, tipo(s) de fuerza utilizada y los resultados de las investigaciones complementarias.
- Todas las quejas civiles, tipo(s) de denuncias y sus hallazgos.
- Todas las Entrevistas/Detenciones realizadas de acuerdo con la ley Local "Derecho a Saber", incluyendo la raza, el género y las ubicaciones de los contactos.

Estos datos serán compilados e incluidos en un Reporte Anual formal del Departamento de Policía.

ITEM #3-El Departamento de Policía Incrementara su Transparencia a la Comunidad que Sirve:

- Todas las Ordenes Generales, Políticas y Procedimientos se incluirán en el sitio web de la policía.
- El sitio web de la policía será mejorado para ser más informativo.
- Estadísticas criminalísticas mensuales, reportes de actividad policial por turno y productividad serán agregadas.
- Una encuesta de opinión comunitaria será agregada.

- Un Formulario en línea de Queja Civil será agregada.

ITEM #4-Equipo:

- El departamento de policía examinara opciones adicionales menos letales que puedan existir y que no están desplegadas actualmente.
- El sistema existente de Cámaras Corporales (B.W.C.), de más de cinco años, será reemplazado por un nuevo sistema.

ITEM #5-Revision de Ordenes Generales:

Durante el proceso 203, el Comité examino varias políticas, como resultado se realizaron varios cambios basados en algunas recomendaciones formuladas por los miembros del Comité. Durante nuestras reuniones se revisaron las siguientes Ordenes Generales del Departamento:

- Orden General #A-011 (Respuesta a la Resistencia)
  -Prohibir el uso de estrangulamientos
  -Colocar el uso de K-9 en el Continuo de la Fuerza
  -Añadir la sección "Deber de Intervenir"
- Orden General #O-005 (Detenciones vehiculares y de trafico)
- Orden General #O-039 (Intervención de Crisis y Asistencia a los Enfermos Mentales)
- Orden General #T-002 (Formación en el Servicio)
  -Añadir formación adicional anual la cual esta mencionada previamente
- Orden General #A-021 (Órdenes Judiciales)
- Orden General #O-038 (Cámaras Corporales)
  -Actualizar el sistema existente
- Orden General #O-039 (Equipo de Intervención de Crisis)
- Orden General #A-015 (Disciplina en el Departamento)
  -Eliminar cualquier referencia a la Ley de NYS del Servicio Civil 50-A
- Orden General #A-014 (Asuntos Internos)
  -Crear nuevos formularios de quejas civiles en Inglés y Español
  -Enviar dos supervisores a la Formación de investigación de Asuntos Internos

ITEM #6-Practicas Policiales:

- El departamento de policía emitirá una carta a varias agencias externas solicitando participación en reuniones conjuntas, con el fin de discutir la utilización de los servicios de salud para ayudar con la policía en la respuesta y el manejo de las personas en crisis.

ITEM #7-Operaciones Policiales:

- El departamento de policía examinará su despliegue actual de agentes de patrulla uniformados por el "sistema de zona" actual, y considerará la posibilidad de volver a alinear el sistema para reflejar mejor la demografía actual de la ciudad.

- La Ciudad priorizará la re-ubicación de la sede actual de la policía a una nueva ubicación, mientras permanece en el centro de la Ciudad, dentro de 12-18 meses.

ITEM #8- Proceso de Reclutamiento:

- El departamento de policía está comprometido, y seguirá así, con la contratación de agentes de policía de minorías.
- En 2021 y más allá se alentará a los miembros de la comunidad a participar en el proceso de contratación de todos los nuevos oficiales de policía.

ITEM #9-Community Meetings:

- Las reuniones comunitarias se llevarán a cabo de forma rutinaria, al menos 1-2 veces al mes. Estas reuniones serán conducidas por Distrito Electoral, y supervisadas por el Jefe de Policía y un "contacto de distrito electoral" designado (Sargento) dentro del departamento. Las oportunidades para que todos entablen un diálogo honesto, abierto y transparente con los representantes de la policía se llevarán a cabo con regularidad. Además, cualquiera de las muchas organizaciones, incluyendo la N.A.A.C.P. y otras serán alentadas a asistir.

ITEM #10- Unidad de Capellanía Policial

- El departamento de policía organizará un grupo diverso de miembros del clero, igualmente equilibrados para reflejar la demografía actual de la Ciudad de Newburgh. Esta unidad trabajará con la policía y la comunidad con el fin de mejorar las relaciones, responder a incidentes críticos y servir para apoyar a los oficiales, las víctimas del crimen y las familias en tiempos de crisis.

ITEM #11-"Poder de Citación" para la Junta de Revisión y Relaciones Policiales Comunitarias (PCRRB)

- La Ciudad se compromete a una revisión legal exhaustiva y completa para aumentar la autoridad actual del PCRRB para tener poder de citación al investigar las denuncias contra miembros del departamento de policía.

ITEM #12-"Esperanzas no Esposas"

- El departamento de policía presentara este programa dentro de la Ciudad de Newburgh en un esfuerzo por proporcionar alternativas al arresto cuando se trate de personas que sufren adicción al abuso de sustancias. La Fraternidad Cristiana Ministerial de Newburgh también será un participante activo en esta colaboración.

ITEM #13-Mejorar el Programa SNUG para incluir la Fraternidad Ministerial Cristiana como parte interesada

- El departamento de policía y sus colaboradores SNUG han comenzado recientemente, y continuaran desarrollando un plan de acción para involucrar a las personas en riesgo de violencia armada, junto con la recién ingresada Fraternidad Ministerial Cristiana.

City of Newburgh Police Department

55 Broadway Newburgh, NY 12550
(845) 561-3131 (Main)
(845) 561-9052 (Fax)
www.cityofnewburgh-ny.gov

Arnold W. Amthor
Chief of Police

Joseph P. Donat
City Manager

PLAN AN

Dapre pwosesis ki derape nan Vil Newburgh selon manda ki defini nan Lwa Egzekitif 203 Eta New York la, men sa ki plan daksyon nou an. Pwosesis mizanplas la te deja kòmanse, epi li pral kontinye pandan tout ane 2021 an jiskaske tout aspè plan sa a fin akonpli.

PWEN nimewo 1-Ogmante pwogram anyèl fòmasyon kontini an nan tout depatman an pou gen ladan sa ki annapre yo :

- RELASYON KOMINOTÈ — Omwen kat (4) Èdtan Chak ane
- PATIPRI-SOUZANTANDI — Omwen kat (4) Èdtan Chak ane
- PRIZ KONSYANS KILTIRÈL/ANTI-RASIS — Omwen kat (4) Èdtan Chak ane
- BESE TANSYON — Omwen kat (4) Èdtan Chak ane

PWEN nimewo 2-Jesyon Kòlèk Done ak Divilgasyon :

Apati 1ye janvye 2021 depatman polis la ap fè yon revizyon chak ane sou sa ki annapre la yo :

- Tout ensidan ki te gen ladan nenpòt Itilizasyon Lafòs/Repons kont evènman Rezistans, kalite fòs ki itilize a(yo) ak rezilta ankèt swivi yo.
- Tout Plent Sivil yo, kalite plent lan (yo), ak rezilta yo.
- Tout Entèvyou/Arè Souleteren ki fèt dapre Lwa Lokal “Dwa-pou-Konnen” an, sa gen ladan ras, sèks ak anplasman kontak yo.

Yo pral rasanble done sa yo epi mete yo nan yon Rapò Anyèl ofisyèl Depatman Polis la.

PWEN nimewo 3-Depatman polis la pral ogmante transparans li nan kominote l ap sèvi a :

- Yo pral mete sou sit entènèt lapolis la tout Lòd Jeneral, Politik ak Pwosedi yo.
- Yo pral amelyore sit entènèt lapolis la pou li bay plis enfòmasyon.
- Yo pral ajoute estatistik krim chak mwa, rapò aktivite lapolis dapre chif travay ak pwodiktivite.
- Yo pral ajoute yon Sondaj Opinyon Kominote a.
- Y ap ajoute yon Fòm Plent Sivil sou entènèt.

PWEN nimewo 4-Ekipman :

- Depatman polis la pral egzamine lòt opsyon mwens ke mòtèl ki gendwa egziste epi ki gendwa pa deplwaye aktyèlman.
- Y ap ranplase ak youn ki tounèf Sistèm Kamera sou Kò (Body Worn Camera, B.W.C.) ki la yo, ki gen plis pase senkan (5 lane).

PWEN nimewo 5-Revizyon Lòd Jeneral yo :

Pandan pwosesis 203 an, Komite a te egzamine plizyè politik, epi kòm rezilta, plizyè chanjman te fèt baze sou sèten rekòmandasyon manm Komite yo te fè. Pandan reyinyon nou yo, yo te egzamine Lòd Jeneral Depatman an ki annapre la yo :

- Lòd Jeneral #A-011 (Repons kont Rezistans)
  -Entèdi itilizasyon klekou
  -Mete itilizasyon K-9 nan Seri Konplè Itilizasyon Lafòs
  -Ajoute seksyon "Devwa pou Entèvni"
- Lòd Jeneral #O-005 (Kanpe Veyikil ak Trafik)
- Lòd Jeneral #O-039 (Entèvansyon pou Sitiyasyon Kriz ak Asistans Malad Mantal yo)
- Lòd Jeneral #T-002 (Fòmasyon Kontini)
  -Ajoute fòmasyon anplis ki endike anwo a chak ane
- Lòd Jeneral #A-021 (Manda)
- Lòd Jeneral #O-038 (Kamera yo Mete sou Kò)
  -Amelyore sistèm ki deja egziste a
- Lòd Jeneral #O-039 (Ekip Entèvansyon pou Kriz)
- Lòd Jeneral #A-015 (Disiplin Depatman an)
  -Retire tout referans nan Lwa 50-A Sèvis Sivil NYS lan
- Lòd Jeneral #A-014 (Afè Entèn)
  -Kreye nouvo Fòm Plent Sivil an Anglè ak Panyòl
  -Voye de (2) sipèvizè nan Fòmasyon nan Ankèt Afè Entèn

PWEN #6-Pratik Lapolis :

- Depatman lapolis ap voye yon lèt bay plizyè ajans deyò pou mande patisipasyon nan reyinyon konjwen, pou diskite sou itilizasyon sèvis sante mantal pou ede lapolis reponn pou kriz ak jere moun ki nan sitiyasyon kriz.

PWEN #7-Operasyon Lapolis :

- Depatman lapolis pral egzamine deplwaman aktyèl polisye patwouy ann inifòm yo selon "sistèm zòn" ki la aktyèlman an, epi li pral konsidere reyoryante sistèm lan pou montre pi byen demografi aktyèl Vil la.
- Vil la ap bay priyorite pou deplasman katye jeneral lapolis aktyèl la nan yon nouvo anplasman nan 12-18 mwa, pandan l ap rete nan anbalavil.

PWEN #8-Pwosesis Rekritman :

- Depatman polis la pran angajman pou anboche polisye ki fè pati minorite yo, epi li pral rete konsa.
- An 2021 ak pi lwen, yo pral ankouraje manm nan kominote a pou yo patisipe nan pwosesis anbochaj nan tout nouvo polisye yo.

PWEN #9-Reyinyon Kominotè :

- Reyinyon kominotè yo pral fèt regilyèman, omwen 1-2 fwa pa mwa. Katye a pral dirije reyinyon sa yo, epi Chèf Polis la ak yon "kontak katye" (Sèjan) deziyen ki soti nan depatman an pral sipèvize yo. Pral gen okazyon regilyèman pou tout moun angaje yo nan yon dyalòg onèt, fran ak transparan avèk reprezantan lapolis yo. Anplis, yo pral ankouraje nenpòt nan anpil òganizasyon yo vin asiste, sa gen ladan N.A.A.C.P. ak lòt yo.

PWEN #10-Inite Sèvis Omonye Lapolis

- Depatman polis la pral òganize yon gwoup ki gen divès kalite manm klèje, avèk yon ekilib egalego pou fè parèt demografi Vil Newburgh la aktyèlman. Inite sa a pral travay avèk lapolis ak kominote a pou amelyore relasyon yo, reponn pou ensidan kritik, epi sèvi pou soutni polisye yo, viktim krim yo ak fanmi yo nan moman kriz yo

PWEN #11-"Pouvwa Manda" pou Komisyon Relasyon Kominotè ak Revizyon Lapolis (Police Community Relations & Review Board, PCRRB)

- Vil la angaje pou fè yon revizyon legal an pwofondè e konplè pou ogmante otorite PCRRB an gen aktyèlman pou gen pouvwa manda lè y ap mennen ankèt sou plent kont manm depatman lapolis la.

PWEN #12-"Espwa olye Menòt"

- Depatman polis la pral lanse pwogram sa a nan Vil Newburgh nan yon efò pou pwopoze lòt chwa alaplas arestasyon lè yo annafè ak moun ki soufri adiksyon abi sibstans. Newburgh Christian Ministerial Fellowship pral yon patisipan aktif tou nan kolaborasyon sa a.

PWEN #13-Amelyore Pwogram SNUG lan pou mete Christian Ministerial Fellowship ladan antanke pati konsène

- Depatman polis la ak patnè SNUG li yo te kòmanse dènyèman, epi yo pral kontinye devlope yon plan daksyon pou angaje moun ki nan risk pou vyolans ak zam, ansanm ak Christian Ministerial Fellowship ki fèk antre a.

ORDINANCE NO.: __2__ - 2021

OF

MARCH 22, 2021

AN ORDINANCE AMENDING CHAPTER 12
ENTITLED "CITIZENS ADVISORY COMMITTEE" OF
THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 12, entitled "Citizens Advisory Committee" of the Code of Ordinances of the City of Newburgh be and is hereby amended to read as follows:

SECTION 1. Chapter 12. Citizens Advisory Committee

§ 12-1. Formation; ~~Creation and~~ purpose.

A Citizens Advisory Committee is hereby formed. The purpose is to create a committee composed of citizens from the ~~several~~ wards ~~and districts~~ of the City of Newburgh who shall be responsible for developing a pool of individuals interested and qualified to serve on the districting commission as provided in Section C1.21 of the City Charter. The Citizens Advisory Committee shall be appointed in accordance with this Chapter ~~whose duty it will be to bring to the Council's attention matters relating to health and cleanliness of their neighborhoods, preservation of the Historic District or any other problems or suggestions that they might have relating to the City and its government. They shall act as a conduit to bring complaints and suggestions of citizens to the attention of the City Council toward the end of the revitalization, beautification and restoration of the City of Newburgh~~.

§ 12-2. Membership, appointment, vacancy and terms.

A. The Citizens Advisory Committee shall consist of seven members. The Council shall appoint one member from ~~Ward Chairman for~~ each of the four ~~nine~~ wards and three additional members. ~~It shall also appoint not more than eight members of the Committee to serve as district members from each election district.~~ All members shall be appointed for terms of two ~~three~~ years. Each Citizens Advisory Committee appointed in accordance with this Chapter shall go out of existence at the expiration of the two year term. In the event of a vacancy otherwise than by expiration of term, the Council shall appoint an individual to fill the unexpired term. All members must be residents of the City of Newburgh and ~~district or~~ each ward member must be a resident of the ward from which they are appointed.

B. The City Council shall make the initial appointments within 60 days of the adoption of this ordinance. Thereafter, in subsequent decades beginning in 2030, no later than April 1 of the year of the decade ending in "0", the City Council shall appoint a new class of members ~~appointees shall be divided into three classes by the Council. Each class shall be approximately equal to the others in size. Members of the first class shall be appointed for terms of one year. Members of the second class shall be appointed for terms of two years, and members of the third class shall be appointed for initial terms of three years. Thereafter, all appointments, except to fill vacancies shall be for terms of three years~~.

C. All members shall serve without compensation and shall not be deemed to be officers or employees of the City of Newburgh.

D. The Council ~~Committee~~ shall designate ~~elect~~ a Chairperson ~~Chairman~~ from among the ~~ward~~ members ~~appointed by the Council and may elect such other officers as the Committee may deem necessary to its function and purpose~~.

E. Any member who shall be absent from three consecutive meetings of the committee without good cause shall be deemed to have resigned from ~~his~~ membership and a new member shall be appointed as provided in subsections A and B hereof to fill the vacancy thus created.

§ 12-3. Meetings.

The Committee shall hold regular meetings which shall be open to the public. Such meetings may be held on City property at such places as the City Manager may direct. ~~The City Manager shall supply such secretarial help to the Committee as he may deem advisable.~~

§ 12-4. ~~Annual r~~Report.

No later than 120 days following appointment, the Committee shall deliver to the Council a pool of individuals interested and qualified to serve on the districting commission ~~present an annual report to the City Manager, in handwritten form, covering its operation for the year closing, together with detailed recommendations for future years. Such annual report shall be presented as of the first regular Council meeting in September of each year~~.

SECTION 2. Severability.

The provisions of this Ordinance 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 Ordinance or their application to other persons or circumstances. It is hereby declared to be

the legislative intent that this Ordinance 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 Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 3. Codification.

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Ordinance shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Ordinance may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Ordinance" 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 Ordinance or the provisions of the Code of Ordinances affected thereby.

SECTION 4. Validity

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance that can be given effect without such invalid provision.

SECTION 5. This ordinance shall take effect immediately.

The City of Newburgh
Office of the Corporation Counsel

City Hall – 83 Broadway
Newburgh, New York 12550

Michelle Kelson
Corporation Counsel

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

Jeremy Kaufman
Assistant Corporation Counsel

MEMORANDUM

TO: Council Member Anthony Grice
Council Member Karen Mejia
Council Member Ramona Monteverde
Council Member Omari Shakur
Council Member Robert Sklarz
Council Member Patricia Sofokles
Mayor Torrance Harvey
Joseph P. Donat, City Manager

FROM: Michelle Kelson, Corporation Counsel

RE: Proposed revision of City Code Chapter 12 "Citizens Advisory Committee"

DATE: March 12, 2021

As you may be aware, in 2011, a City Charter revision was adopted by the qualified voters of the City of Newburgh that increased the number of members of the City Council from five (5) to seven (7) members with the Mayor and two (2) Council members elected at large and four (4) Council members elected from wards established by a districting commission to be appointed within 180 days of the November 2011 general election. The revision was codified in new City Charter Section C1.21 (see attached).

In 2012, a districting commission, appointed by Council consistent with new City Charter Section C1.21, divided the City into four (4) compact and contiguous wards in compliance with Federal and State law in preparation for the November 2013 general election in which one Council member from each of the four (4) wards established by the districting commission was first elected. New districting commissions are required to be established every ten (10) years to review and revise ward boundaries as necessary, based upon decennial federal census data, to ensure that the wards remain compact and contiguous and in compliance with Federal and State law.

City Charter Section C1.21(D) and (E) provide that the Citizens Advisory Committee is responsible for developing the pool of qualified applicants for each districting commission and providing a list of qualified applicants to the City Council for appointment to the districting commission. The 2020 decennial census data will be released at some point in 2021 and that will trigger the commencement of the City's decennial redistricting process. In order to begin the

redistricting process, the Citizens Advisory Committee must be restructured, reorganized and reconstituted.

The Citizens Advisory Committee enabling ordinance is found in Chapter 12 of the City Code and has not been modified in any substantive manner since 1990 (see attached). Membership is based on the obsolete 9-ward system with as many as 27 members (a maximum of 8 from each of the 9 wards). Based on the erosion of interest in and activity of the Citizens Advisory Committee over the last several years, I drafted the attached proposed ordinance amending City Code Section 12, entitled, "Citizens Advisory Committee" to be a single mission committee which is appointed for a two year term every 10 years to commence the ward redistricting process, as follows:

1. Single Purpose
    a. Responsible for developing a pool of individuals interested and qualified[1] to serve on the districting commission as provided in Section C1.21 of the City Charter
2. Membership
    a. 7 members appointed by Council – 1 from each ward plus 3 additional residents
3. Terms
    a. 2 years
    b. Initial term commences with appointments by Council no later than 60 days from adoption
    c. Subsequent terms begin in 2030 with Council appointments no later than April 1 of each year ending in "0"
    d. Each Citizens Advisory Committee goes out of existence at the end of its two year term
4. Report of eligible applicants for districting commission within 120 days of appointment

The draft is open to discussion by the Council but the sooner the Citizens Advisory Committee is reorganized and re-established, the sooner the City will be ready to commence the redistricting process which must be completed on or before April 1, 2023. Attached for your reference are the following:

1. Draft proposed local law amending City Code Chapter 12
2. City Code Chapter 12 (current)
3. City Charter Section C1.21 "Establishment of ward system; terms of office;

Michelle Kelson
Corporation Counsel

MK/bhs
Attachments

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[1] Qualifications of Districting Commission members: City residents; eligible to register to vote; not elected government or political party officials

ORDINANCE NO.: _____ - 2021

OF

_____, 2021

AN ORDINANCE AMENDING CHAPTER 12
ENTITLED "CITIZENS ADVISORY COMMITTEE" OF
THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 12, entitled "Citizens Advisory Committee" of the Code of Ordinances of the City of Newburgh be and is hereby amended to read as follows:

SECTION 1. Chapter 12. Citizens Advisory Committee

§ 12-1. Formation; ~~Creation and~~ purpose.

A Citizens Advisory Committee is hereby formed. The purpose is to create a committee composed of citizens from the ~~several~~ wards ~~and districts~~ of the City of Newburgh who shall be responsible for developing a pool of individuals interested and qualified to serve on the districting commission as provided in Section C1.21 of the City Charter. The Citizens Advisory Committee shall be appointed in accordance with this Chapter ~~whose duty it will be to bring to the Council's attention matters relating to health and cleanliness of their neighborhoods, preservation of the Historic District or any other problems or suggestions that they might have relating to the City and its government. They shall act as a conduit to bring complaints and suggestions of citizens to the attention of the City Council toward the end of the revitalization, beautification and restoration of the City of Newburgh~~.

§ 12-2. Membership, appointment, vacancy and terms.

A. The Citizens Advisory Council shall consist of seven members. The Council shall appoint one member from ~~Ward Chairman for~~ each of the four ~~nine~~ wards and three additional members. ~~It shall also appoint not more than eight members of the Committee to serve as district members from each election district.~~ All members shall be appointed for terms of two ~~three~~ years. Each Citizens Advisory Committee appointed in accordance with this Chapter shall go out of existence at the expiration of the two year term. In the event of a vacancy otherwise than by expiration of term, the Council shall appoint an individual to fill the unexpired term. All members must be residents of the City of Newburgh and ~~district or~~ each ward member must be a resident of the ward from which they are appointed.

B. The City Council shall make the initial appointments within 60 days of the adoption of this ordinance. Thereafter, in subsequent decades beginning in 2030, no later than April 1 of the year of the decade ending in "0", the City Council shall appoint a new class of members ~~appointees shall be divided into three classes by the Council. Each class shall be approximately equal to the others in size. Members of the first class shall be appointed for terms of one year. Members of the second class shall be appointed for terms of two years, and members of the third class shall be appointed for initial terms of three years. Thereafter, all appointments, except to fill vacancies shall be for terms of three years~~.

C. All members shall serve without compensation and shall not be deemed to be officers or employees of the City of Newburgh.

D. The Council ~~Committee~~ shall designate ~~elect~~ a Chairperson from among the ~~ward~~ members ~~appointed by the Council and may elect such other officers as the Committee may deem necessary to its function and purpose~~.

E. Any member who shall be absent from three consecutive meetings of the committee without good cause shall be deemed to have resigned from ~~his~~ membership and a new member shall be appointed as provided in subsections A and B hereof to fill the vacancy thus created.

§ 12-3. Meetings.

The Committee shall hold regular meetings which shall be open to the public. Such meetings may be held on City property at such places as the City Manager may direct. ~~The City Manager shall supply such secretarial help to the Committee as he may deem advisable.~~

§ 12-4. ~~Annual r~~Report.

No later than 120 days following appointment, the Committee shall deliver to the Council a pool of individuals interested and qualified to serve on the districting commission ~~present an annual report to the City Manager, in handwritten form, covering its operation for the year closing, together with detailed recommendations for future years. Such annual report shall be presented as of the first regular Council meeting in September of each year~~.

SECTION 2. Severability.

The provisions of this Ordinance 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 Ordinance or their application to other persons or circumstances. It is hereby declared to be

the legislative intent that this Ordinance 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 Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 3. Codification.

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Ordinance shall be included in the Code of Ordinances of the City of Newburgh; that the sections and subsections of this Ordinance may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term "Ordinance" 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 Ordinance or the provisions of the Code of Ordinances affected thereby.

SECTION 4. Validity

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance that can be given effect without such invalid provision.

SECTION 5. This ordinance shall take effect immediately.

§ C1.21. Establishment of ward system; terms of office; Districting Commission. [Added 11-8-2011]

A. Within 180 days of the adoption at the November 2011 general election of a proposition for the establishment of a seven-member City Council comprised of a Mayor and two Council members to be elected by the qualified voters of the City and four Council members to be elected by the qualified voters in each of four wards into which the City is to be divided, there shall be established a commission on districting to divide the City into four single-member wards. The wards shall be drawn to be compact and contiguous and in compliance with the established standards of state and federal law for equal and fair representation of all people in the City of Newburgh.

B. Every 10 years thereafter, not later than 180 days following the availability of the necessary decennial federal census data, such a districting commission shall again be established and shall meet to evaluate the then-existing wards and redistrict them as necessary so that they remain compact and contiguous and in compliance with established standards of state and federal law for equal and fair representation of all people in the City of Newburgh.

C. The districting commission shall be comprised of seven members who are City residents, are eligible to register and to vote and are not elected government or political party officials. Each member of the City Council shall appoint one member of the initial districting commission, and the five members so appointed shall appoint the remaining two members. All appointments shall be made in the manner set forth in this section. For all districting commissions subsequently empanelled every 10 years thereafter, each member of the seven-member City Council shall appoint one member to the districting commission as provided herein.

D. The City's Citizens Advisory Committee shall be responsible for developing a pool of individuals interested and qualified to serve on the districting commission. To establish that pool, the Citizens Advisory Committee, at least 90 days prior to the anticipated first meeting of the districting commission, shall widely solicit interest in serving on the districting commission through such means as direct mail and e-mail contact with civic groups, public service announcements on radio and television and in daily and weekly newspapers and announcements on the City's website. Persons wishing to serve on the districting commission shall indicate their interest in writing in the manner provided for by the Citizens

Advisory Committee, setting forth the reasons for their interest and identifying parts of their background and experience that they believe might qualify them for this task.

E. The Citizens Advisory Committee shall review the applications submitted, verify that they meet the eligibility criteria of this section and provide a listing of qualified applicants to the City Council no later than 45 days prior to the anticipated first meeting of the districting commission. Within 21 days after the submission of the pool of applicants, each Council member shall make his or her appointment to the districting commission. For the initial districting commission, the five members so appointed shall then make the final two appointments from the Citizens Advisory Committee's pool within 21 days thereafter. In the event of a vacancy created by death, resignation or otherwise, the vacancy shall be filled in the same manner as used to select the member whose absence created the vacancy.

F. Prior to finally determining the boundaries of the wards, the districting commission shall hold a public hearing and accept public comment on its proposed districting plan. No later than April 1, 2013, and, in subsequent decades, no later than April 1 of the first year of the decade ending in "3," the districting commission shall finally determine the boundaries of the wards and shall cause a map of the City to be prepared showing in detail the location of each ward and the boundaries thereof. The original map so made shall be filed in the office of the City Clerk, and copies thereof shall be filed in the offices of the County Clerk and the Board of Elections of the county. The ward boundaries shall be deemed established after such filing is complete.

G. At the first biennial City election held not less than 120 days after the establishment of such ward system, one resident elector of each of the four wards shall be elected as a Council member therefrom for a term of four years beginning on the first day of January next succeeding such election. No election shall be held at the November 2013 general election to fill the two at-large Council member positions whose terms expire on December 31, 2013. The Mayor and the two Council members elected at-large at the November 2011 general election shall continue to serve in those positions until the expiration of their terms on December 31, 2015 At the November 2015 general election, these three at-large offices will be filled for four-year terms commencing on the first day of January next succeeding that election.

H. The Corporation Counsel of the City shall be the legal advisor to the districting commission. The City shall provide for such other appropriate staff and support for the Commission as may be necessary for the districting commission to properly discharge its duties.

I. Any districting commission created in accordance with the provisions of this section shall go out of existence not later than 60 days after it has adopted and filed, as required herein, the final map of the wards of the City. In the event that the ward boundaries so established are declared to be invalid by a final judgment of the highest court of competent jurisdiction ruling on their validity, the districting commission shall be reactivated to study and prepare new ward boundaries, subject to the procedures and requirements above.

Chapter 12

CITIZENS ADVISORY COMMITTEE

§ 12-1. Creation and purpose.

A Citizens Advisory Committee is hereby formed. The purpose is to create a committee composed of citizens from the several wards and districts of the City of Newburgh whose duty it will be to bring to the Council's attention matters relating to health and cleanliness of their neighborhoods, preservation of the Historic District or any other problems or suggestions that they might have relating to the City and its government. They shall act as a conduit to bring complaints and suggestions of citizens to the attention of the City Council toward the end of the revitalization, beautification and restoration of the City of Newburgh.

§ 12-2. Membership.

A. The Council shall appoint one Ward Chairman for each of the nine wards. It shall also appoint not more than eight members of the Committee to serve as district members from each election district. All members shall be appointed for terms of three years. In the event of a vacancy otherwise than by expiration of term, the Council shall appoint an individual to fill the unexpired term. All members must be residents of the district or ward from which they are appointed.

B. The initial appointees shall be divided into three classes by the Council. Each class shall be approximately equal to the others in size. Members of the first class shall be appointed for terms of one year. Members of the second class shall be appointed for terms of two years, and members of the third class shall be appointed for initial terms of three years. Thereafter, all appointments, except to fill vacancies shall be for terms of three years.

C. All members shall serve without compensation and shall not be deemed to be officers or employees of the City of Newburgh.

D. The Committee shall elect a Chairman from among the ward members appointed by the Council and may elect such other officers as the Committee may deem necessary to its function and purpose.

E. Any member who shall be absent from three consecutive meetings of the committee without good cause shall be deemed to have resigned his membership and a new member shall be appointed as provided in Subsection A hereof to fill the vacancy thus created. **[Added 10-13-1998 by Ord. No. 18-98]**

§ 12-3. Meetings.

The Committee shall hold regular meetings which shall be open to the public. Such meetings may be held on City property at such places as the

City Manager may direct. The City Manager shall supply such secretarial help to the Committee as he may deem advisable.

§ 12-4. Annual report.

The Committee shall present an annual report to the City Manager, in handwritten form, covering its operation for the year closing, together with detailed recommendations for future years. Such annual report shall be presented as of the first regular Council meeting in September of each year.

RESOLUTION NO.: 60 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT OF CLAIM WITH JUAN FLORES IN THE AMOUNT OF $3,496.97

WHEREAS, Juan Flores brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Three Thousand Four Hundred Ninety-Six and 97/100 Dollars ($3,496.97) in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the parties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to settle the claim of Juan Flores in the total amount of Three Thousand Four Hundred Ninety-Six and 97/100 Dollars ($3,496.97) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

RESOLUTION NO.: _____61___-2021

OF

MARCH 22, 2021

A RESOLUTION APPOINTING HANNAH BROOKS TO THE BOARD OF ASSESSMENT REVIEW

WHEREAS, it is necessary to appoint a new member to fill a vacancy on the Board of Assessment Review; and

WHEREAS, each member of such Board serves a five-year term;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the following individual be and is hereby appointed to the Board of Assessment Review for the term indicated:

Hannah Brooks to serve a new five-year term commencing immediately and expiring on September 30, 2025.

RESOLUTION NO.: 62 - 2021

OF

MARCH 22, 2021

A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE ADMINISTRATOR OF THE NEW YORK ENVIRONMENTAL PROTECTION AND SPILL COMPENSATION FUND FOR REMEDIATION OF THE PROPERTY KNOWN AS 842 BROADWAY (SECTION 25, BLOCK 1, LOT 85.1)

WHEREAS, the property known as 842 Broadway (Section 25, Block 1, Lot 85.1), currently owned by Dennis A. Derry, is known to be contaminated with petroleum discharges in violation of Navigation Law Article 12; and

WHEREAS, the City wishes to undertake actions to remediate the contamination in order to restore the property to a clean and productive use; and

WHEREAS, in order to begin the remediation process, the City may enter into an agreement with the Administrator of the New York Environmental Protection and Spill Compensation Fund for the purpose of site acquisition, remediation and future sale of the property, as well as release from liability for the costs of such remediation for the City and its successors; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an agreement with the Administrator of the New York Environmental Protection and Spill Compensation Fund, along with such terms and conditions as the Office of the Corporation Counsel may require, to effectuate the remediation of the property known as 842 Broadway (Section 25, Block 1, Lot 85.1).

In the Matter of the Investigation and
Remediation of Real Property Pursuant to
Article 12 of the Navigation Law,

CITY OF NEWBURGH
Re: 842 Broadway

AGREEMENT
REGARDING TAX
FORECLOSURE SALE

WHEREAS:

1. The New York Environmental Protection and Spill Compensation Fund (the "Fund") was created by Navigation Law § 179. The Administrator of the Fund is authorized to settle claims on behalf of the Fund. (Navigation Law § 180).

2. The City of Newburgh ("City") is a municipal corporation, as defined in General Municipal Law § 2, with its principal place of business located at 83 Broadway, Newburgh, New York 12550.

3. This Agreement is made with respect to property owned by Dennis A. Derry (Tax Map No. 25-1-85.1) located at 842 Broadway, City of Newburgh, County of Orange, State of New York (hereinafter, "Site" or "Property").

4. Navigation Law §173 prohibits the discharge of petroleum and Navigation Law §181 provides that any person who discharges petroleum shall be strictly liable, without regard to fault, for all cleanup and removal costs.

5. The Site is known to have been and continues to be contaminated with petroleum as a result of discharges of petroleum in violation of Navigation Law Article 12 and the New York State Department of Environmental Conservation ("NYSDEC") has assigned Spill Nos. 00-10116

and 18-09973 to past discharges at the Site.

6. The Fund anticipates incurring cleanup and removal costs as part of the cleanup of petroleum contamination at the Site.

7. From 2015 to present, the City is owed real property taxes, water, sewer, and sanitation charges together with interest and penalties, as applicable, in an approximate amount of over $265,000.00 with respect to the Site.

8. The City has commenced and desires to complete an In Rem Tax Foreclosure proceeding ("Foreclosure Proceeding") pursuant to Real Property Tax Law Article 11 with respect to the Site.

9. The City is desirous of completing the Foreclosure Proceeding in order to return the Site to the active tax rolls and obtain payment of some or all of the amounts owed for back taxes, fees, interest and penalties, but is concerned that should the City take title to the Site, the City and any successor in interest may be deemed a responsible party under the strict liability provisions of Navigation Law Article 12.

10. The City is desirous of entering into a separate agreement with the potential/future purchaser of the Site wherein the potential/future purchaser agrees to pay the full costs, currently estimated at $123,250.00, for the removal and disposal of the existing structure on the Site, and for the removal and disposal of tires, miscellaneous boats, vehicles and above ground debris from the Site, with the understanding that the cost of above-ground cleanup will be included as a credit against the final purchase price, and will enable NYSDEC to conduct remediation under the existing structure and under the existing debris. This agreement is contingent on the City arranging or facilitating this necessary work on the Site prior to the NYSDEC cleanup.

11. Remediation of the Site by the NYSDEC has been deemed and continues to be deemed a necessary element of the City's and the Fund's desire to reduce blight in the cities, towns and villages in Orange County and to enhance the future reuse of the Site.

12. To date, the Fund has no knowledge of any fact which indicates that the City is a responsible party under the strict liability provisions of Navigation Law Article 12, nor are there any pending third party damage claims filed with the Fund from neighboring property owners or others related to the historic petroleum discharges at the Site.

13. The Fund and the City, therefore, agree that this Agreement is warranted in order to achieve the following goals:

a. Release of the City and their eligible successors and assigns, as set forth in Section II of this Agreement, from any and all liability for costs incurred or to be incurred by the Fund relating to the Site;

b. Facilitate any future cleanup by the NYSDEC of the petroleum contamination at and, as necessary, migrating from the Site; and

c. Enhance efforts to remove blight in the City of Newburgh by cleaning up the Site and return it to the tax rolls for future productive use.

NOW THEREFORE, the Fund and the City agree as follows:

I. DUTIES OF PARTIES

A. City

i. *Tax Foreclosure*:

a. To the extent allowed under Law and provided the City does not determine it

should withdraw the Site from the foreclosure pursuant to RPTL 1138, the City will complete an arm's length Foreclosure Proceeding pursuant to RPTL Article 11 with respect to the Site. If the City does not complete the foreclosure proceeding and take title to the Site, this Agreement shall terminate and there shall be no further obligation or liability to either party by reason of this Agreement with respect to the Site.

b. The City shall require the potential/future purchaser of the Site, prior to the time of transfer of title to the purchaser, to execute a sworn affidavit attesting to the fact that said purchaser has no relationship, whether a business, contractual, familial or agency, with any of the parties deemed responsible according to applicable principles of statutory or common law for the discharge of petroleum on or at the Site.

ii. *Request for Proposals*: Upon foreclosure, or at a time prior thereto should the City determine, the City will issue a Request for Proposals ("RFP") to receive bids for a development agreement, which shall include terms that contemplate a purchase of the Site. Any RFP responses will require the City or the bidder to agree to allow the NYSDEC to enter the Site for the purpose of conducting investigation and cleanup activities in the event such cleanup does not occur prior to the selection of the successful proposal by the City. The ultimate sale of the Site shall take place within 60 days of completion of the NYSDEC's remediation work and close out of Spill Nos. 00-10116 and 18-09973 ("Post-RFP Sale").

iii. *Potential/Future Purchaser*: The City will enter into an agreement with the

potential/future purchaser which shall include the following terms:

a. No later than 30 days following the foreclosure and sale of the Site to the purchaser, the purchaser will agree to pay for and undertake or hire a third party to undertake the demolition and removal of the existing structure at the Site, the removal and disposal of tires, miscellaneous boats, vehicles and above ground debris from the Site in order to permit the NYSDEC to conduct remediation under the existing structure and under the existing debris.

b. If the City does not enter into an agreement with the potential/future purchaser of the Site which includes the above terms, and the work specified in this section is not completed, then this Agreement shall terminate and there shall be no further obligation to any of the parties by reason of this Agreement.

iv. *Payment to Fund:* In consideration of this Agreement, the City shall pay to the Fund, with respect to the Site, a non-refundable payment of $5,000.00 (five thousand dollars), within sixty (60) days following the final sale of the property. Such payment shall be made payable to "Comptroller, State of New York" and the check memo line shall reference the Spill No. 18-09973, which is associated with the Site. Said payment shall be delivered to the Fund in accordance with Section V of this Agreement.

v. *Legislative Approvals*: The City will obtain any necessary legislative resolutions or other legal prerequisites to effectuate this Agreement.

vi. *Access*: The City will provide NYSDEC access to the site to conduct the cleanup by means of a temporary incidents of ownership order as part of the foreclosure

proceeding or direct access after the City has completed foreclosure and taken title to the Site.

B. The Fund

i. The Fund will provide releases of liability to the City and its successors in interest as further specified in this Agreement.

ii. The Fund will facilitate a cleanup conducted by the NYSDEC in its complete discretion using Fund monies and the NYSDEC will continue to carry out all necessary future investigation and cleanup of the petroleum contamination at and, as necessary, migrating from the Site.

II. RELEASE OF LIABILITY and LIENS

A. By this Agreement, upon completion of the Foreclosure Proceeding and after compliance by the City with Section I of this Agreement, the Fund releases the City and any eligible successors and assigns, from any and all claims, losses, costs and expenses and liabilities, direct or indirect, that can be made by the State now or in the future under Article 12 of the Navigation Law or under any other State law, rule or regulation for any past and future clean-up and removal costs associated with, arising out of, and/or relating to the condition of the Site, including but not limited to any and all discharges which occurred or are existing at and/or migrating from the Site as of the date City becomes the owner of the Property by reason of the Foreclosure Proceeding, which shall include any discharges which continue to exist at and/or migrate from the Site after the City becomes owner of the Property.

B. The City and any eligible successors and assigns, shall not have any responsibility

or obligation to conduct any remedial activities at or off of the Site including but not limited to the installation, testing and maintenance of any monitoring wells placed on the Site or on adjacent properties.

C. The releases set forth in this Section II of this Agreement shall extend to the City's eligible successors and assigns; provided, however, that it shall not extend, nor can it be transferred to any successors or assigns of the City who are persons deemed responsible according to applicable principles of statutory or common law or to a person with interest by either a business, contractual, familial or agency relationship for the discharges of petroleum at the Site.

D. The Fund makes no agreements, promises, covenants, representations, or warranties regarding the past, present or future condition of the Site, including but not limited to any contamination, or other effects, resulting either directly or indirectly from the discharges at the Site, other than as set forth in this Agreement.

E. The City and any eligible successors and assigns shall not have any responsibility for payment of any environmental liens which may have been filed against the Site.

F. The Fund agrees to issue a release of any existing environmental liens which have been filed against the Site and, further, the Fund agrees that it shall not file any additional environmental liens against the Site for any future cleanup and removal costs incurred by the Fund as a result of the NYSDEC's performance of future remediation of the Site and, if necessary, on adjacent properties.

III. RESERVATION OF RIGHTS

A. Except as provided in Section II of this Agreement, nothing contained in this

Agreement shall be construed as barring, diminishing, adjudicating, or in any way affecting the rights of the Fund with respect to any party other than the City and their eligible successors and assigns, with respect to the petroleum discharges at or migrating from the Site.

B. Except as provided in Section II of this Agreement, the Fund explicitly reserves all rights with respect to any person, including the City and their successors or assigns, who is responsible according to applicable principles of statutory or common law for any discharge of petroleum at the Site.

IV. MISCELLANEOUS

A. By entering into this Agreement, the City certifies that, to the best of its knowledge and belief, it has not caused or contributed to any discharge of petroleum at the Site.

B. If the Fund determines that the information provided by the City is not materially accurate or complete, this Agreement may be declared null and void and all rights that the Fund may have against the City shall thereby be reinstated.

C. The City, for itself and its employees, agents, lessees, successors and assigns, affirmatively waives any right to make a claim against the Fund pursuant to Navigation Law Article 12 with respect to any petroleum discharges at the Site and hereby release the State of New York from any and all present or future claims by the City, with respect to discharges at the Site.

D. The provisions of this Agreement do not constitute and shall not be deemed a waiver of any right the City otherwise may have to seek and obtain contribution and/or indemnification from other potentially responsible parties or their insurers,

or the City's insurers, for payments made previously or in the future for cleanup and removal costs with respect to the Site.

E. If any party to this Agreement desires that any provision of the Agreement be changed, that party shall make timely written application to all other parties to the Agreement, which application shall set forth the grounds for the relief sought.

F. No term, condition, understanding or agreement purporting to modify or vary any term of this Agreement shall be binding unless made in writing and subscribed by all parties to the Agreement. No informal advice, guidance, suggestion or comment by the Fund regarding any report, proposal, plan, specification, schedule or the like shall be construed as relieving the City of the its obligation to comply with any formal terms of this Agreement.

G. The effective date of this Agreement shall be the date that the signature of the duly designated representative of the last of the parties hereto is affixed.

V. COMMUNICATIONS

All written communications required by this Agreement shall be transmitted by United States Postal Service, by private courier service, or hand delivered to the following and may, in addition, be made by electronic means:

To the Fund:

Patrick J. Holloway, Manager
New York Environmental Protection and
Spill Compensation Fund
Office of the State Comptroller
110 State Street, 8th Floor
Albany, New York 12236
Email: pholloway@osc.ny.gov

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To the City:

Jeremy Kaufman
Assistant Corporation Counsel
City of Newburgh
City Hall, Second Floor
83 Broadway
Newburgh, NY 12550
Email: jkaufman@cityofnewburgh-ny.gov

To the NYSDEC:

Dan Bendell
Regional Spills Engineer
Division of Environmental Remediation
New York State Department of Environmental Conservation, Region 3
21 South Putt Corners Road
New Paltz, NY 12561
Email: Daniel.Bendell@dec.ny.gov

cc: Jeremy Giordano
Division of Environmental Remediation
New York State Department of Environmental Conservation, Region 3
21 South Putt Corners Road
New Paltz, NY 12561
Email: Jeremy.Giordano@dec.ny.gov

Dated: March _____, 2021
Albany, New York

NEW YORK ENVIRONMENTAL
PROTECTION AND SPILL
COMPENSATION FUND
Office of the New York State Comptroller
110 State Street, 8th Floor
Albany, New York 12236

By: _____
David J. Hasso
Fund Administrator

DRAFT

CONSENT BY CITY

The City of Newburgh hereby consents to the entering of this Agreement and agrees to be bound by the terms and conditions of this Agreement.

Dated: _____, 2021

By: _____

Title: Joseph P. Donat
City Manager

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

On this ____ day of _____, 2021, before me the undersigned, a Notary Public in and for said State, personally appeared Joseph P. Donat, City Manager, City of Newburgh, 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 or entity upon behalf of which the individual acted, executed this instrument.

_____
NOTARY PUBLIC

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