

A regular meeting of the City Council of the City of Newburgh was held Monday, March 22, 2021 at 7:00 p.m. via a Zoom Digital Platform.

Moment of Silence / Momento de Silencio

Mayor Harvey asked for a Moment of Silence followed by the Pledge of Allegiance.

Pledge of Allegiance/ Juramento a la Alianza

Roll Call/ Lista de Asistencia

Present: Mayor Harvey, presiding; Councilman Grice, Councilwoman Mejia (arrived after roll call at 7:58 p.m.), Councilwoman Monteverde, Councilman Shakur, Councilman Sklarz, Councilwoman Sofokles - 7

COMMUNICATIONS

Approval of the Minutes of the City Council Meeting on March 8, 2021

**Councilman Grice moved and Councilman Shakur seconded.
Ayes: Grice, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 6
Carried**

PRESENTATIONS

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

Cherylin Browne, Middletown, New York said that being able to vote someone out after they have already been elected is unfair. Why is this coming up now that Councilman Shakur is in office?

Mayor Harvey thanked Ms. Browne for her comments and said they will address them when the Councilmembers speak.

Corey Allen, N. Montgomery Street said he is against this Charter change. This Country since its inception has always had ways to hold back Black people. When you look at the 1857 Dred Scott vs Sandford case, you see that the Supreme Court's ruling was that the Black man had no rights that a White man was bound to respect. We saw voter suppression and people at polls waiting with mobs to kill us. They had poll taxes and grandfather clauses where if you couldn't prove that your grandfather was a citizen of this

Country, which most people in slavery couldn't, then you were not allowed to vote. Fast forward to the Civil Rights Act of 1866 which was supposed to reverse that but all of our rights were being suppressed. Police brutality and all of the things you see in videos and online that everyone is familiar with happened. During all of this we had government sponsored policy that said it's ok to hurt Black people from redlining to transportation racism to racism in the work place. Now we find ourselves in post George Floyd Pandemic 2021. This entire City consists of a lot of Black people and we have a high turn out when voting but this proposed change is probably the most non-Democratic thing he has ever heard of. We pick people to be our representatives in Government so if there is a possibility that you can get together and say you don't want a person on your Board, then that nullifies our vote. Councilman Shakur received over seventeen hundred votes and at the end of day the people that voted for him chose him to represent them with their concerns and needs. To undermine that is to undermine Democracy. They teach us songs in school such as Home on the Range and America the Beautiful but when we go to participate in Government we don't get what those songs are telling us. We get the opposite. We don't get sanctuary we get attacked and this is what this is alluding to. He asked the Council to please search their souls and minds and think about what this looks like.

Mayor Harvey said that he hopes everyone who spoke on this public hearing topic will listen to the Council when they speak because it is a different interpretation than what was presented.

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

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

Cynthia Gilkeson, 11 Grand Street said she wanted to address what Mr. Allen spoke about. In America if you vote for someone, they are working for us. If you vote for someone, the City Council should not be able to oust that person because they speak their mind. People who represent us in this City should be able to represent us adequately without having to worrying about being voted out of office. Like Mr. Allen was saying there are so many people who voted for a certain person and yet that person is looked upon as having disorderly conduct because he speaks his mind. We should be able to speak our mind and move on and there should be no repercussions for saying what you feel and what you think. Especially for someone who is elected into office by the people in the City of Newburgh.

Lillie Howard, City of Newburgh said the bottom line is that Councilman Omari Shakur has the right to speak his mind and get emotional if he wants to. She feels we are heading in a dangerous direction if this moves forward like it looks like the Council wants it to. This is not going to end as it's just the beginning and it's going to go further. The people voted for Councilman Omari Shakur to be their representative on the City Council and it

seems like the Police Department, not the citizens, are running this City which is something that needs to be seriously looked into.

Corey Allen, City of Newburgh said he had nothing further to add he just doesn't want to see this get worse.

Carla Johnson Brodie, S. Miller Street said in regard to the Charter that it takes three times the signatures to get on the Ballot and it takes maybe four hundred sixty and up votes to get elected for all seats on the City Council. She feels that the City Council members should not have the right to be able to have any decision on a City Council or Mayor leaving that seat or position. It should be a community vote. She feels that working for a few of the elected officials she believes that the Democrats did not believe in Omari Shakur because we did not get the endorsement from them which is why she switched to Working Families because they believed in us. Omari Shakur worked very hard to win this election and during that time there was always police problems with officers and their verbal attitudes but Omari speaks and voices his opinion. No one should be able to pick and choose who they want for disorderly conduct because Omari spoke what he felt at that moment with the Police Department. As Corey Allen noted over seventeen hundred people voted for Omari Shakur when no one was in that Democratic office but her and Omari. In regard to the 203, tonight is the last night but not even one word was changed. Councilman Grice had asked about the Police Dogs being used for crowd control so why wasn't that addressed?

Ertha Raymond Agustin, 10 City Terrace North said according to our Constitution, Omari Shakur already paid his dues so why are we now doing a second punishment. She feels that this Change to the Charter is about him. Why give the City Council the power now to punish one of their members? This does not make any sense to her and yes we have diversity going on but Omari helps the community. We have a lot of people we need to sanction but we don't. Nothing is done but she guesses it's easier to go after one Black person than the Caucasian people who are not doing their job. Her tax money needs to work hard and do the right thing. Go after the Police Officer who came to her house when she felt unsafe and nothing was done. She was assaulted and the person who assaulted her ended up murdering someone because they failed to do their job. She spoke with the Police Chief at that time and the current Police Chief but nothing was done and Omari is a Black man so he is an easy target. She is very disappointed.

Mayor Harvey asked City Attorney, Michelle Kelson to speak specifically to this City Charter Section C4.01 amendment to Rules of Order because people start spinning stories and turning the narrative around. No one is being specifically targeted for this amendment.

Corporation Counsel, Michelle Kelson said she was asked about how to address conduct during Council meetings and other behavior of City Council. She doesn't think the current Charter is clear and she doesn't think it provides enough definition about what's appropriate and what's not appropriate. Based on requests she got from City Council she tried to create a procedure that could be followed when there are multiple absences without excuse from Council meetings or when there is an act of commission or omission that may violate a City policy, may actually violate the law or may actually be an ethical violation and the procedure to address that. Staff and the City Manager are subordinate to the City Council but we cannot address the behavior of City Council Members. Council Members wanted a procedure and they wanted to have a mechanism to address their own. So this is

being put out as objectively as possible based on that request and the Council is free to accept it, amend it or approve it. It's just a proposal at the moment.

Mayor Harvey asked if this proposal includes the removal of anyone.

Ms. Kelson said it provides a list of potential penalties for any Councilmember who after the process has been completed is found to have engaged in either excessive or unexcused absence or disorderly behavior as more explicitly defined in the proposed local law. The list of penalties are not exhaustive they are just examples and one of them could be expulsion from the Council. You don't have to have it in there it's just a list of progressive discipline from a limitation on a privilege to a reprimand, to a potential fine or any other remedy that the Council may deem appropriate in the process. You can have an exhaustive list, you can have any of these things, you can have none of these things or you can have some of these things.

Mayor Harvey said for a point of clarification on the option of expulsion will the public have input on that? Would it be a referendum vote or would it be strictly at the discretion of the Council?

Ms. Kelson said in terms of procedure for adopting the proposed amendment and if it is enacted this is how it would operate. If the Council chooses to continue to have the potential penalty for removal from office then the entire proposal, if approved by Council, would be subject to a mandatory referendum of the voters of the City of Newburgh. If that referendum approves the local law, then the procedure would be enacted and limited to the Council only. There would be no further review of the operation of the local law by the voters of the City of Newburgh.

Mayor Harvey said after the referendum vote.

Ms. Kelson said only if the penalty of removal of a Councilmember is included.

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

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

Councilman Grice thanked everyone for coming out. To clarify on the K9's he did not ask for them to be removed but for them to be thought of in a different way because it is inappropriate to us them in the continuum of force. Some people mentioned the freedom of speech and he urged them to look at several US Supreme Court cases that speak about the freedom of speech as there are some limits to that. On the policy coming up it isn't about one single person because that would be shortsighted and vindictive of this Council. It's about putting the elected officials on the same ground as all of the City employees and we have term limits also. If that portion stays in this legislation, as Ms. Kelson mentioned, then it goes to the voters as a referendum and they can vote it down. He tries to be careful about mentioning other elected officials, however, if he had an issue with Councilman Shakur he could go to him to speak to him privately about that issue and hope that it never reaches the public out of respect for him. Please don't read into things that aren't there.

He was shown a video over the weekend of an incident that happened and he will be asking for an investigation on that issue to see what the full story is because from the clip he saw it opened up a lot of questions for him. He wants to be clear about what happened so he is not making any judgement calls right now because we need some clarity on how that situation unfolded and what the next steps are.

Councilwoman Monteverde said in regard to the K9 issue that came up she sent an e-mail last week to the Council Members, City Manager, Chief of Police and our Comptroller asking about the K9 Unit. This is part of reimagining the Police Reform and the reason she is asking this question is because in this day and age we need to reevaluate and look at that Unit and what it means. History will tell us in the statistics and once we get the data that most of the time people of color are the ones being bitten by the K9's so we need to rethink that. That is something we are looking into right now and we don't know what the outcome is going to be but she wanted to thank those who commented on that. On the Charter review she goes back to what happened at the Capital and how they addressed that immediately once Biden took office. Rules were put into place for those who refused to wear their masks and go through metal detectors carrying guns into Congress. There have to be ways where we hold our colleagues and elected officials accountable. As an elected official we are held to a certain standard. There are ways we speak out for our community and constituents but we do it in a way that's civil, kind and professional. We never talk down to or use foul language towards another colleague, City Hall staff or Police Officer. She believes that there is a way to communicate in a civil manner which is why we are looking at the Charter review. It will be the people in the community who will vote on this.

Councilman Shakur said on the Charter change that he appreciates the community standing up for him. What defines disorderly conduct? Not doing your job as a Council person should be disorderly. You have people who get elected and you never see them until it's election time so maybe this should be used to make sure you hold your City Council accountable for the citizens who elect them. On the COVID money we just received, he asked if we put out a notification to our small businesses on when and how to apply for some of this money as they are eligible to receive it. Also it has been brought to his attention that the homeless people in our community are trying to connect with their stimulus money. Can we find out how we as a City can put something in place where they can get their funds? They need help receiving their stimulus money so let's look in to how we can assist them. Also with that COVID money can we use some for summer jobs for our youth in our community? A lot of kids have their Working Papers and they want something to do to keep them off the streets. Some people made a bid on 185 Broadway so he would like to know what is happening with that.

Councilman Sklarz thanked the public for all of their comments tonight. In spite of all of our efforts so far our rate of vaccinations in Orange County remains lower than our neighboring counties so we really need a mass vaccination site in the City of Newburgh that all of our people can access easily. On the Code of Conduct, this is something to hold members of the City Council to the same standard we expect of other City staff. It provides the right of appeal and due process as well as a public hearing. All Council members have the right to speak their mind and these provisions do not curtail those rights. The goal of any progressive discipline is simply to improve performance and the professionalism of City Council members and hold them to the same standards as other staff of the City. He thinks of the behavior and performance of Council members over the

past ten years more than any current Council member and things that have happened that should not be tolerated. At the very least we should expect the same of them as we do of any other City staff. On Executive Order 203, it's important to remember that we are at the end of the beginning of the process to improve Police community relations. Our Police Community Relations and Review Board has been revamped with new members who are committed to improving policing and community relations. It is the responsibility of the City Council, City Management Staff and the Police Community Relations and Review Board along with the public to insure that the provisions made in this report are implemented.

Councilwoman Sofokles agrees with what Councilman Sklarz just said that the behavior over the last ten years of some Council members is the reason for this. It is not targeted at Councilman Shakur at all and he should be able to speak his mind. She is glad that COVID is kind of coming to an end and everyone is getting vaccinated so we can be out. She has been stopping to talk to people in her Ward which she hasn't been able to do since last summer. She appreciates everyone's comments tonight and said again that it is not targeted at Councilman Shakur. She added that she has helped a few homeless people with their stimulus so they can call her at her office and she will not charge them.

Mayor Harvey thanked everyone who came out and spoke their opinions tonight. He reiterated that this amendment to the City Charter is for all of us and anyone elected to office moving forward. This is a way to establish a Code of Conduct and hold each other accountable for how we speak, behave and interact with our colleagues, the public and City employees. This is not targeted at anyone and our City Attorney articulated that there are layers to this in terms of consequences and expulsion is one of them but there won't be an expulsion for a member of the Council until there is a referendum vote from the people. By no means would this Council ever create laws or rules of misconduct and have an exclusive right to expel someone from the Council when the people elected them. It's unfortunate that people spin stories and create a narrative that is not true which is why he asked our City Attorney to articulate this. He added that this is a work in progress so it is not written in stone. It is a proposed concept that they are hoping to vote and work on collectively together. There is no way there would be an expulsion of a Council member without input from the public.

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

CITY MANAGER'S REPORT

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

Councilman Grice moved and Councilwoman Sofokles seconded.

Ayes: Grice, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 6

Adopted

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

Councilman Sklarz moved and Councilman Grice seconded.

Ayes: Grice, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 6

Adopted

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

Councilwoman Mejia moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Grice said this was discussed at the Work Session but we really need to over-communicate this and put it out in English, Spanish and Haitian Creole in multiple ways to get this information out. He is looking forward to this resolution and the one that follows and then working closely with those agencies to insure they can handle the amount of residents that will be going their way. He is really excited about it.

Councilman Shakur said that many people have been asking him where this program is so we need to explain how we can get it to the people who are asking for it. People really need this but they aren't getting the information.

Mayor Harvey told Councilman Shakur that he will text him a link to Legal Services of the Hudson Valley's Newburgh Office.

Councilman Shakur said he has a phone number that he has been giving people but that number wasn't working. These are people who are going to be facing eviction and losing their homes so how can we make this easier?

City Manager, Joseph Donat said that after this is adopted this evening he will work to make sure that this is over-communicated. The general intake number is what Legal Services of the Hudson Valley has requested people use to contact them with any and all issues related to this but he will work with Planning & Development to see if there is something above and beyond that. In addition we will also create flyers to distribute, post it on City social media and continue to repeat this until the allotment of cases are filled by Legal Services.

Mayor Harvey said for full disclosure that he will be abstaining from this particular vote because his wife is an employee of Legal Services of the Hudson Valley and he has disclosed this in other resolutions as well. Legal Services of the Hudson Valley is a not-for-profit organization that provides legal services for those who cannot typically afford legal representation themselves. He noted that there are qualifiers in place by Legal Services and terms and agreements to represent people in the City of Newburgh with legal proceedings particularly landlord housing disputes. He is very proud of this organization and the work they continuously do for our city but as he mentioned before he will be abstaining because he doesn't want to create any conflict of interest.

Councilwoman Monteverde thinks that Legal Services of the Hudson Valley did a phenomenal job with the last Cares Act Funds to help our tenants who are in arrears from loss of income due to COVID. They were really getting the word out and going to community meetings as much as possible on Zoom and they put out some social media. They also put out a brochure with a criteria check list that was pretty clear and she thinks they will probably do the same thing with this program as well. She gave a shout out to them and the hard work that they do helping to keep our tenants and homeowners housed.

Mayor Harvey reminded everyone that some of the Attorneys and employees who are involved with Legal Services of the Hudson Valley are also part of the City of Newburgh Housing Coalition. They have been doing a lot of work remotely through Zoom but at some point when we all return back to some sense of normalcy we can return to meetings in person because they used to always have their Housing Coalition meetings at City Hall. That might be something people should also be made aware of so they can hear some of the things that they are channeling from the Federal Government and/or State Government regarding these housing issues and matters. As a not-for-profit organization they have some super talented Attorneys who do great work for our residents.

Councilwoman Mejia added to the Mayor's comments about the Housing Coalition by reminding everyone that the Coalition has been part of a larger effort that dates back over eight plus years. Starting with the Newburgh Land Bank and our own ten year plan that we have around housing, this Anti-Displacement Learning Network Innovation Grant is part of that housing strategy concept that this Council and previous Councils have been advocating for and supporting. The Housing Coalition usually meets the last Monday of every month on a rotating basis and we will be talking more about housing at our April meeting when we receive the Leviticus Group's Housing Analysis.

Councilwoman Mejia moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles - 6

Adopted

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

Councilman Shakur said he worked with Community Voices Heard and he knows Ms. Lewis very well and she is very capable of handling this. How can the residents be part of this and benefit from it? What is the plan for that? He works for the residents of this City

so how will it be explained and how can they be part of it?

City Manager, Joseph Donat said that Community Voices Heard is forming a working group as it relates to tenants' rights and advocacy work that they will be undertaking as a result of this sub-recipient agreement. Community members who are interested in this and want to be involved would be encouraged to contact Community Voices Heard directly to join that group. There are no jobs associated with this as it is more of a study and some grassroots work that is taking place.

Councilwoman Mejia added that part of the work that has been taking place supersedes this funding issue as CVH has been having community conversations about creating different Tenants Associations throughout in line with giving renters voices and how housing issues impact them. The scope of work narrative goes into details as to what would be the measurable outcomes that this funding is tied to. Part of it is the development and design of a Tenant's Bill of Rights that would be done and disseminated throughout the City so there is additional information in exhibit A if people are interested in reading it.

Mayor Harvey reminded everyone that a few years ago a group went up to Massachusetts to the JFK School of Government and one of the biggest takeaways from that experience was figuring out how the City of Newburgh could create a Tenant Advisory Board or Association. He is hoping that this funding will give CVH what they have always needed which is additional financial support to muster up what they have to do and continue to do throughout New York State dealing with tenants voices and being able to create a platform for the City tenants to speak to. He and his colleagues receive calls about the rent prices in the City of Newburgh. There is a new development on Broadway advertising that rent is \$4,000.00 a month for a one bedroom condo. Hopefully some sort of Tenant Advisory Board or Association can speak to the concerns of the people who rent in the City and give them a stronger voice.

Councilwoman Mejia said in layman's terms *"A Tenants Union"*.

Councilman Shakur added, *"We also need rent control"*.

Mayor Harvey said that is a very important element and he spoke to Assemblyman Jacobson about rent control in the City of Newburgh so we have to have the data from the Housing Study which will be shared with our State Government that will hopefully move on that request. If they do move on that request with rent control, Assemblyman Jacobson reminded him there are still restrictions in that. There are specific stipulations and specific terms that go with rent control.

Councilwoman Mejia moved and Councilman Shakur seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilwoman Monteverde said she is glad we are finally moving forward with this so we will be able to get some good data and look at how to address the ongoing overtime in both the Police and Fire Departments. Our constituents are depending on us because year after

year we have been going over Budget with the overtime in both departments.

Councilman Shakur asked if we are paying for this or is it coming out of the Police and Fire Budget?

City Manager, Joseph Donat said that this has been included in the 2021 Budget under General Fund.

Councilman Sklarz moved and Councilwoman Monteverde seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilwoman Sofokles moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Grice said that as we do this study and another one that is coming up it has to cover some certain hot spots where we have a lot of traffic incidents, however, let us insure that we are also covering the whole City of Newburgh. We don't want the misperception that that we are only targeting certain areas.

Councilman Sklarz asked for an overview of what this entails.

City Manager, Joseph Donat said that this is going to be providing us with money that we receive on an annual basis for traffic enforcement. We count the data on motor vehicle accidents throughout the City of Newburgh and then we focus on enforcement within those areas that have the highest amount of motor vehicle accidents.

Councilman Sklarz moved and Councilwoman Mejia seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Mayor Harvey said they are excited about this and he wanted to give a shout out to Assemblyman Jacobson and Senator Skoufis. He noted that they are in the final stages of interviewing candidates for Director of the Recreation Department so everything is lining up. A shout out to Councilman Grice also for the work he initiated with our Delano-Hitch Stadium and for helping our Grant writer, Mr. Cornelius. Once this takes place he has received a lot of calls that the kids in the Heights want a basketball court somewhere in that area because we have a court on Gidney Avenue and at the Rec but the smaller kids would like something too. That is Councilwoman Monteverde's Ward and he lives there too so he has to show some love to the people in the Heights.

Councilwoman Monteverde said she has some ideas for that so they should definitely talk about it.

Councilman Shakur said that is a good plan because we used to have one at Washington Street School, Montgomery Street School, Liberty Park, Gidney Avenue Park at Mullins and the Rec. There were basketball courts around in different neighborhoods so we had a lot of places to play when we were young.

Mayor Harvey hopes we can figure out something for those kids.

Councilman Sklarz moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Shakur asked how this will benefit the community and how will it be implemented in the City of Newburgh.

Mayor Harvey said it's in the resolution but we have to continue to speak to the residents and get them directly involved. There is a three month window for them to do that so he is excited about the possibilities.

Councilman Shakur said he knows that Mayor Harvey is on top of this and he just wants to know how to explain it to the community.

Councilman Grice mentioned that the Mayor has been working hard on this for about a year now and he had an opportunity to be in on a few of those meetings. He said that he will do as much as he can to help them explore Grants and funding to get this up off the ground because he is excited about what they can do. He is very supportive of the other programs that we have here but he knows there is room for this organization too. He looks forward to supporting them as being part of the umbrella of things that we do to help our youth and to curb the gun violence.

Councilman Sklarz said this is a good program to benefit our City and our youth but we were initially informed that this program would be at no cost to the City so he feels we should look into Grants that we could apply for to help fund this initiative. Given the fiscal climate we don't know where we will be at in the next few months in terms of funding. Hopefully when we start the 2022 budget process we will be able to find a way to fund this.

Mayor Harvey said that we are in position right now to receive 21.76 million dollars from the Stimulus Grant and they are reading the fine print. The Federal Government is going to send us almost twenty two million dollars to help us with our deficit so we are still looking at the stipulations associated with that. It's going to be sixty days before any of that money comes into our coffers and it's coming in two installments with the first installment this year and the second in 2022. He has already received calls asking how we're going to spend this money but we are still talking to our partners at the Federal level to figure out those regulations. That might open up some support for this program once we

cover our deficit and like Councilman Grice said, there is another organization in our City that is doing good work and he feels that organization needs more funding and support because they are understaffed and that other organization can definitely coexist with the Ruff Ryders. As an educator he knows that the young people are attracted to the entertainment business and there is a lot of energy here with all of the film and production coming to the city of Newburgh already with all of these new platforms like Hulu, Netflix and Amazon, which is already here in a significant way in New Windsor. Amazon is building a huge facility out in Montgomery but they are not telling us who bought Anthony's Pier 9 although he has a good feeling that it's possibly Amazon. If not we know that Lionsgate is in Westchester and they are building a multi-million dollar facility so there is a lot of energy with film and film production with these media platforms. This is the new wave of television so an organization like Ruff Ryders and others want to teach our young people how to be production assistants or how to get into food or craft services on a movie set. They could even get into script writing, film production or directing movies. Kevin White is also doing some work with the Newburgh Performing Arts Academy and once he gets into the new location he is going to be doing some script writing classes with TV and film production training and hiring professionals to teach these kids if they want to find careers in those media outlets. That is what is attractive to him with Ruff Ryders in addition to their gun violence methods.

Councilwoman Mejia said she lends her support for this initiative in terms of figuring out how we fund it. On the American Rescue Plan Act of 2021, she thinks there are additional conversations as a legislative body that they need to have on that. The Mayor mentioned paying off our deficits but there are also human deficits that we have to account for. There is a large community that has not been able to get any of these efforts particularly our undocumented population. When we talk about deficits that have risen out of COVID19 that is one of the areas that we need to make whole. In terms of the Ruff Ryders, this is a compliment to public safety. It's a new strategy that is getting developed which could work parallel to not only the SNUG Program but also the Police Department and it's tied to arts and culture which is something we have not done before. It's something different, new and innovative that we have an opportunity to do that will actually resonate. The gun violence is one of our deficits that we need to address so she wants to be in support of that and also make a plug for how do we fix the other deficits particularly as COVID19 relief for our undocumented population.

Councilwoman Sofokles moved and Councilman Shakur seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Sklarz moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Shakur moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7
Adopted

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

Councilman Sklarz moved and Councilman Shakur seconded.
Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7
Adopted

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

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

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

Councilman Shakur said there was not one single change made after the last public hearing even after Councilman Grice repeatedly brought up the Police dog issue. Our Police Chief has been here for how many months and he hasn't implemented anything. Is he waiting for the State to do this or is he going to do his job that he should have been doing since he got here? We also asked about the PCRRB having subpoena power and disciplinary power added into that. If you look at it no changes have been made and there have been no real general comments from the community so this looks like a plan that was made by the Police Chief and not by the community that has been affected.

Councilman Grice is holding tight on the fact that we need to really look at how we are using our K9's. He is not saying to get rid of them but use them for other things besides crowd control or arrests. He has been all over the county looking at things and this is not the worst that he has seen. He has seen some where there was no committee at all and he has seen a few that are better. He is going to take Mr. Donat at his word that this is a blueprint and he wants to be respectful of what the Committee did because they worked hard. He is going to vote to support this but moving forward we should continue the effort of reforming our Police Department to be respectful of the hard work they do as Police Officers and also to be respectful of our community needs. It's going to be hard work and there might be some misunderstandings and emotional moments but he knows that the work is worth it.

Councilwoman Monteverde said that she sat on that Committee and it was a very diverse Committee with some very good discussions in the beginning. Unfortunately some of the members chose to leave because it started to get a little difficult with communication. It is a work in progress and we will continue to work on these reforms. In regard to the e-mail she sent out regarding the K9 Unit, they will be looking at that and reimagining that Unit and how we use the K9's. Hopefully we will have some more information in the next coming weeks on that.

Councilwoman Sofokles thinks that the Council needs to reach out to the K9 Officers to find out exactly what they do with the dogs other than things that might be negative. They are used for so many other things and they do a lot.

Councilman Sklarz thanked the community members who participated on this Committee because it was a long and difficult process and as he said earlier this is the end of the beginning so there is more work to be done. As for the K9's, he thinks they are all in agreement that they don't want them used any longer for pursuit and apprehension. They could be used for sniffing out drugs, gas or explosives.

Councilwoman Mejia thanked every member of the Committee who worked on this. In terms of how we all engage with the Police Department and its leadership it's up to us to set the tone of how we want to continue to engage in that with Chief Amthor. He has been responsive and he has attended the community meetings. In Ward one where we have been having some issues on our Liberty Street corridor he has been participating and doing outreach. In the spirit of the Black Lives Matter Movement, using police force is not how we are going to build our community. Like Councilman Sklarz said this is the end of one phase and the beginning of another where we have to focus as we move forward with that. On the K9's, she agrees they should not be used for apprehension. Her biggest engagement with the K9 Unit has been when they visit the Elementary Schools because it is such a great way to interact. She would like to see them utilized in that fashion versus some of the viral videos she has seen. They should be used as a community building aspect because kids love dogs.

Mayor Harvey thanked everyone who made a comment as well as our Police Chief, Lt. McLymore, our City Manager, our legal team and everyone involved with this process. This was a difficult challenge that Governor Cuomo put before all of the municipalities in New York State to reimagine our community policing. He was not a member of this Board but he was very much involved with the progress and he is very proud of the work. It is a work in progress and it is multifaceted with the community being very much aware and involved. He spent some time at the Police Department today and that is something all of the Council members should do. Stop by and talk to the Chief. See his office and let him walk you around because that is part of community policing. He also wants to do some ride alongs. Talk to the Officers in the K9 Unit and ride with them and talk to them because we forget about those human relationships that we can continue to build by spending time with the Officers. Walk the beat with them. Same thing with the Fire Department. He has never done a ride along with the Fire Department to see what their lives are like. We have to be innovative and creative so this is a work in progress that we are going to continue to work on. We are unanimous on subpoena power so that is our next item for this as well as Councilman Shakur's suggestion for adding disciplinary action.

Councilwoman Sofokles moved and Councilman Sklarz seconded.

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

Nays: Shakur-1

Adopted

Ordinance No. 2 - 2021 - Citizens Advisory Committee

Corporation Counsel, Michelle Kelson explained that this is a proposal to realign the Citizens Advisory Committee so it can fulfill its responsibilities in connection with the districting process that was adopted in the Charter Review that took place in 2011. It's

changing the Committee so it is a more streamlined and more representative of the residents of the current four wards. It will be a single purpose Committee to field the pool of candidates to be qualified to be appointed to a Districting Committee and it would basically serve for two years every ten years after the Census data is issued.

Councilman Shakur moved and Councilwoman Sofokles seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilwoman Sofokles moved and Councilman Sklarz seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilwoman Monteverde moved and Councilman Shakur seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

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

Councilman Grice said he is very excited about this because it's one of those properties at one of our gateways to the City of Newburgh. He is hoping that we can put up some kind of fencing like we did for Liberty Street because he is very happy about that.

Councilman Sklarz said this property needs a lot of remediation and he commends City staff for coming up with a creative solution to clean up this property.

Councilwoman Mejia supports Councilmember Grice's suggestion about some sort of fencing. She also thanked Planning and Development and DPW for the installation of fence wrapping at our other superfund site on Clinton and Liberty Street. This is a way that we can manage our vacant properties so they are not such an eyesore while they are under construction.

Councilman Shakur moved and Councilman Grice seconded.

Ayes: Grice, Mejia, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

NEW BUSINESS

Councilman Sklarz said that Spring has sprung along with the motorcycles and four wheelers racing up and down the streets again. He was almost sideswiped by one the other day and these are all unlicensed vehicles so he would love to hear from the Police as to what action they will be taking to curb this problem.

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



City Manager's Update

Newburgh City Council Meeting

Monday, March 22, 2021

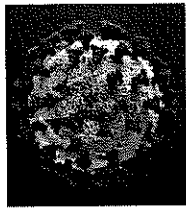


Novel Coronavirus (COVID-19)

For more information

Hotline: 1-888-364-3065

www.health.ny.gov/diseases/communicable/coronavirus



NYSDOH COVID-19 Tracker

Testing data as of 3/17/2021 2 PM
Testing data last updated on: 3/19/2021

Statewide

Total Persons Tested
42,015,555

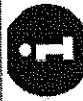
Total Tested 3/17
271,463

Total Tested Positive
1,757,493

Sex Distribution of Positive Cases

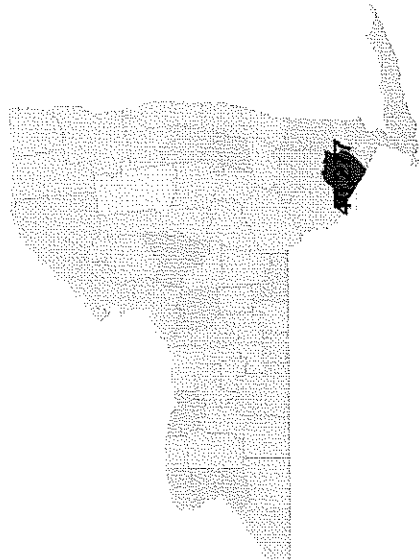
Female 50.6% Male 48.3% Unknown 1.2%

New Positives 3/17
7,796



Persons Tested Positive by County

- 100-499
- 500-999
- 1,000-4,999
- 5,000-9,999
- 10,000-14,999
- 15,000-19,999
- 20,000 +



Click County to See Detail

Click Again for Statewide

Madison	1,957
Monroe	64,871
Montgomery	3,962
Nassau	886,491
New York	146,338
Niagara	18,837
Oneida	20,338
Onondaga	50,366
Ontario	2,015
Orange	40,277
Orleans	2,540
Oswego	5,323
Otsego	2,379
Putnam	9,923
Queens	628,460
Rensselaer	9,879
Richmond	61,369
Rockland	41,548

[Click for Daily Trends](#)

[Click for Table View](#)

[Click for Fatality Data](#)

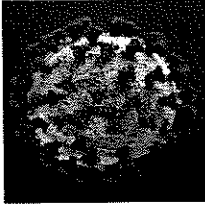
[FAQs & Helpful Links](#)

County Stats: Orange (3/17)

Total Persons Tested	Total Tested Positive	% Positive Results	Persons Tested Today	New Positives Today
606,312	40,277	6.6%	3,359	247



COVID "Yellow Zone" Cluster



Restrictions to fall in line with overall state guidance



Lake Drive Bridge Replacement



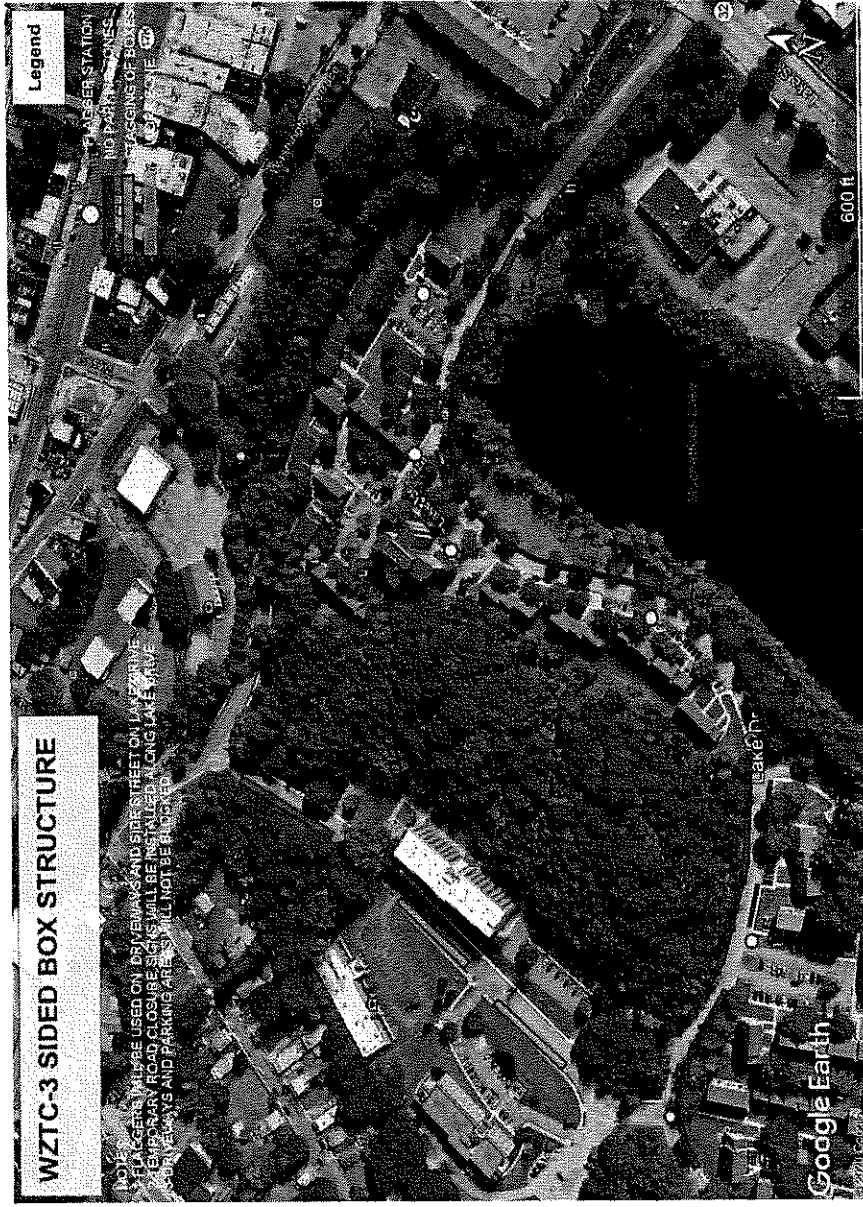
NO PARKING

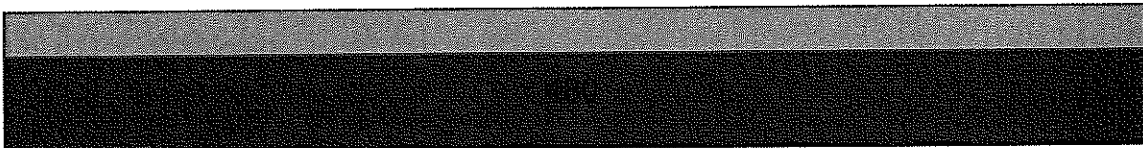
FROM: 3/22/2021

TO: 3/26/2021

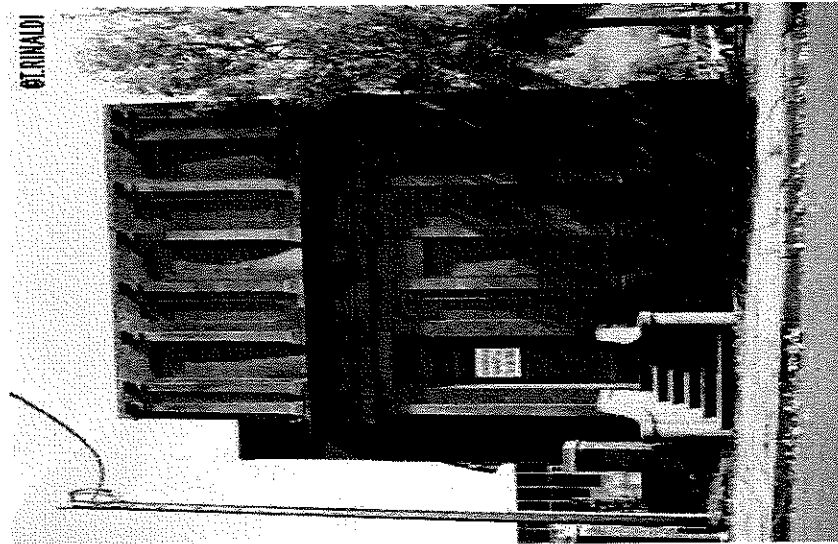
ENFORCED BY THE
CITY OF NEWBURGH
POLICE DEPARTMENT

VIOLATORS WILL BE TOWED
AT THE VEHICLE OWNER'S
EXPENSE

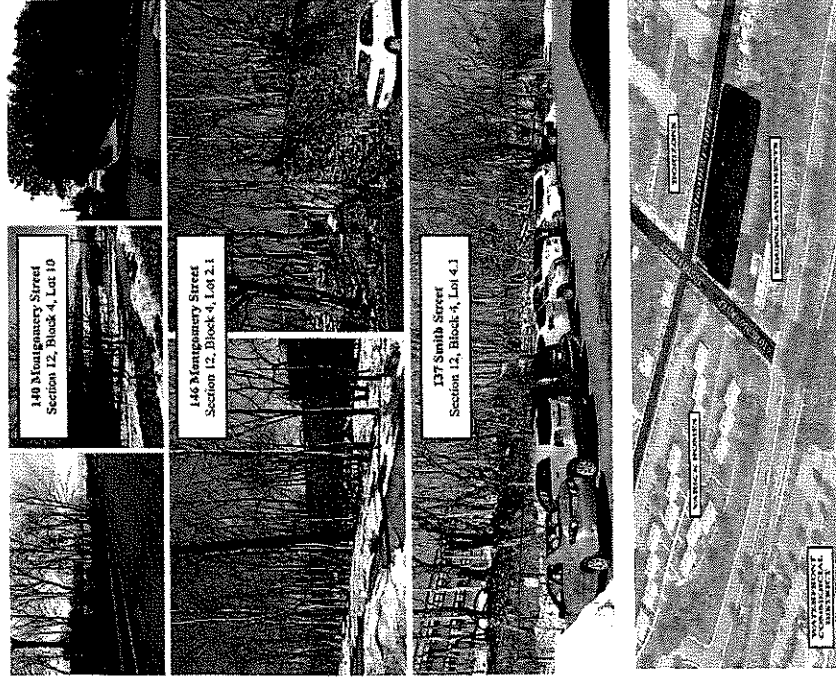




Development Opportunities – RFP’s



120 Grand St.

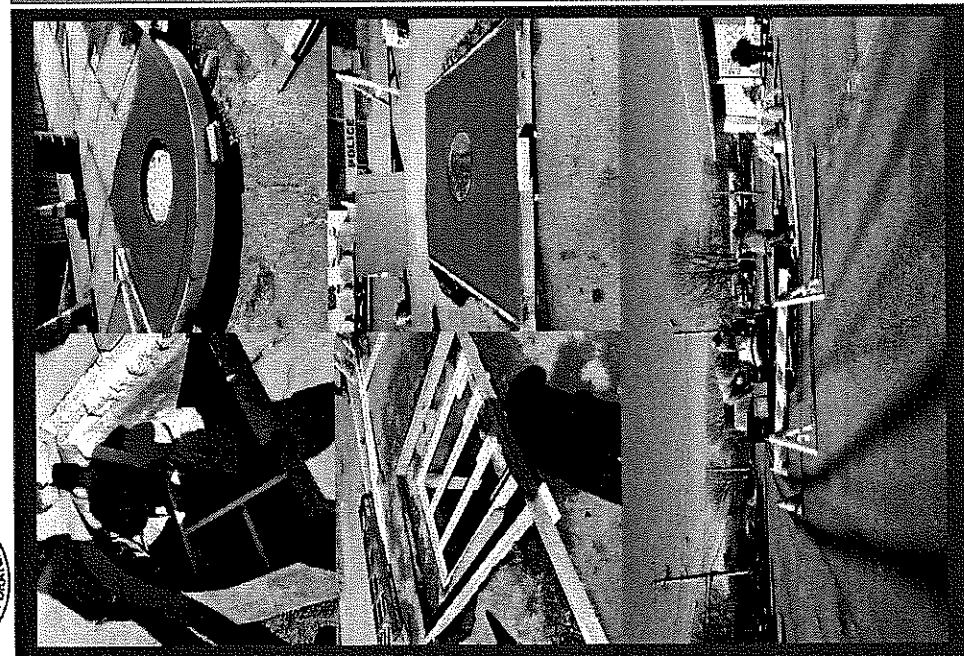
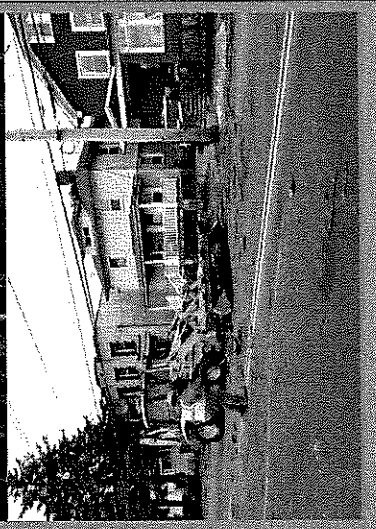
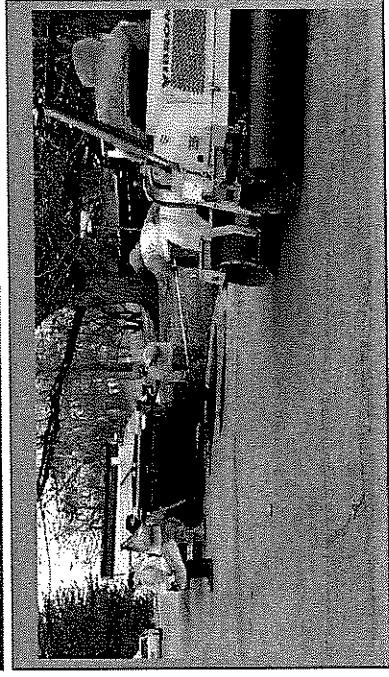


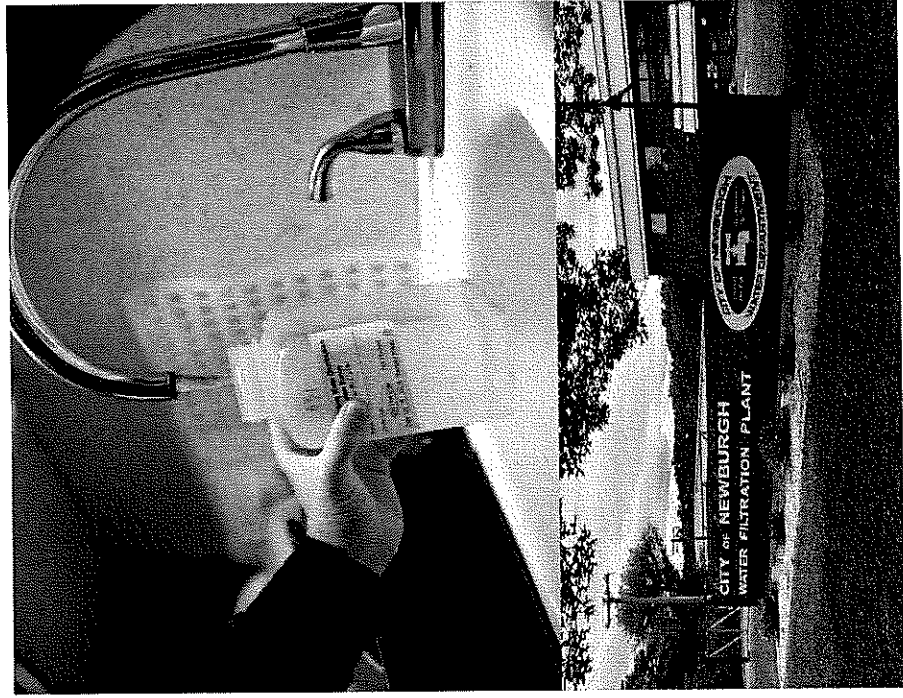
Montgomery St.



123 Renwick St.

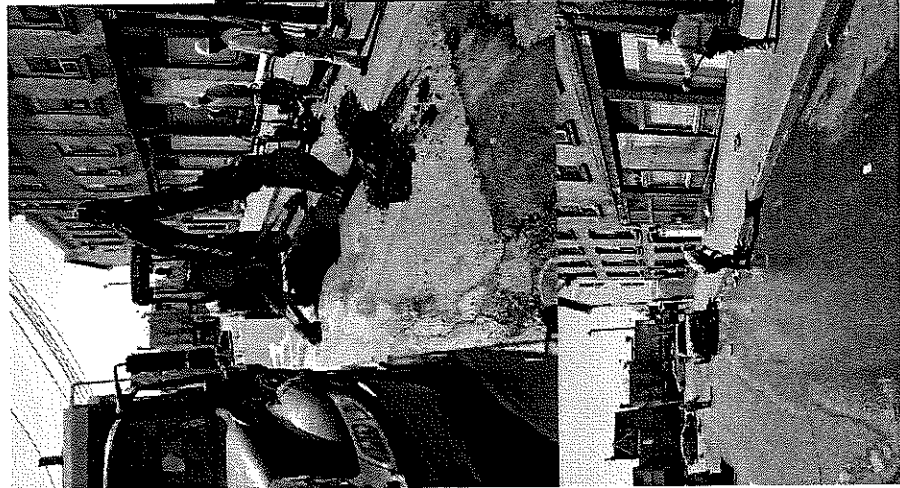
City of Newburgh
P.D.W.





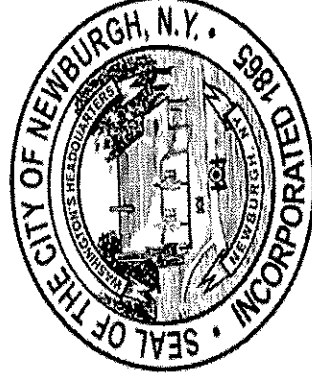
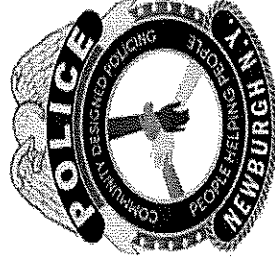
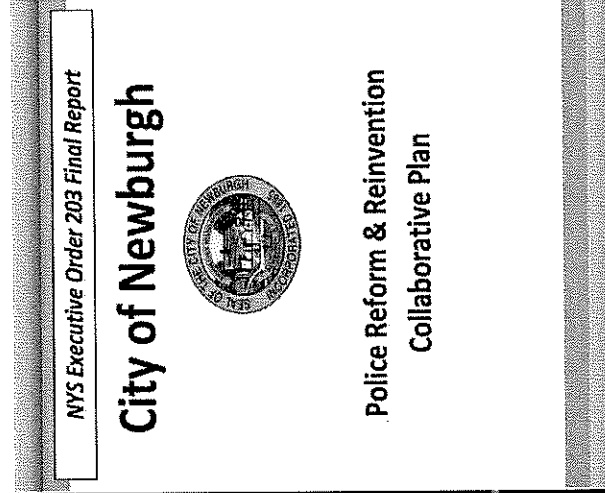
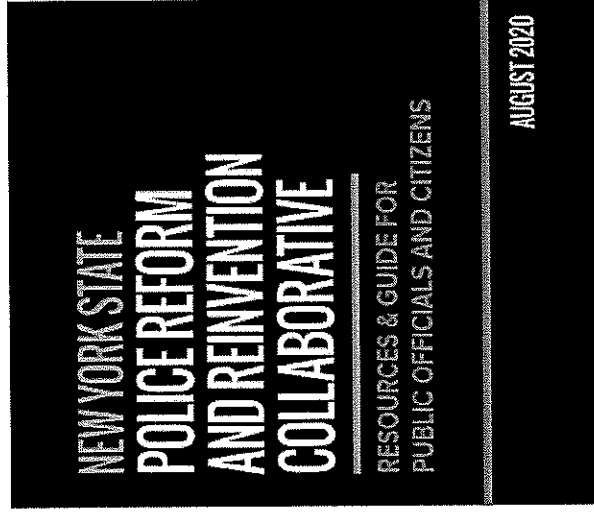
Quality On Tap!

Our Commitment  Our Profession



Police Department Update

EO 203 Next Steps



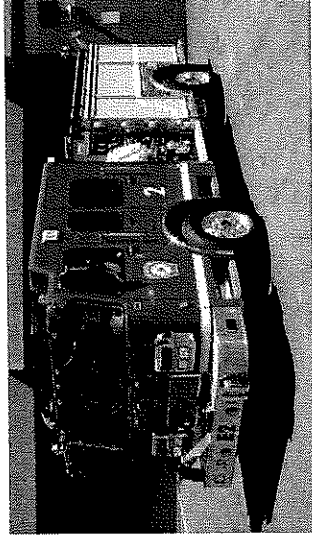
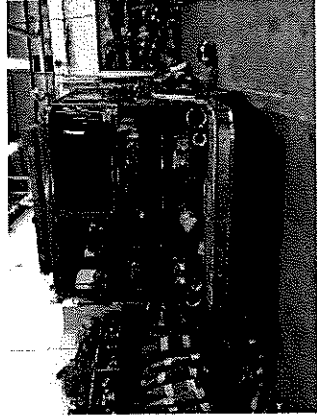
EXECUTIVE ORDER 203

*First formal meeting October 6, 2020
General Orders & Policies reviewed*

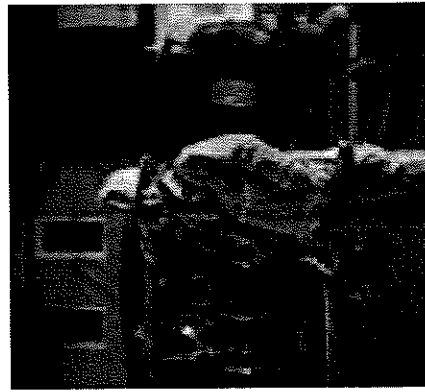
April 1, 2021 Deadline to Adopt a Plan

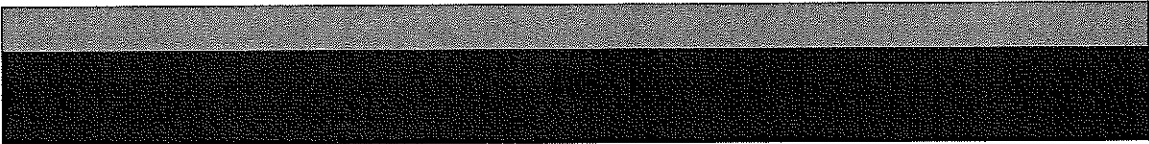


Fire Department Update

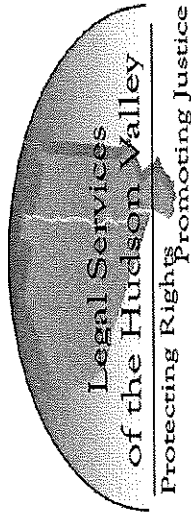


- 400 Calls for Service Responded in February;
- Average Response time was 3 minutes;
- Scheduling program to be purchased;
- Bid requests to replace two aging engines.





Community Updates



Know Your Rights series – April 6, 2021.
Free of charge to City of Newburgh Residents.

Tuesdays at Two Book Club

Zoom Book Discussion
Tues, Mar 23
2 pm-3:30 pm

Join us for an intimate discussion of the book **RADIUM GIRLS** by **KATE MOORE**. Registration Required. Email: pluss@newburgh-ny.org

BRIDGE TALKS

Mon, Mar 29 | 6 p.m. - 7:30 p.m.

Join us for an all-male panel discussion featuring a bipartisan group of local elected officials and community leaders. Hosted by League of Women Voters of the Hudson Valley.

Discussion for Women's Month:
The Radium Girls (3/23) &
Women in Politics in the Hudson Valley (3/29)



READY, SET, DONATE!
DEVICE DRIVE
MARCH 15 - APRIL 30

Donate your old mobile device (tablet or phone) and AT Adapter (charging cable is the Newburgh Free Library's group).

Donate old tablets or
cellphones / charging cables
@ Newburgh Free Library
3/15 – 4/30

Job Postings

Current Vacancies

Job Title	Last Filing Date
Code Compliance Officer	April 5, 2021
Human Resources Director	April 5, 2021
Deputy Police Chief	April 15, 2021

Helpful links

- Upcoming exams
- Employee Resources
- Forms and Guides
- Job Search Resources
- EEO Policy Statement
- Test Guides and Resource Booklets

City of Newburgh New York
83 Broadway, Newburgh, NY 12550 Phone:
(845) 569-7300

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OLD BUSINESS

Councilman Grice said he met with IT a few times about using SWAGIT and paying the extra \$4,000.00 to put our meetings on Facebook because that is the way a lot of people find out information. Hopefully at our next Work Session we can have something for the Council to look at and we can move forward with this.

Mayor Harvey said in regard to the Street Sweeper Program that he has reached out to Mr. White and RECAP. He has gotten the ok that Mr. White is willing to partner with the City but he doesn't know if that will involve RECAP or not. We did get a verbal agreement to work with the Boys and Girls Club for the Newburgh City Street Sweeper Program. We have already budgeted \$50,000.00 from our end and he has asked Mr. White if he could find funds from his organization to match ours so that we could really beef it up financially. If there are funds in the CARES Act or the funds that we are going to be receiving from the Stimulus Bill, 21.76 million dollars, perhaps we could allocate some of those funds to get this program jump started. He was driving up Broadway on a Sunday recently and noticed that Broadway was surprisingly clean so as the warm weather settles in it becomes more noticeable when there is trash on our streets. He is going to put the ball into Mr. Donat's hands because he would like to get this program kicked off around Earth Day which is at the end of April. It would be great if we could spend the next few weeks putting out a vacancy announcement for people to apply and then start staffing it. It would be wonderful if they could be part of the Earth Day Celebration that Councilwoman Monteverde and her organization does with the City wide cleanup.

City Manager, Joseph Donat said the idea is to use the \$50,000.00 allotted in the 2021 Budget to fund the Program that the Boys and Girls Club would be administering. Is that correct?

Mayor Harvey said that is correct.

Mr. Donat continued that the Mayor mentioned RECAP and others but right now it's just the Boys and Girls Club?

Mayor Harvey said the he has received verbal confirmation from the Boys and Girls Club.

Mr. Donat said that if we were to create an agreement of sorts with the Boys and Girls Club and then other organizations were to come in and want to be a part of that we would need to know that prior to drafting the agreement but if he wishes we can work solely with the Boys and Girls Club.

Mayor Harvey said that would be his recommendation. If there could be a clause in that agreement saying that there is a possibility to partner with existing organizations for those that may have created a preference for those in the re-entry program. That population is unrepresented and important for employment purposes. We could put that in as a clause or addendum to the agreement we have with the Boys and Girls Club. The second item would be the Mayor's Summer Youth Employment Initiative that we did last summer. Councilman Shakur mentioned earlier in his remarks that the young people are looking for employment this time of year. He has also had verbal confirmation from Mr. White that he is willing to continue with the work we accomplished last summer with the Summer Youth Employment Initiative.

City Manager, Joseph Donat said that graciously and generously last summer the Boys and Girls Club was able to secure funding for that program. Are we confident that is still the case?

Mayor Harvey said that's a conversation that he has to get confirmation on. He asked him if he was interested in continuing that program and he said he definitely was. It was such a great success and he was very pleased with the tangible outcomes so he was on board to continue that program for the youth. We need to follow up with the financial conversation to this but he is almost positive that the donor who donated a substantial amount of funds to support it last year is willing to support it at least for the next coming summer because of the results and outcomes that were presented.

FURTHER COMMENTS FROM THE COUNCIL

Councilman Grice thanked everyone for coming out tonight and staying with us. If you are not able to stay for the whole meeting he encouraged watching the video of the meeting. Over the weekend he had an opportunity to be out on Broadway handing out information about COVID. He thinks the Council agrees that we really need a site here in the City of Newburgh and he is sure that with their collective efforts we will get that. He reminded everyone that as we are coming out of COVID we still need to wear our masks. When he was out he noticed a mural and he knows there were some community thoughts about that mural so moving forward we are going to have a better process to put murals on buildings where they have to go to the Architectural Review Commission and our Arts and Cultural Commission to insure that they are using local artists and that it's reflective of all of our community values. As Mayor Harvey mentioned the Stimulus will come in two installments with some restrictions so he wants the community to keep in mind that we have some holes we need to fill with the Budget and there are some key positions that we need to fill such as the Chief Equity Officer and others. He will speak with the Chief offline about the video he saw because he needs some answers for that.

Councilwoman Mejia said in regard to getting vaccinated here in the City of Newburgh that we need to keep playing that song until every single resident who wants to get vaccinated has access to it. The Human Rights Commission is hosting a community conversation this Thursday at 5:00 p.m. that she didn't see in the City Manager's Report so she will forward the flyer to his office for further circulation on social media.

Councilman Shakur thanked everyone for coming out tonight. He told everyone to check out the video Councilman Grice mentioned because there will be a petition going out next week about it so make sure you sign it.

Councilman Sklarz gave a shout out to the Cub Scouts because we went right by that in our resolution tonight. He first saw signs like this at the Jersey Shore which is a simple reminder that storm water empties into the Ocean and it's the same here where all of our storm sewers enter in the Hudson. He thanked Cub Scout Pack 4028 for their efforts. He reminded everyone that Giving Day is normally on the third Friday of each month but it was rescheduled because of vaccinations so it will be this Friday starting at 9:00 a.m. and there will be plenty of food and clothing donations available for those in need.

Mayor Harvey thanked everyone who tuned in tonight and made comments. He also thanked his colleagues and executive staff and wanted to give a special shout out to all of the health care workers at St. Luke's Montefiore Hospital, the Cornerstone Family Center, SUNY Orange and everyone who worked collaboratively on the vaccinations of City residents. Steve Neuhaus has been a champion with this because we have vaccinated thousands of people. We appreciate Governor Cuomo and the vaccines that he has sent to our City but our County Executive, Steve Neuhaus has had thousands of doses so a lot of people got their second round last Friday. They did a big vaccine event last Friday at High Point at our senior housing on Grand Street where they had some mobility issues so Steve Neuhaus came through and held a pop-up site there. He thanked everyone involved with coordinating efforts to get people vaccinated but we still have work to do.

ADJOURNMENT

There being no further business to come before the Council the meeting adjourned at 9:40 p.m.

**LORENE VITEK
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

Underlining denotes additions

~~Strikethrough~~ denotes deletions

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

Underlining denotes additions
~~Strikethrough~~ denotes deletions

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.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

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.



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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

RESOLUTION NO.: 57 - 2021

OF

MARCH 22, 2021

**A 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**

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 and Resolution No. 227-2018 of August 13, 2018, the City Council authorized Amendments No. 1 and No. 2 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 has extended past the amended end date of Amendments No. 1 and No. 2 to the Contract and the Parties have determined that a third amendment (Amendment No. 3) to the Contract extending the original end date of the Contract and authorizing the use of remaining funds that were advanced under this contract to be expended 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 Amendment No. 3 to the Contract with the New York State Department of Environmental Conservation to further extend the term of the Contract for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct.

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 _____) County of _____) ss.: 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, licensor, licensee, lessor, lessee or any other party):

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$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

October 2019

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

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

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

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

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

**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.heizman@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 _____) County of _____) ss.:
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, licensor, licensee, lessor, lessee or any other party):

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$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. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

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

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

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

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

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

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

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

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

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

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

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

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
633 Third Avenue
New York, NY 10017
212-803-2414
email: mwbecertification@esd.ny.gov
<https://ny.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 E0203Certification@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

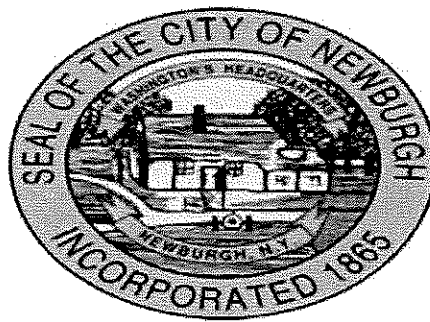
Signature

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

EXECUTIVE ORDER

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 comprises 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 Walkill 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 at 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 restaurateur
- 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.



OFFICE OF THE
ORANGE COUNTY DISTRICT ATTORNEY

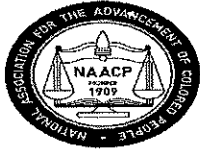
COUNTY GOVERNMENT CENTER
255-275 MAIN STREET, GOSHEN, NEW YORK 10924-1627
TEL: 845-291-2050 • FAX: 845-378-2370
www.orangecountygov.com/DA

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 transparencyto 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.

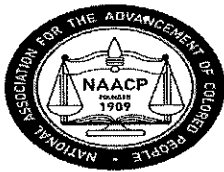
Over the last several months, the City of Newburgh has made significant progress with the Police Reform and Reinvention Collaborative. As seen in our recent community update, we have identified areas where change is needed and compiled those recommendations into a draft report. The City has held multiple 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:

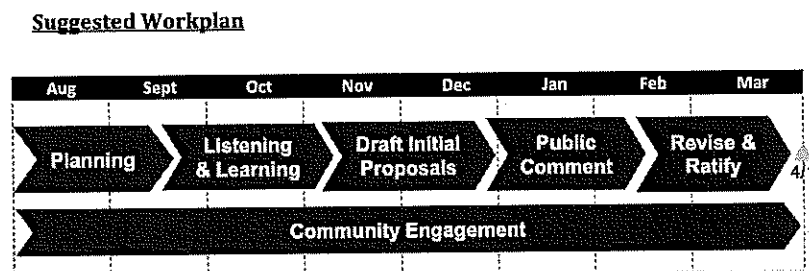
1. Two "public comment" sessions were held, one on December 8, 2020 and one on December 15, 2020. The sessions were advertised as interaction with the public, but both meetings included presentations by the police department and a lack of response to the statements and questions from the public. The 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:



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

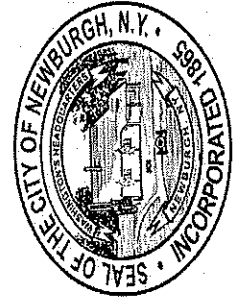
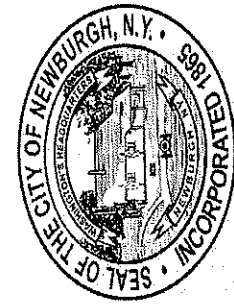
Revised: 11/11/2020-----NAACP NBHF EO #203 ST

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.”

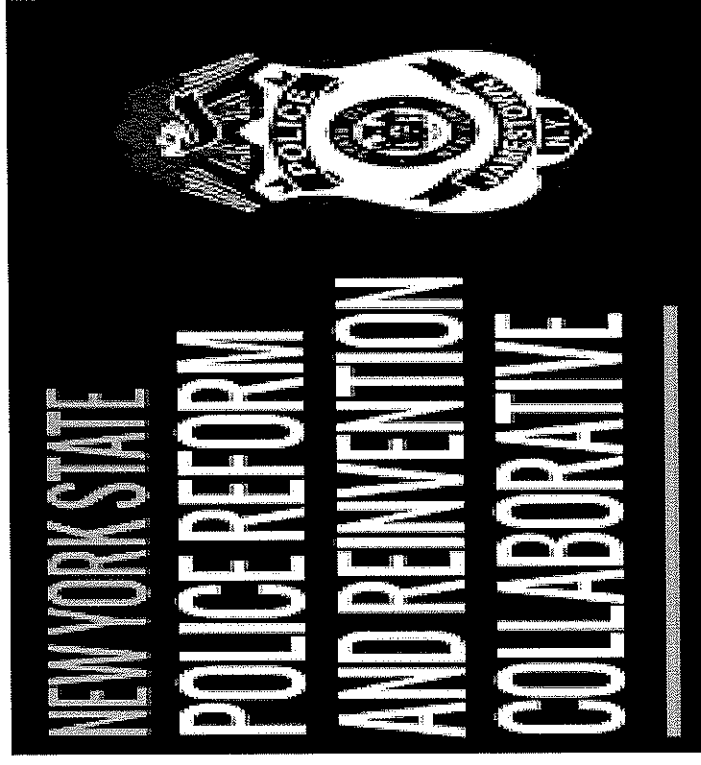
NYS Executive Order 203



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.

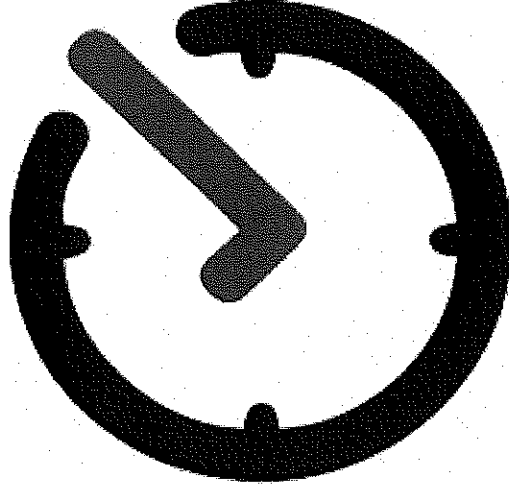


CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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.



CITY OF NEWBURGH POLICE DEPARTMENT

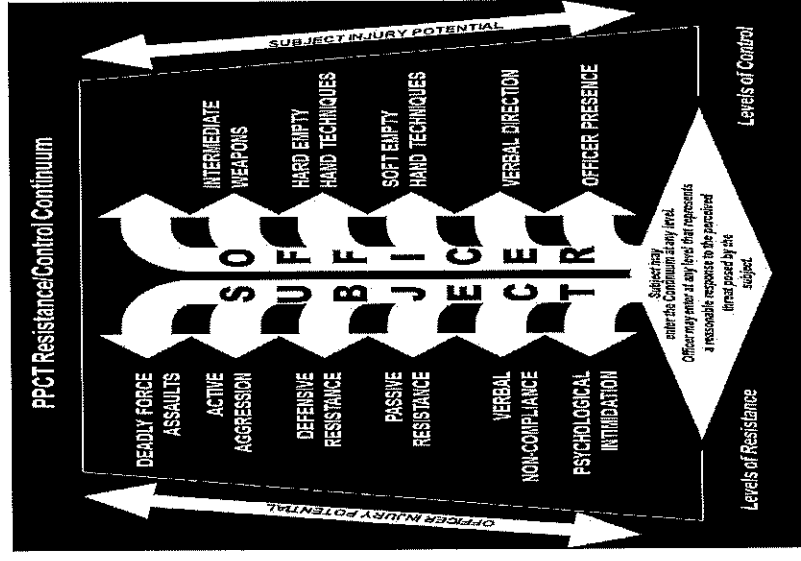
SERVICE, COURAGE AND COMMITMENT

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.



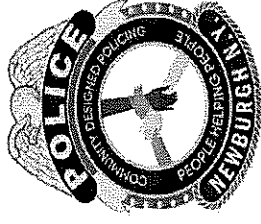
CITY OF NEWBURGH POLICE DEPARTMENT



SERVICE, COURAGE AND COMMITMENT

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.



CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

Training

Annual In-Service Training will include:

- Implicit-Bias Training
- Cultural Awareness
- Verbal Judo
- De-Escalation Tactics
- Impact Weapons
- Less-than-Lethal & Defensive Tactics



REIMAGINING

POLICE

TRAINING

For the 21st Century



CITY OF NEWBURGH POLICE DEPARTMENT

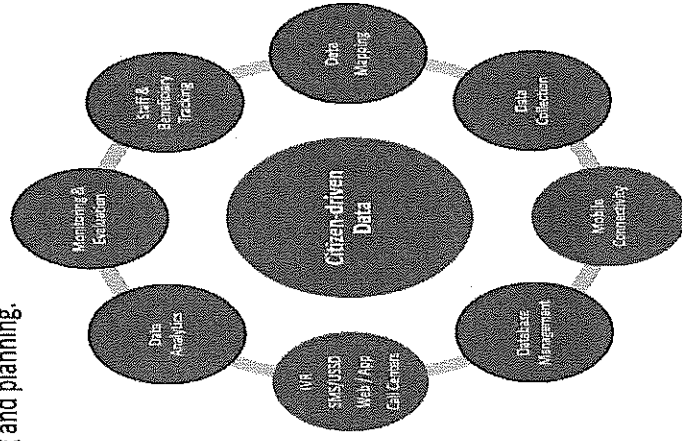
SERVICE, COURAGE AND COMMITMENT

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.



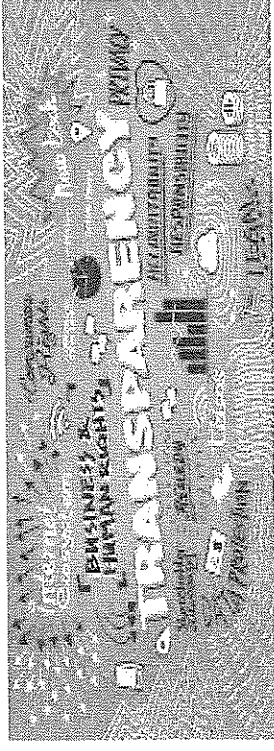
CITY OF NEWBURGH POLICE DEPARTMENT



SERVICE, COURAGE AND COMMITMENT

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)



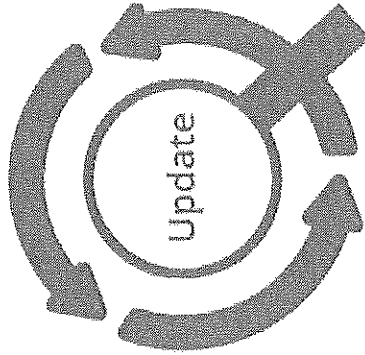
CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

Equipment

- New Body Worn Cameras
- Examine less-than-lethal options not currently deployed
- New Duty Uniforms
- New 'Field Activity Forms'

595



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

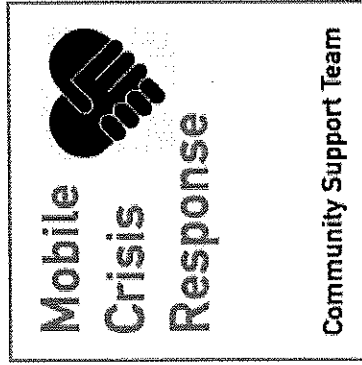


CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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.



"In order for Police-Community relations engagement to be effective both sides must feel they are valued and mutually respected." NYS EO 203

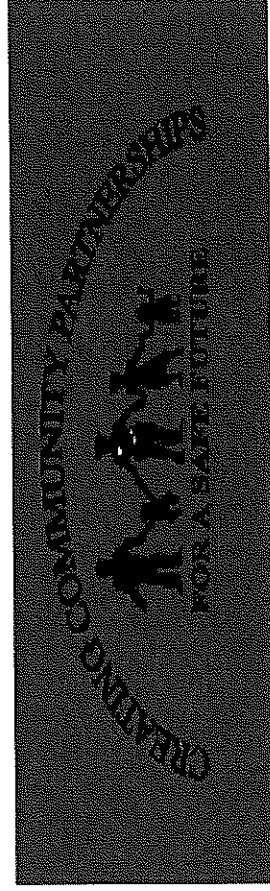


CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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.

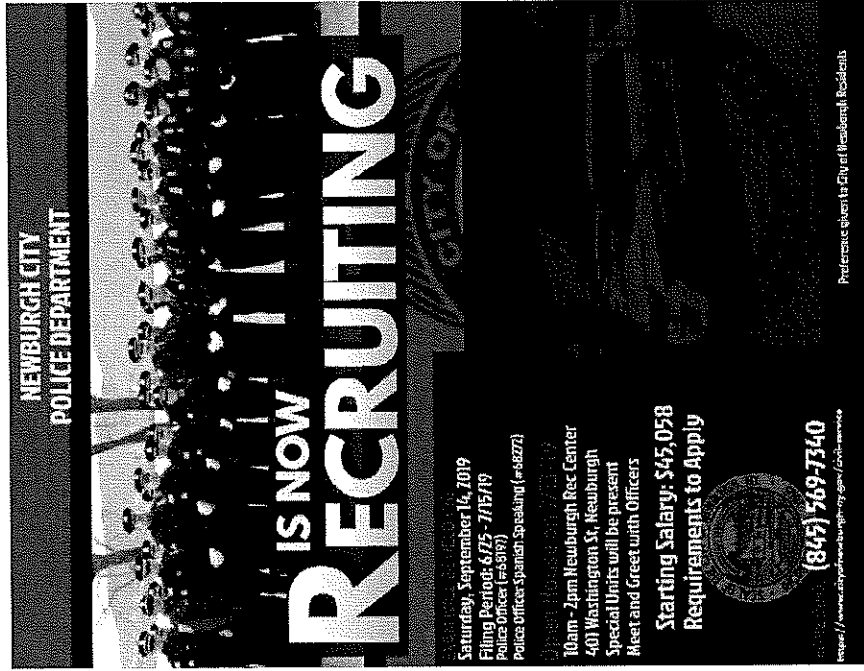


CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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.



**NEWBURGH CITY
POLICE DEPARTMENT**

**IS NOW
RECRUITING**

Saturday, September 16, 2019
Filing Period: 6/25 - 7/15/19
Police Officer (E-9197)
Police Officer Spanish Speaking (#48272)

10am - 2pm Newburgh Rec Center
401 Washington St, Newburgh
Special Units will be present
Meet and Greet with Officers

Starting Salary: \$45,058
Requirements to Apply

(845) 569-7340
<https://www.cityofnewburgh.org/careers>

Preference given to City of Newburgh Residents



CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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.

Respect and Trust

The two easiest things in life for someone to lose and the hardest things to get back.



CITY OF NEWBURGH POLICE DEPARTMENT

SERVICE, COURAGE AND COMMITMENT

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)





**CITY OF NEWBURGH
POLICE DEPARTMENT**

PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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

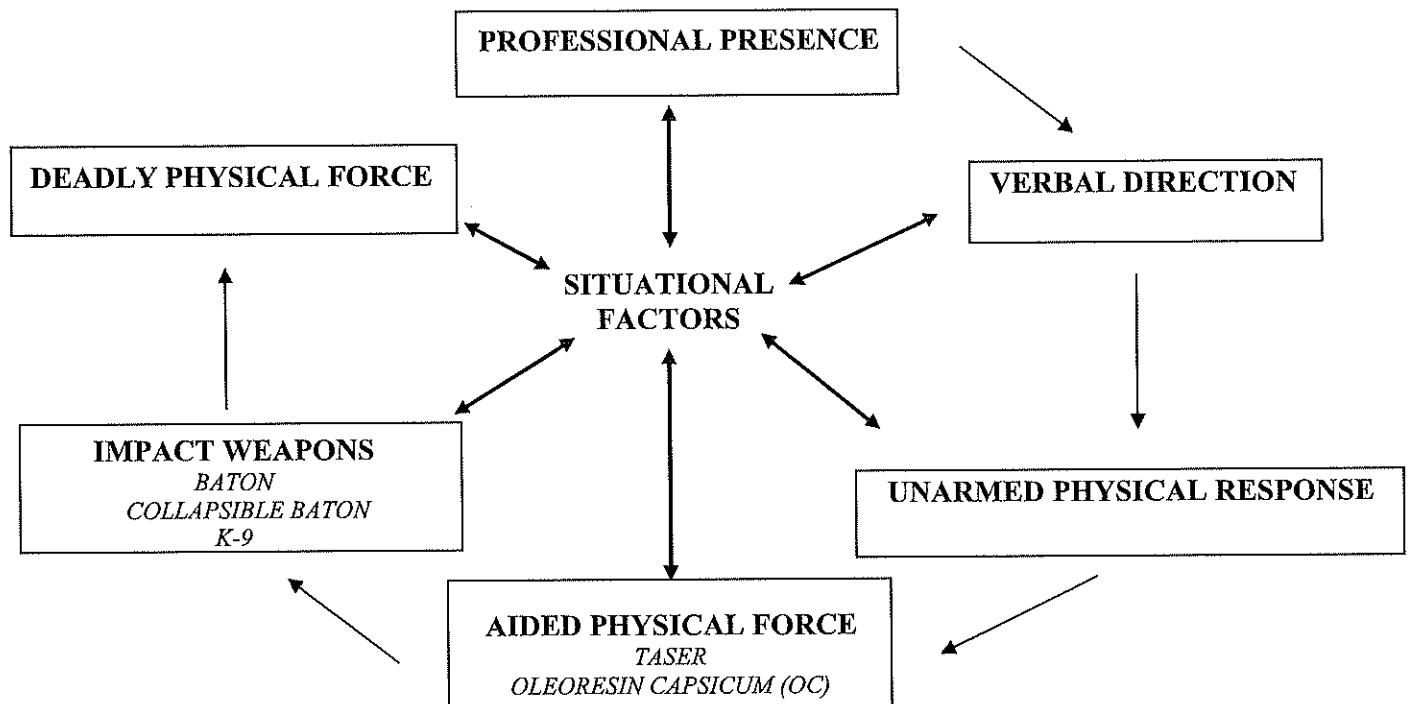
inappropriate to the Chief of Police.

- 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



**CITY OF NEWBURGH
POLICE DEPARTMENT**

PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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 then 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



CITY OF NEWBURGH
POLICE DEPARTMENT
PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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 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



CITY OF NEWBURGH
POLICE DEPARTMENT
PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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



**CITY OF NEWBURGH
POLICE DEPARTMENT**

PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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



CITY OF NEWBURGH
POLICE DEPARTMENT
PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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



**CITY OF NEWBURGH
POLICE DEPARTMENT**

PUBLIC SAFETY
BUILDING 55
BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845)
565-5662

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 to 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.

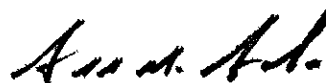
4. All E.D.P. calls for service involving Crisis Intervention Team officers shall be documented with the minimum of a blotter entry.

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



CITY OF NEWBURGH
POLICE DEPARTMENT
PUBLIC SAFETY BUILDING
55 BROADWAY
NEWBURGH, N.Y. 12550-5698
TEL: (845) 561-3131 FAX: (845) 561-9052 or (845) 565-5662

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



Arnold W. Amthor
Chief of Police

City of Newburgh Police Department

55 Broadway Newburgh, NY 12550

(845) 561-3131 (Main)

(845) 561-9052 (Fax)

www.cityofnewburgh-ny.gov



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 III)
- 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.



Arnold W. Amthor
Chief of Police

City of Newburgh Police Department

55 Broadway Newburgh, NY 12550

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(845) 561-9052 (Fax)

www.cityofnewburgh-ny.gov



Joseph P. Donat
City Manager

Reforma Policial y Plan de Reinversión 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.



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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 1^{ye} janvyè 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 pwodikтивite.
- 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 (Entèkansyon 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 Entèkansyon 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 dyalog 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 egale 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 Menèt”

- Depatman polis la pral lanse pwogram sa a nan Vil Newburgh nan yon efò pou pwopoze lòt chwa alapas arestasyon lè yo annafè ak moun ki souffri 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 daktyon 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.

~~Strikethrough~~ denotes deletions

Underlining denotes additions

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~~ 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

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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.

~~Strikethrough~~ denotes deletions
Underlining denotes additions

**§ 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).