



CITY OF NEWBURGH
COUNCIL MEETING AGENDA
SESION GENERAL DEL CONSEJAL
September 13, 2021
7:00 PM

Mayor/Alcaldesa

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

City Clerk:/Secretaria de la Ciudad

3. Roll Call / Lista de Asistencia

Communications/Comunicaciones

4. Approval of the minutes from the City Council meeting of August 9, 2021 / Aprobacion del Acta de la Reunion General del Consejo del 9 de Agosto de 2021
5. City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

Presentations/Presentaciones

6. Certificates of Recognition for Hook Elite Boxing Club Students
Certificados de reconocimiento para los estudiantes de Hook Elite Boxing Club.
7. Public Hearing - Local Law enacting Chapter 287, Vehicles Off-road
There will be a public hearing on Monday, September 13, 2021 to receive comments concerning the proposed Local Law enacting Chapter 287 to the Code of Ordinances of the City of Newburgh entitled "Vehicles, Off-road".

Habr  una audiencia p blica el lunes 13 de septiembre de 2021 para recibir comentarios sobre la propuesta de Ley Local que promulga el Cap tulo 287 del C digo de Ordenanzas de la Ciudad de Newburgh titulado "Veh culos, Todoterreno".

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

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

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

8. Resolution No. 204 - 2021 - Transfer Funds for Paving

Resolution amending Resolution No: 282-2020, the 2021 Budget for the City of Newburgh, New York to transfer \$360,000.00 from Appropriated Fund Balance to DPW – Streets & Bridges – Street Paving

Resolución que modifica la Resolución No: 282-2020, el Presupuesto 2021 para que la Ciudad de Newburgh, Nueva York transfiera \$ 360,000.00 del Saldo del Fondo Apropriado a DPW - Calles y Puentes - Pavimentación de Calles.

9. Resolution No. 205 - 2021 - Proposal with Ryan Biggs Clark Davis Engineering Concrete Assessment at WWTP

Resolution accepting a proposal and authorizing the City Manager to execute a contract with Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. for professional engineering services for a concrete condition assessment of the aeration tanks at the Wastewater Treatment Plant in an amount not to exceed \$28,000.00.

Resolución que acepta una propuesta y autoriza al Gerente de la Ciudad a ejecutar un contrato con Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. para servicios profesionales de ingeniería para una evaluación concreta de la condición de los tanques de aireación en la Planta de Tratamiento de Aguas Residuales en un monto que no exceda los \$ 28,000.00

10. Resolution No. 206 - 2021 - Budget Transfer to Cover Cost Increases for the Land Use Boards

Resolution amending Resolution No: 282-2020, the 2021 Budget for the City of Newburgh, New York to transfer \$10,000.00 from Planning and Development to the Land Use Boards for the cost of legal notices

Resolución que modifica la Resolución No: 282-2020, el Presupuesto 2021 para que la Ciudad de Newburgh, Nueva York transfiera \$10,000.00 de Planificación y Desarrollo a las Juntas de Uso de la Tierra por el costo de los avisos legales.

11. Resolution No. 207 - 2021 - 32nd International Festival - Carnival Ride Contract

Resolution authorizing the award of bid an execution of a contract with Shamrock Shows, Inc. for amusement rides, attractions and concessions at the City of Newburgh Annual International Festival.

Resolución que autoriza la adjudicación de una licitación y la ejecución de un contrato con Shamrock Shows, Inc. para atracciones, atracciones y concesiones en el Festival Internacional Anual de la Ciudad de Newburgh.

12. Resolution No. 208 - 2021 - 32nd International Festival - Fireworks Contract
Resolution authorizing the City Manager to accept a proposal and execute a contract in the amount of \$9,925.00 with Fireworks Extravaganza to provide a fireworks display at the City of Newburgh Annual International Festival.

Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato por un monto de \$9,925.00 con Fireworks Extravaganza para proporcionar una exhibición de fuegos artificiales en el Festival Internacional Anual de la Ciudad de Newburgh.

13. Resolution No. 209 - 2021 - 32nd International Festival - Entertainment Agreements

Resolution authorizing the City Manager to enter into agreements with various parties to provide performing arts and related services in connection with the City of Newburgh Annual International Festival.

Resolución que autoriza al Gerente de la Ciudad a celebrar acuerdos con varias partes para proporcionar artes escénicas y servicios relacionados en relación con el Festival Internacional Anual de la Ciudad de Newburgh

14. Resolution No. 210 - 2021 - to Schedule a 2nd Public Hearing and Schedule Opening a 2nd 30-Day Public Comment Period for the FY2022 Community Development Block Grant (CDBG) Annual Action Plan (AAP)

Resolution opening a second 30-day public comment period and scheduling a second public hearing for September 27, 2021 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the Annual Action Plan for Fiscal Year 2022

Resolución que abre un segundo período de comentarios públicos de 30 días y programa una segunda audiencia pública para el 27 de septiembre de 2021 para recibir comentarios públicos sobre las acciones propuestas por la Ciudad de Newburgh con respecto al Programa de Subvenciones en Bloque de Desarrollo Comunitario para el Plan de Acción Anual para el Año Fiscal 2022.

15. Resolution No. 211 - 2021 - Greater Newburgh Parks Conservancy - License Agreement for plantings on City properties

Resolution authorizing the City Manager to enter into a license agreement with the Greater Newburgh Parks Conservancy, Inc. to allow use and access to City-owned property sites for a seasonal planting project.

Resolución que autoriza al Gerente de la Ciudad a firmar un acuerdo de licencia con Greater Newburgh Parks Conservancy, Inc. para permitir el uso y el acceso a los sitios de propiedad de la Ciudad para un proyecto de plantación estacional.

16. Resolution No. 212 - 2021 - Choice Films License Agreement - 104 South Lander Street

Resolution authorizing the City Manager to enter into a license agreement with Choice Films, Inc. for use and occupancy of 104 South Lander Street (Section 48, Block 2, Lot 25) for film production office space

Resolución que autoriza al Gerente de la Ciudad a celebrar un acuerdo de licencia con Choice Films, Inc. para el uso y ocupación de 104 South Lander Street (Sección 48, Bloque 2, Lote 25) para espacio de oficinas de producción cinematográfica.

17. Resolution No. 213 - 2021 - NCPP Delano Hitch Public Art Installation - License Agreement

Resolution authorizing the City Manager to enter into a license agreement with Vincent Cianni, d/b/a Vincent Cianni Photography, to allow use and access to the Delano-Hitch Recreation Park for a Newburgh Community Photo Project.

Resolución que autoriza al Gerente de la Ciudad a celebrar un acuerdo de licencia con Vincent Cianni, d / b / a Vincent Cianni Photography, para permitir el uso y el acceso al Parque Recreativo Delano-Hitch para un Proyecto Fotográfico Comunitario de Newburgh

18. Resolution No. 214 - 2021 - Apply for and Accept if Awarded a \$20mm Downtown Revitalization Initiative (DRI) Grant from Empire State Development

Resolution authorizing the City Manager to apply for and accept if awarded a Downtown Revitalization Initiative Grant in an amount not to exceed \$20,000,000.00

Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar si se le otorga una Subvención de la Iniciativa de Revitalización del Centro de la Ciudad por un monto que no exceda los \$20,000,000.00

19. Resolution No. 215 - 2021 - Indigenous Peoples Day

Resolution designating the second Monday in October as Indigenous Peoples' Day in the City of Newburgh

Resolución que designa el segundo lunes de octubre como el Día de los Pueblos Indígenas en la Ciudad de Newburgh

20. Ordinance No. 5 - 2021 - Adding Subsection 110-9(C) entitled "Revocation" to Chapter 110 "Mass Gathering and Public Events"

Ordinance amending Chapter 110 entitled "Mass Gatherings and Public Events" of the Code of Ordinances of the City of Newburgh to add Subsection 110-9(C) entitled "Revocation"

Ordenanza que modifica el Capítulo 110 titulado "Reuniones masivas y eventos públicos" del Código de Ordenanzas de la Ciudad de Newburgh para agregar la Subsección 110-9 (C) titulada "Revocación"

21. Resolution No. 216 - 2021 - Scheduling a Public Hearing Concerning Local Law amending Chapter 276 "Tobacco" to change Chapter title to "Tobacco and Marihuana" and amend Article II "Outdoor Smoking"

Resolution scheduling a public hearing for September 27, 2021 to hear public comment concerning "A Local Law amending Chapter 276 entitled 'Tobacco' of the Code of Ordinance of the City of Newburgh to change the chapter title to "Tobacco and Marihuana", and to amend Article II entitled 'Outdoor Smoking.'"

Resolución que programa una audiencia pública para el 27 de septiembre de 2021 para escuchar comentarios públicos sobre "Una Ley Local que modifica el Capítulo 276 titulado 'Tabaco' del Código de Ordenanza de la Ciudad de Newburgh para cambiar el título del capítulo a "Tabaco y Marihuana", y para enmendar el Artículo II titulado 'Fumar al aire libre'".

22. Resolution No. 217 - 2021 - Authorizing a Payment of Claim

A resolution authorizing the City Manager to execute a payment of claim with Central Mutual Insurance Company A/S/O Javier Alvarado in the amount of \$7,755.15

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

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

Adjournment/ Aplazamiento:

RESOLUTION NO.: 201 - 2021

OF

AUGUST 9, 2021

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 13, 2021
TO HEAR PUBLIC COMMENT CONCERNING "A LOCAL LAW ENACTING
CHAPTER 287 TO THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
ENTITLED 'VEHICLES, OFF-ROAD'"

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law enacting Chapter 287 of the Code of Ordinances of the City of Newburgh entitled 'Vehicles, Off-Road'"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 13th day of September, 2021.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 8/9/21 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 10th day of Aug 2021

Katrina Cotten
Deputy City Clerk

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

**A LOCAL LAW ENACTING CHAPTER 287 TO THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH ENTITLED “VEHICLES, OFF-ROAD”**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 287 “Vehicles, Off-road” be and is hereby enacted as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Enacting Chapter 287 entitled ‘Vehicles, Off-road’ to the Code of Ordinances of the City of Newburgh”.

SECTION 2 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to enact new Chapter 287 entitled “Vehicles, Off-road” to read as follows:

§ 287-1. Legislative findings, intent and purpose.

The reckless operation of illegal, unregistered dirt bikes, all-terrain vehicles, also known as ATVs, and other non-street legal vehicles on the streets and in the parks of Newburgh has been a nuisance to City residents and visitors in recent years and particularly during the summer. The operators of these vehicles, usually in groups, ride with abandon over many parts of the City with no regard for traffic laws, their own well-being, or the safety of bystanders, or the considerable noise such off-road vehicles generate, disturbing the peaceful enjoyment of residents and visitors.

The operation of dirt bikes and ATVs is already illegal on public highways under the New York State Vehicle and Traffic Law. The purpose of this local law is to promote the public health, safety and welfare of the City of Newburgh by making it explicitly unlawful to operate such vehicles on the public highways, in the public parks, or on any other private land in the City of Newburgh. It also expressly forbids the operation of these vehicles on private property without the express consent of the owner or occupant of such property.

§ 287-2. Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

OFF-ROAD VEHICLES means all-terrain vehicles (sometimes known as “ATVs”) as that term is defined in section 2281(1) of the New York State Vehicle and Traffic Law, off-highway motorcycles as that term is defined in section 125-a of the New York State Vehicle and Traffic Law, motocross or dirt bikes, dune buggies, go-carts and any and all other types of motorized trail bikes, utility terrain vehicles (“UTVs”), or vehicles that are manufactured for sale or operation primarily on off-highway trails or for off-highway competitions and are only incidentally operated on public highways. Nothing contained in this chapter, however, shall be deemed to apply to or prohibit the use of bicycles, including electric powered bicycles operated in compliance with applicable state and local regulations.

OPERATE means to ride in or on, other than as a passenger, or use or control the operation of an off-road vehicle, as defined in this chapter, in any manner, whether or not said off-road vehicle is under way.

PUBLIC HIGHWAY means any highway, road, alley, street, avenue, public place, public driveway, or any other public way.

§ 287-3. Restrictions.

- A. Public Property. No person shall operate an off-road vehicle on a public highway or on any public property in the City of Newburgh.
- B. Private Property. No person shall operate an off-road vehicle off a public highway on private property in the City of Newburgh unless such person has first obtained the express consent of the owner or occupant of the property to operate the off-road vehicle on the property. There shall be a rebuttable presumption that the operator of an off-road vehicle on private property in the City of Newburgh lacks consent to operate the off-road vehicle on private property.

§ 287-4. Penalties for offenses; impoundment and redemption.

- A. Any person who operates an off-road vehicle in violation of section 287-3(A) or (B) of this chapter shall be guilty of an offense punishable of a fine not to exceed \$250.00 for a first offense, \$400.00 for a second offense, and \$550.00 for a third or each successive offense, or imprisonment not to exceed 15 days, or both.
- B. In addition to the penalties set forth in subsection (A) of this section, a police officer may immediately impound an off-road vehicle that has been operated in violation of section 287-3(A) or (B) of this chapter. Such impounded off-road vehicle shall be stored by the police department or enforcement agency pending the identification of the owner of such off-road vehicle as registered with the New York State Department of Motor Vehicles. Such title owner shall be sent a notice of such impoundment at the address on file with the New York State Department of Motor Vehicles by certified mail within five days after the impoundment. Neither the police department nor the City of Newburgh nor any agent nor

employee thereof shall be liable for any damages arising out of the provision of an erroneous name or address of such owner. The owner of the off-road vehicle operated in violation of section 287-3(A) or (B) of this chapter may redeem such off-road vehicle upon satisfactory proof of ownership and payment of a redemption fee of \$1,500.00. The redemption fee shall not be required where an off-road vehicle was stolen or otherwise used without the owner's permission and the owner of the off-road vehicle demonstrates proof of valid ownership and registration with New York State and files a sworn statement about the theft or unauthorized use with the City of Newburgh Police Department. An off-road vehicle impounded under this subsection shall only be released to the owner of such off-road vehicle, or to such owner's agency as evidenced by a written, notarized proof of agency, or duly exercised power of attorney. Any off-road vehicles impounded as a result of a violation of section 287-3(A) or (B) of this chapter that remain unclaimed after a period of three months may be destroyed in accordance with applicable laws.

§ 287-5. Enforcement.

The police department is charged with the enforcement of the provisions in this chapter.

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 the legislative intent that this Local Law would have been adopted if 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 and shall be effective on _____ and after the filing in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

DRAFT

RESOLUTION NO.: 204 - 2021

OF

SEPTEMBER 13, 2021

**RESOLUTION AMENDING RESOLUTION NO: 282-2020, THE 2021 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$360,000.00
FROM APPROPRIATED FUND BALANCE
TO DPW – STREETS & BRIDGES – STREET PAVING**

WHEREAS, an amendment to the 2021 Budget is necessary to fund expenses related to additional approved street paving; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 282-2020, the 2021 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.0000.0599.1000.0000 Appropriated Fund Balance	<u>\$360,000.00</u>	
A.5110.0412 DPW – Streets & Bridges – Street Paving		<u>\$360,000.00</u>
 TOTAL:	 \$360,000.00	 \$360,000.00

RESOLUTION NO.: 205 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION ACCEPTING A PROPOSAL AND AUTHORIZING
THE CITY MANAGER TO EXECUTE A CONTRACT WITH
RYAN BIGGS CLARK DAVIS ENGINEERING & SURVEYING, D.P.C.
FOR PROFESSIONAL ENGINEERING SERVICES
FOR A CONCRETE CONDITION ASSESSMENT OF
THE AERATION TANKS AT THE WASTEWATER TREATMENT PLANT
IN AN AMOUNT NOT TO EXCEED \$28,000.00**

WHEREAS, as the City of Newburgh continues to assess the existing conditions and plan for future improvement projects at the Wastewater Treatment Plant ("WWTP"), it is prudent to evaluate the condition of the 6 aeration tanks located at the WWTP; and

WHEREAS, the City solicited and received a proposal from Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. for professional engineering services for a concrete condition assessment of the aeration tanks at the WWTP; and

WHEREAS, such engineering services shall include a complete a structural investigation and condition assessment of the aeration tanks through visual observation and non-destructive evaluation of the condition of the existing concrete tank structures and preparation of a report of findings and recommendations; and

WHEREAS, the cost of such proposal shall not exceed \$28,000.00 and the funds shall be derived from G.8130.0200; and

WHEREAS, this Council finds that entering into a contract with Ryan Biggs Clark Davis Engineering & Surveying, D.P.C. based on the foregoing 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 hereby is authorized to accept a proposal and execute a contract with Ryan Biggs Clark Davis Engineering & Surveying, D.P.C., for professional engineering services for a concrete condition assessment of the aeration tanks at the City of Newburgh Wastewater Treatment Plant in an amount not to exceed \$28,000.00.



August 17, 2021

Jason Morris
City of Newburgh
123 Grand Street
Newburgh, NY 12550

**Re: Newburgh WWTP Aeration Tank Concrete Evaluation, Newburgh, NY
Ryan Biggs | Clark Davis Proposal P13149**

Dear Mr. Morris:

We are pleased to submit this proposal for limited professional services to be performed for the evaluation of the existing concrete aeration tanks located near the corner of River Street and Renwick Street in Newburgh, NY. The aeration tanks are part of the City of Newburgh Water Pollution Control Plant. The scope of services includes a visual and non-destructive evaluation of the condition of the existing concrete tank structures and a summary report providing our findings and recommendations.

Ryan Biggs | Clark Davis Engineering & Surveying, D.P.C., (Ryan Biggs | Clark Davis) and the City of Newburgh (Client) agree as set forth below.

A. PROJECT UNDERSTANDING

1. There are 6 aeration tanks included in the proposed scope of services. Each open top tank is approximately 75'x75'x16' deep. Only one tank may be taken off line at a time for cleaning and evaluation.
2. Client will drain and clean tanks prior to structural evaluation by Ryan Biggs | Clark Davis.
3. Client will provide original design drawings for review prior to field evaluations by Ryan Biggs | Clark Davis.
4. Evaluation of the existing concrete structures will be conducted by visual observation and non-destructive testing techniques to include hammer sounding, chain drag, and sounding wheel. Surface Penetrating Radar and Thermal Imaging evaluation is available if other evaluation techniques indicate the need for its use.

B. SCOPE OF SERVICES

The scope of services provided by Ryan Biggs | Clark Davis will be to:

1. Review specifications and drawings of original structure and previous expansions, repairs, or rehabilitation work if available. Documents to be provided by Client.
2. Make observations, take measurements, and conduct non-destructive testing (NDT) of existing conditions as required for our work. This includes a combination of observations from the ground, ladders, interior of aeration tanks, and other pertinent areas. As only one tank may be taken off line at any given time, a separate trip to site will be conducted for evaluation of each of the 6 existing aeration tanks as they become available for evaluation.

Client will coordinate access to structures, coordinate with tenants, and make arrangements with adjacent property owners to allow access for equipment and personnel as required for out work.

Observations will be conducted under the understanding that the tanks are classifiable as a non-permit-required confined space by OSHA. Ryan Biggs | Clark Davis will employ the use of air quality monitoring equipment as appropriate while inside the open top aeration tanks.

3. Prepare a preliminary report describing our findings. In the report, we will:
 - a. Describe the existing construction.
 - b. Identify problems observed, including photographs of representative issues.
 - c. Recommend removals or testing.
 - b. Develop a priority list of concept-level repair work to address problems observed.
 - c. Prepare an opinion of probable construction cost for repairs identified.
4. Meet with Client (virtual) to review the report and Client's comments.
5. Issue a final report.

The following services are not included in Ryan Biggs | Clark Davis' proposed fee. If requested, Ryan Biggs | Clark Davis can be retained to provide additional scope items as noted in the Additional Services section of the Terms and Conditions.

1. Provide geotechnical testing and engineering services.
2. Design reinforcing of existing structure to support increased seismic loads, increased wind loads, increased snow loads, or drifted snow loads.
3. Provide design or construction phase services. A proposal for these project phases will be provided if requested.

C. COMPENSATION FOR PROFESSIONAL SERVICES

Ryan Biggs | Clark Davis will perform the listed services for a fixed fee of \$25,750.

D. COMPENSATION FOR EXPENSES

Reimbursable expenses incurred by Ryan Biggs | Clark Davis for the project are in addition to the fee and shall include the following: reproductions, printing, duplicating, binding, postage, shipping, and courier services; travel mileage and transportation fares to locations more than 20 miles from our office; meals and lodging; premiums for special insurance requirements requested by the Client; survey information; equipment rental; and material testing and analysis.

1. Reimbursable expenses will be billed monthly for the actual cost of expenditures plus a 10 percent administrative fee.
2. Reimbursable expenses are estimated to be \$1,000, but the amount invoiced may be greater depending upon the costs incurred.

E. TERMS AND CONDITIONS

1. Billing and Payment

- a. Invoice will be sent monthly.
- b. Payment shall be mailed to: Ryan Biggs | Clark Davis Engineering & Surveying, D.P.C., 257 Ushers Road, Clifton Park, New York 12065.
- c. Payment is due upon receipt.
- d. After 30 days, interest charges will be added to unpaid accounts at a monthly rate of 1 percent of the unpaid balance and accrued monthly until account is paid in full.
- e. If the Client fails to make payments to Ryan Biggs | Clark Davis in accordance with this agreement, such failure shall be considered substantial nonperformance and cause for termination, or at Ryan Biggs | Clark Davis' option, cause for suspension of performance of services under this agreement. If services are suspended, Ryan Biggs | Clark Davis shall have no liability to the Client for delay or damage caused the Client because of such suspension of services. Before resuming services, Ryan Biggs | Clark Davis shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of Ryan Biggs | Clark Davis' services. Ryan Biggs | Clark Davis' fees for the remaining services and the time schedules shall be equitably adjusted.

2. Standard Hourly Rates

- a. Ryan Biggs | Clark Davis' current rates are as follows:

<u>Personnel</u>	<u>Hourly Rates</u>
Principal/Principal Consultant	\$225
Principal Associate	200
Senior Associate	175
Associate	160
Senior Engineer	145

Chief Surveyor	130
Professional/Restoration Engineer	130
Design Engineer II	120
Design Engineer I/Technician	110
Senior CADD	90
CADD	80
Non-Technical	55

- b. After 6 months, the hourly rates may increase at the discretion of Ryan Biggs | Clark Davis and may increase annually thereafter.

3. Additional Services

Services not indicated or which are subsequently requested, either verbally or in writing, will be considered additional services. The fee will be based upon either a mutually agreed fixed fee or an hourly basis at rates in effect at the time the services are performed, plus reimbursable expenses as previously defined.

4. Client's Responsibilities

Client shall make available to Ryan Biggs | Clark Davis all records and data pertinent to the project and will give all reasonable assistance to Ryan Biggs | Clark Davis in obtaining such additional information as may be required. Client shall provide access to and make all provisions for Ryan Biggs | Clark Davis to enter upon public and private lands as required by Ryan Biggs | Clark Davis to perform such work as surveys and observations in the development of the project.

5. Construction Cost

An opinion of probable construction cost is made on the basis of Ryan Biggs | Clark Davis' experience and best judgment as a design professional. However, since Ryan Biggs | Clark Davis has no control over cost of labor, materials, or equipment, or over competitive bidding or market conditions, Ryan Biggs | Clark Davis cannot guarantee that proposals, bids, or the construction cost will not vary from its opinion of probable cost. If Client wishes greater assurance as to the construction cost, Client should employ an independent cost estimator.

6. Hazardous and Asbestos-Containing Materials

Ryan Biggs | Clark Davis shall have no responsibility for the discovery, presence, or removal of any hazardous material, including mold, asbestos-containing material, lead-based paint, or contaminated soil; but as an additional service, Ryan Biggs | Clark Davis will assist the Client, if requested, in securing the services of a hazardous waste removal consultant.

Prior to performing removals, the Owner is responsible for retaining a specialty consultant to investigate for the presence of hazardous material and notify Ryan Biggs | Clark Davis of the presence of any hazardous material.

7. Existing Conditions

Inasmuch as the evaluation of an existing structure requires that certain assumptions be made regarding existing conditions, some of which may be concealed by existing materials or cannot be investigated by reasonable visual observations, and because some of these assumptions cannot be verified without expending great sums of additional money or destroying otherwise adequate or serviceable portions of the structure, the Client agrees that except for negligence on the part of Ryan Biggs | Clark Davis, the Client will hold harmless and indemnify Ryan Biggs | Clark Davis for and against any and all claims, damages, awards, and costs of defense arising out of the professional services provided under this agreement.

8. Documents

- a. All documents produced by Ryan Biggs | Clark Davis under this agreement shall remain the property of Ryan Biggs | Clark Davis and may not be used by this Client or provided by this Client to any third party for any other endeavor without the written consent of Ryan Biggs | Clark Davis.
- b. Ryan Biggs | Clark Davis reserves the right to rescind the documents for failure of the Client to make payment under the terms of this agreement.

9. Electronic Media

- a. Electronic media refers to CAD files, BIM files, or any other exchange of non-tangible documentation.
- b. Any use or reuse of altered electronic media files by the Client or others after the final document submittal, without written verification by Ryan Biggs | Clark Davis or adaptation for the specific purpose intended will be at the Client's risk and full legal responsibility. Furthermore, the Client will, to the fullest extent permitted by law, indemnify and hold Ryan Biggs | Clark Davis harmless from any and all claims, suits, liability, demands, or costs arising out of or resulting therefrom. Any verification of such adaptation by the Client will entitle Ryan Biggs | Clark Davis to additional compensation at its current rates.
- c. Because data stored on electronic media can deteriorate undetected or be modified without Ryan Biggs | Clark Davis' knowledge, the Client agrees that Ryan Biggs | Clark Davis will not be held liable for the completeness or correctness of the electronic media after an acceptance period of 30 days after delivery of the electronic files. Ryan Biggs | Clark Davis does confirm the accuracy of the final sealed hard copy drawings.

The electronic files are submitted to the Client for a 30-day acceptance period. During this period, the Client may review and examine these files, and any errors detected during this time will be corrected by Ryan Biggs | Clark Davis as part of the basic agreement. Any changes requested after the acceptance period will be considered additional services to be performed on a time and materials basis at Ryan Biggs | Clark Davis' standard cost plus terms and conditions.

- d. The submitted data files are intended to work only as described in the agreement. These files are compatible only with the software and operating system noted on

the electronic data files. Ryan Biggs | Clark Davis makes no warranty as to the compatibility of these files beyond the specified release of the software stated above.

10. Allocation of Risk

Professional Standards

The only obligation of Ryan Biggs | Clark Davis and its employees is to meet normal professional standards in performing its obligations under this agreement. Apart from such obligation there is no representation, warranty, guarantee, or other obligation of Ryan Biggs | Clark Davis or its employee arising out of this proposal, its acceptance, the provisions of services, or the relationship between the parties in respect to any of them. The cumulative liability of Ryan Biggs | Clark Davis and its employees for all types of damages incurred or suffered as a result of any breach of such obligation, howsoever arising, (including negligence) shall be limited in the aggregate to \$50,000 or fee received, whichever is larger.

If a required item or component of the project is omitted from Ryan Biggs | Clark Davis' Contract Documents by Ryan Biggs | Clark Davis error, Ryan Biggs | Clark Davis shall not be responsible for paying the cost to add such item or component to the extent that such item or component would have been otherwise necessary to the project or otherwise adds value or betterment to the project. In no event will Ryan Biggs | Clark Davis be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the project.

Ryan Biggs | Clark Davis shall not be responsible for any and all special, incidental, indirect or consequential damages, including but not limited to loss of profits or revenue, for claims, disputes or other matters in question arising out of or relating to this Agreement or the underlying Project, whether caused by negligence, errors, omissions, strict liability, breach of contract, breach of warranty, or other cause.

Indemnification

- a. The Client agrees to indemnify and hold harmless Ryan Biggs | Clark Davis and its employees from and against any and all damages, losses, liabilities or costs, including reasonable attorneys' fees, and defense costs arising out of or resulting from the performance of the services, provided and to the extent that all damages, losses, liabilities or costs are caused by the negligent act or omission of the Client.
- b. Ryan Biggs | Clark Davis agrees to indemnify and hold harmless the Client, its officers, directors and employees (collectively, Client) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, but only to the extent caused by Ryan Biggs | Clark Davis' negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom Ryan Biggs | Clark Davis is legally liable.

Neither the Client nor Ryan Biggs | Clark Davis shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence or for the negligence of others.

- c. Ryan Biggs | Clark Davis will require a matching indemnification from any Subconsultant/Subcontractor retained for this project.

General Liability

The limit of liability for General Liability insurance is \$1,000,000 per occurrence, \$2,000,000 aggregate.

11. Taxes

All taxes or fees on services applicable to this contract enacted by local, state, or federal government subsequent to the date of this contract and based on gross receipts or revenues will be added to amounts due under this contract, in accordance with any such fees or taxes.

12. Termination of Services

This agreement can be terminated by either party upon receipt of a 30-day written notice. Ryan Biggs | Clark Davis will be paid in full for all services and reimbursements provided up to the date of termination.

13. Agreement Form and Period

- a. The scope and fee indicated are predicated upon execution of this proposal in this form including all terms and conditions. Alternative forms of contract or revision proposed by the Client will require reevaluation of the scope and fee by Ryan Biggs | Clark Davis.
- b. This proposal is valid for a period of 60 days from the date on the first page.
- c. The agreement period is to last nine months from the Ryan Biggs | Clark Davis signature date on the last page.

14. Contract Disputes

If a dispute arises out of or related to this contract or breach thereof, and if the said dispute cannot be settled through direct discussions, the parties agree to first endeavor to settle the dispute in an amicable manner by mediation using the Mediation Rules of the American Arbitration Association before seeking settlement in a judicial forum.

15. Third-Party Exclusion

This agreement does not create any right or benefits for parties other than Ryan Biggs | Clark Davis and the Client.

Thank you for considering us for this project. We look forward to working with you.

Your signature in the space provided indicates your understanding and acceptance of the provisions set forth herein. Please return (1) one signed copy of this proposal to:

Ryan Biggs | Clark Davis Engineering & Surveying, D.P.C.
257 Ushers Road
Clifton Park, New York 12065
by mail or contracts@ryanbiggs.com by e-mail.

Agreed to by:

RYAN BIGGS | CLARK DAVIS
ENGINEERING & SURVEYING, D.P.C.

CITY OF NEWBURGH



Authorized Signature

Otto J. Schwarz, P.E., S.E. Senior Associate
Print Name & Title

August 17, 2021
Date

Authorized Signature

Print Name & Title

Date

Client Project Number or Purchase Order
Number

RESOLUTION NO.: 206 - 2021

OF

SEPTEMBER 13, 2021

**RESOLUTION AMENDING RESOLUTION NO: 282-2020, THE 2021 BUDGET FOR
THE CITY OF NEWBURGH, NEW YORK TO TRANSFER \$10,000.00 FROM
PLANNING AND DEVELOPMENT TO THE LAND USE BOARDS
FOR THE COST OF LEGAL NOTICES**

WHEREAS, an amendment to the 2021 Budget is necessary to fund expenses related to legal notices that the City's land use boards are required to publish in connection with applications submitted for review; the same being in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that Resolution No.: 282-2020, the 2021 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.8684.0101 Planning & Development – Salary	<u>\$10,000.00</u>	
A.8010.0462 Zoning Board – Legal Notices		\$2,000.00
A.8021.0462 Planning Board – Legal Notices		\$ 500.00
A.8041.0462 Architectural Review Commission – Legal Notices		<u>\$7,500.00</u>
TOTAL:	\$10,000.00	\$10,000.00

RESOLUTION NO.: 207 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE AWARD OF A BID
AND EXECUTION OF A CONTRACT WITH SHAMROCK SHOWS, INC.
FOR AMUSEMENT RIDES, ATTRACTIONS AND CONCESSIONS AT
THE CITY OF NEWBURGH ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh's Annual International Festival was held on Friday, September 3, 2021 through Monday, September 6, 2021, respectively, at the Delano-Hitch Recreation Park; and

WHEREAS, the City of Newburgh issued a Request for Proposals for Carnival Rides, Concessions and Amusements for the City of Newburgh's Annual International Festival; and

WHEREAS, one (1) proposal was duly received and opened; and

WHEREAS, Shamrock Shows, Inc. was the only bidder; and

WHEREAS, the City Council has determined it to be in the best interests of the City of Newburgh to enter into a contract with Shamrock Shows, Inc. provide Carnival Rides, Concessions and Amusements for the City of Newburgh's Annual International Festival;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for Carnival Rides, Concessions and Amusements be and is hereby awarded to Shamrock Shows, Inc.; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to execute and enter into a contract, in substantially the same form as attached hereto with such other terms and conditions as Corporation Counsel may require, on behalf of the City of Newburgh with Shamrock Shows, Inc.

REQUEST FOR PROPOSALS

RFP #14.21

CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
FOR THE
32ND ANNUAL INTERNATIONAL FESTIVAL

Overview: The City of Newburgh, New York is seeking proposals from qualified carnival ride and amusement companies (hereinafter referred to as "Ride Company") to provide carnival rides, concessions and amusement services for the 32nd Annual International Festival. This year, the International Festival will be held over the Labor Day weekend at the Delano-Hitch Recreation Park on Washington Street in the City of Newburgh. With numerous vendors and live entertainment scheduled, this festival typically draws several thousand people over the weekend.

The 2021 festival runs for four (4) consecutive days from Friday, September 3, 2021 through Monday, September 6, 2021. The festival will kick off Friday, September 3, 2021 beginning at 5:00 P.M. (Eastern Time) and ending its operation at 10:00 P.M. on Labor Day, Monday, September 6, 2021.

1.0 GENERAL

- A. Taxes. The City of Newburgh is exempt from Federal Excise Taxes and the New York State Sales Tax.
- B. Iran Divestment Act. By submission of a Proposal in response to this solicitation or by assuming the responsibility of a contract awarded hereunder, Respondent (or any assignee hereinafter referred to as "Bidder" or "Vendor") certifies that it is not listed on the "Entities Determined To Be Non-Responsive Bidders/Offerors Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Respondent is advised that should it seek to renew or extend a contract awarded in response to the solicitation, it must provide the same certification at the time the contract is renewed or extended.

The City of Newburgh reserves the right to reject any Proposal from 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.

The signature on the Proposal Information Form will be considered certification that the Respondent is in compliance with all aspects of this regulation.

- C. Non-Collusion Bidding Affidavit. The City requires that a Non-Collusive Bidding

Affidavit be submitted with all bids pursuant to its authority according to the Section 103-d of the State of New York Finance Law. This Non-Collusive Bidding Affidavit, made part of the Proposer Information Form, must be executed in blue ink by the member, officer or employee of the Bidder who makes the final decision on prices and the amount quoted in the bid.

Bid rigging and other efforts to restrain competition and the making of false sworn statements in connection with the submission of bids are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the Bidder with responsibilities for the preparation, approval or submission of the bid.

If a bid is submitted by a joint venture, each party to the venture must be identified in the bid documents, and a Non-Collusive Bidding Affidavit must be submitted separately on behalf of each party.

Failure to provide a Non-Collusive Bidding Affidavit in compliance with these instructions will result in disqualification of the bid.

2.0 SUBMISSION OF PROPOSALS

- A. Qualified individuals and/or Ride Companies shall submit their original Proposal, *plus one copy*, to City Comptroller, Janice Gaston City of Newburgh, 83 Broadway-4th Floor, Newburgh, New York, 12550, **on or before** 4:00 P.M., (*Eastern Time*), Thursday, August 26, 2021. Late submissions will not be accepted.
- B. Proposals shall be delivered to the City Comptrollers' office located in City Hall, 83 Broadway, 4th Floor, Newburgh, New York, 12550 by hand, mail or the other courier type services. Facsimile or electronic mail submittals will not be accepted.
- C. Proposals must be in a sealed envelope indicating both the company name and the words "**RFP for International Festival**" **clearly marked** on the outer envelope.
- D. The front cover of the Proposal shall clearly indicate firm name, address, telephone number(s), email address, if available, and the designated contact person's name.
- E. All signatures, with the exception of a Notary Public, must be signed in blue ink.
- F. Forms provided must be completed and submitted with Proposal in original form.
- G. Respondents shall submit one (1) original *plus one* (1) electronic copy of their Proposal to the City Comptroller as indicated in the aforementioned, *Section 2.A*.

3.0 CONTENTS OF PROPOSALS

Proposals must contain and indicate compliance of the following information which shall be outlined in the order read below:

- A. The Ride Company shall provide the City with a Proposal outlining the number and type of carnival rides, amusements and concessions to be provided during the 2021 International Festival.
- B. The Ride Company must secure and maintain all proper policies of insurance coverage, co-insuring the City of Newburgh, NY, in scope and amount satisfactory to City, and must be properly permitted by the Orange County Health Department and otherwise as required by law.
- C. The Ride Company shall provide amusements, concessions and carnival rides at no cost to the City of Newburgh.
- D. The Ride Company shall propose to pay the City of Newburgh a set percentage of their entire proceeds over the total and complete duration of the Festival in said Proposal.
- E. The Ride Company shall provide such amusements, concessions and carnival rides with their own source of power and electricity.
- F. The Ride Company shall provide a set number of advertising posters at no cost to the City which shall be distributed by the City of Newburgh. The Ride Company shall propose the set number of posters in said Proposal.
- G. The Ride Company must supply tickets at no cost to the City of Newburgh.
- H. The Ride Company shall be fully responsible to provide all personnel.
- I. The Ride Company shall be responsible for maintenance and cleanliness of the immediate concession and amusement ride areas at all times.
- J. The successful Ride Company **must** provide a written accounting of the daily proceeds earned to the designated City of Newburgh representative (*To Be Determined*) at the conclusion of festival operations **each and every evening**.
- K. The successful Ride Company shall pay the City of Newburgh *at the end of each festival evening* the amount due to the City based on the accounting of proceeds earned and on the percentage proposed and awarded there from.
- L. Completed forms signed in **blue ink** by an officer of the Ride Company as provided in this RFP on pages 6 and 7 - *Proposer Information Form* and *Non-Collusion Bidding Affidavit*. These two (2) original documents **must be included** in the original Proposal when submitted. Proposals shall be appropriately marked *original* and *copy* prior to submission.
- M. Failure to comply with any of the stipulations specified in this RFP shall remove the Ride Company from consideration of any or all future City of Newburgh events.

4.0 TIME OF PERFORMANCE

- A. Festival Setup and Tear-Down Period. The successful Ride Company must begin setup at the Newburgh Recreation designated field, no earlier than Wednesday, September 1, 2021 at 12:00 P.M. The successful Ride Company must have all equipment removed from said location no later than 12:00 P.M. on Wednesday, September 8, 2021.
- B. Hours of Festival Operations. The successful Ride Company must have all personnel, rides and concessions ready to operate on the first day no later than 5:00 P.M. (Eastern Time) on Friday, September 3, 2021 and shall cease operations promptly at 11:00 P.M. that night.

Ride Company is responsible for all personnel, rides and concessions ready for carnival operations commencing at 12:00 P.M. for each of the remaining days: Saturday, September 4, 2021; Sunday, September 5, 2021; and, Monday, September 6, 2021.

Ride Company shall cease operations promptly at 11:00 P.M. on Friday, September 3, 2021; Saturday, September 4, 2021; and, Sunday, September 5, 2021.

Ride Company shall cease operations at end of Festival on Monday, September 6, 2021 promptly at 10:00 P.M., unless otherwise directed by a City of Newburgh official or designated representative.

5.0 QUESTIONS

Questions regarding this Request for Proposal (RFP) must be submitted in writing electronically to the attention of City Comptroller Janice Gaston no later than 4:00 P.M., (Eastern Time), Thursday August 19, 2021 to: jgaston@cityofnewburgh-ny.gov

6.0 WITHDRAWAL OF PROPOSAL

Proposals shall not be withdrawn for a period of forty-five (45) days subsequent to the submission deadline without the consent of the City of Newburgh Comptroller.

7.0 RIGHT TO REJECT/AWARD PROPOSAL

The City of Newburgh reserves the right to reject any and all Proposals. Contract award may be subject to approval by the Council of the City of Newburgh.

“AN EQUAL OPPORTUNITY/AFFIRMATIVE ACTION EMPLOYER”

PROPOSER INFORMATION FORM

REQUEST FOR PROPOSALS

RFP #14.21

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
FOR THE
32ND ANNUAL INTERNATIONAL FESTIVAL
CITY OF NEWBURGH, NEW YORK

I (We) hereby propose services for the operations of carnival rides, concessions and amusements for the City of Newburgh, New York as requested by the City in accordance with the RFP solicitation. By signing and submitting this Proposer Information Form for consideration by the City of Newburgh, I (We) acknowledge that I (We) have read, understand and agree to all aspects of the requirements of this RFP as presented without reservation or alteration.

COMPANY NAME _____

ADDRESS _____

PHONE NO. _____ FAX NO. _____

EMERGENCY TEL: _____ CONTACT: _____

EMAIL ADDRESS _____

TAX I.D. NUMBER _____

SUBMITTED BY _____
Signature in **BLUE Ink**

NAME/TITLE _____

DATED _____

BIDS RECEIVED WITHOUT NON-COLLUSION BIDDING AFFIDAVIT WILL NOT BE ACCEPTED

NON-COLLUSION BIDDING AFFIDAVIT

City of Newburgh, New York
STATE OF)
COUNTY OF) SS
)

I, _____ of the (City, Town, Village) of _____
in the County of _____ in the State of _____,
of full age, being duly sworn according to law on my oath dispose and say that:

I am _____, an officer of the firm of _____
the vendor making the Proposal for the above named work, and that I executed the said Proposal with
full authority to do so; that said bidder has not, directly or indirectly, entered into any agreement,
participated in any collusion, or otherwise in connection with the above named work; and that all
statements contained in said Proposal and in this affidavit are true and correct, and made with the full
knowledge that the City of Newburgh as Owner relies upon the truth of the statements contained in said
Proposal and in the statements contained in this affidavit in awarding the Contract for said work.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such
Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent
fee, except bona fide employees or bona fide established commercial or selling agencies maintained by
_____. (Name of Agency)

Subscribed and sworn to by: _____
(Signature – in **Blue** Ink)

(Print or type name and title of individual that signed above)

Before me this _____ day
of _____, 20____

(Notary Public Signature)

Notary Public of _____

My commission expires _____ 20____

Affix Notary Stamp/Seal

THIS AFFIDAVIT MUST BE COMPLETED BY ALL BIDDERS

BIDS RECEIVED WITHOUT NON-COLLUSION BIDDING AFFIDAVIT WILL NOT BE ACCEPTED

NON-COLLUSION BIDDING AFFIDAVIT

City of Newburgh, New York

STATE OF

)

)SS

COUNTY OF

)

I, Heather Patrick of the (City, Town, Village) of Milton
in the County of Ulster in the State of New York,
of full age, being duly sworn according to law on my oath dispose and say that:

I am Heather Patrick, an officer of the firm of Shamrock Shows inc.
the vendor making the Proposal for the above named work, and that I executed the said Proposal with
full authority to do so; that said bidder has not, directly or indirectly, entered into any agreement,
participated in any collusion, or otherwise in connection with the above named work; and that all
statements contained in said Proposal and in this affidavit are true and correct, and made with the full
knowledge that the City of Newburgh as Owner relies upon the truth of the statements contained in said
Proposal and in the statements contained in this affidavit in awarding the Contract for said work.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such
Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent
fee, except bona fide employees or bona fide established commercial or selling agencies maintained by
_____. (Name of Agency)

Subscribed and sworn to by: _____

(Signature – in **Blue Ink**)

Heather Patrick Sec
(Print or type name and title of individual that signed above)

Before me this 23rd day

of August, 2011

(Notary Public Signature)

Notary Public of New York State

My commission expires 07/20 2023

Affix Notary Stamp/Seal

Christine L Einzig
Notary Public, State of New York
Qualified In Washington County
Reg. No. 01EI6328010
My Commission Expires 07/20/2023

PROPOSER INFORMATION FORM

REQUEST FOR PROPOSALS

RFP #14.21

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS
FOR THE
32ND ANNUAL INTERNATIONAL FESTIVAL
CITY OF NEWBURGH, NEW YORK

I (We) hereby propose services for the operations of carnival rides, concessions and amusements for the City of Newburgh, New York as requested by the City in accordance with the RFP solicitation. By signing and submitting this Proposer Information Form for consideration by the City of Newburgh, I (We) acknowledge that I (We) have read, understand and agree to all aspects of the requirements of this RFP as presented without reservation or alteration.

COMPANY NAME Shamcock shows inc.

ADDRESS 338 willow tree rd milton NY 12547

PHONE NO. 352-949-9644 FAX NO. _____

EMERGENCY TEL: _____ CONTACT: Heather O'Keeffe

EMAIL ADDRESS Shamcock shows @ gmail. com

TAX I.D. NUMBER 86-3621141

SUBMITTED BY 
Signature in **BLUE** Ink

NAME/TITLE Heather Patrick Secretary

DATED 08/19/2021

Shamrock Shows and Amusements will bring 12-14 rides and 2-4 games and 3 concession trailers during the 2021 international festival.

Shamrock Shows and Amusements will provide proper insurance coverage,co listing city of Newburgh NY in scope and amount satisfactory to City, and will have proper permits for Orange County health dept

.Shamrock will provide amusements concessions and carnival rides at no cost to the city of Newburgh

Shamrock shows and amusements will pay the city of Newburgh 35% of the entire ticket proceeds over the total duration of festival

Shamrock shows and amusements shall provide electricity for all amusements concessions and carnival rides

Shamrock shows and amusements will provide 100 advertising posters at no cost to the city and will be distributed by the city

Shamrock shows will provide tickets at no cost to the city

Shamrock shows will be full responsible to provide personnel

Shamrock shows will clean and provide maintenance to all immediate concessions and amusement rides at all times

Shamrock shows will provide a written account of the daily proceeds earned to the designated city of Newburgh representative at the conclusion of each and ever night

Shamrock shows will pay the city at the end of each evening the amount due to the city of Newburgh

Shamrock shows will set up no earlier than Tuesday august 31St at 12:00 pm shamrock will have all rides removed from location no later than 12:00 pm on Wednesday sept 8th

shamrock will have all personnel rides and concessions ready to operate first day no later than 5:30 pm on Friday sept 3rd and shall cease operations promptly at 11:00 pm that night
shamrock will be fully operational at 12:00 pm for the remaining days and will cease operations each night at 11:00 pm and on Monday night cease operations at 10:00 pm unless otherwise directed by a city representative

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2021, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the “**CITY**,” with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **SHAMROCK SHOWS, INC.**, a firm with principal offices at 338 Willow Tree Road, Milton, New York 12547, hereinafter referred to as “**VENDOR**.”

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the “SERVICES”) which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter “Department Head”).

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning September , 2021, and ending September , 2021.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule A, and prepared in such

form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$0.00 ZERO Dollars has been established for the scope of SERVICES and/or the supply of goods rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization of the City Manager of the CITY, evidenced only by a written Change Order or Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation,

partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

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

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or

indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted does not constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance

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

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

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

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

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

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

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

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

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

ARTICLE 14. INDEMNIFICATION

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

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

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

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

ARTICLE 16. TERMINATION

The CITY may, by written notice to VENDOR effective upon mailing, terminate this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon

such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

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

ARTICLE 17. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of VENDOR arising out of the performance of this Agreement.

ARTICLE 18. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from

the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

For a breach or violation of such representations or warranties, the CITY shall

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

ARTICLE 22. ENTIRE AGREEMENT

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

ARTICLE 23. MODIFICATION

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

ARTICLE 24: CLOSE OUT & CLEAN UP

The parties agree that Shamrock (VENDOR) shall make its best effort to remove all property and equipment from the site no later than the end of the day, September , 2021. However, in the event of unforeseen delays or other circumstances beyond the control of the parties, Shamrock shall have until 12:00 pm on September , 2021 to remove all such property and equipment from the site.

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

THE CITY OF NEWBURGH

SHAMROCK SHOWS, INC.

BY: _____
Todd Venning
City Manager
Pursuant to Resolution No.:

BY: _____
Colin O'Keefe, CEO

DATE: _____

DATE: _____

APPROVED AS TO FORM

MICHELLE KELSON
Corporation Counsel

DATE: _____

JANICE GASTON
City Comptroller

DATE: _____

SCHEDULE A

SCOPE OF SERVICES

RESOLUTION NO.: 208 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANATER TO ACCEPT A PROPOSAL
AND EXECUTE A CONTRACT IN THE AMOUNT OF \$9,925.00
WITH FIREWORKS EXTRAVAGANZA
TO PROVIDE FOR A FIREWORKS DISPLAY AT
THE CITY OF NEWBURGH ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh has received a proposal from Fireworks Extravaganza to provide a fireworks display on September 6, 2021 with a rain date of September 7, 2021 for the 2021 International Festival at a cost of \$9,925.00; and

WHEREAS, the City Council has determined that accepting the Fireworks Extravaganza proposal is 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 is hereby authorized to accept the proposal and execute a contract in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, with Fireworks Extravaganza for a fireworks display at the 32nd Annual International Festival at a cost of \$9,925.00.

Fireworks Extravaganza

Federal ATF Licensed Fireworks Importer License #8-NJ-00310
US DOT Hazardous Materials Carrier DOT#2064141
MD Explosive Dealer License #W-016
NY State Dealer/Manufacturer License #D-5741
NJ Permit to Use Explosives License #003309
NYC Fireworks Contractor — Certificate of Fitness #82096355

Worldwide Experience in Pyrotechnics - Since 1995

1-800-765-BANG (2264) • 206-202-1544 FAX
174 ROUTE 17 NORTH, ROCHELLE PARK NJ 07662



Hanover Germany 2009 International
Competition first place.

www.fwextravaganza.com

August 5, 2021

City of Newburgh
Joselyn Taylor
83 Broadway
Newburgh, NY 12550

Dear Ms. Taylor,

Per your request, **Fireworks Extravaganza** is pleased to submit the following bid for your consideration for your "09.06.2021 City of Newburgh Fireworks Display"

Date of the Fireworks Display:
Rain Date:

09.06.2021
09.07.2021

Venue Address:

Consolidated Iron Site
Washington Street
Newburgh, NY 12550

FE Proposal Price:

\$9,925.00

Approximate Show Length

25 Minutes

Your designed “***Fireworks Extravaganza’s***” will include the following:

- Five million dollar (\$5,000,000.00) per occurrence, insurance coverage, which offers you the most secure and extensive coverage available in the industry.
- Five million dollar (\$5,000,000.00) Hazmat liability coverage, required by the US Department of Transportation.
- Show will be crafted with products selected by John Sagaria, president of FE.
- All transportation and delivery costs.
- All DOT Permits needed for delivery
- Workers’ Compensation Insurance & Automobile Insurance
- Licensed & Trained Pyrotechnic Display Crew with a vast knowledge base and experience in the Pyrotechnics Industry.
- All application submission, tracking, receiving and notifications required by the Authority having Jurisdiction(s).
- Pre & Post display site inspections.
- Generation of Site Plan & Distance Table.
- Permit Processing and Procurement (Sponsor pays any actual fees)
- The widest available range of top-quality designer aerial shells and effects from around the world including extra-fancy pattern shells, Smiley Faces, Titanium Salutes, Mixed Color Peony, Nishiki Kamuro, Brocade Crowns, Mixed Color Crossettes, Mixed Color Chrysanthemum, Gold Coconut, Purple Coconut, Whistles, Flowers & Much More!
- A skillfully designed production that will vary in intensity and effects to deliver the maximum crowd appeal. The display will last 30 minutes. Many effects used are exclusively designed & manufactured for Fireworks Extravaganza.

SHOW CONTENT DESCRIPTION

PRINCIPIA, OR OPENING BARRAGE

The Principia will then begin with our exclusive gleaming red, gold, silver and whistle effects shooting upward and fanned across the sky accompanied by loud aerial salutes and a canopy of Gold Komoro Shells. The wall of whistles is something that will gain attention and signify the display has begun. This opening presentation will be approximately one minute.

Multi-colored Shells	1,000
Salutes	300
Aerial Star Shell Barrage:	
2 ½" and 3" shells	275
4" Shells	24
5" Shells	25
Total Principia Shells	1,624

MAIN BODY

The Main Body consists of 2 ½" to 6" each individually placed. It will last approximately 26 minutes. The Main Body will be comprised of a vast assortment of aerial effects. Some of the effects are as follows:

- Purple Peony, Green Cracking Peony, Blue Chrysanthemum, Red to Blue Crossette, Smiley faces, Blue Dahilia, Coconuts, Willows, Purple Wave, Red Ring, Red Strobe, White Strobe Waterfall, Red to white Strobes, Titanium Salutes, Red Falling Leaves, Pink Peony, Lemon Peony, Variegated Peony, Yung Feng Silver Variegated Flowers with Strobe, China National Artillery Shell, Crackling Tail Red/White/Blue and Yellow Assorted mixed Peony, Whistles, Brocade Crowns and Super Cracker with Salutes.

3" shells	288
4" Shells	144
5" Shells	84
6" Shells	36
Total Main Production Shells	552

THE GRAND FINALE

The final Grand Finale, is the final segment of this display and will last approximately three minutes. Designed to fully encapsulate the energy from the Principia & Body of the display, the grand finale will consist of a wide variety of designer fireworks display shells from Yung Feng and other leading manufacturers in the industry. The end of the display will seem to end with barrage of salute shells; moments later a curtain of Brocade Crowns trickling down from the sky will bring a final roar from the crowd! Some of these effects are as listed below:

- Yung Feng -Glittering Silver to Red Strobing Chrysanthemum with Strobing Red Tail, Yung Feng- Crackling Nishiki Kamuro, Yung Feng – Kamuro Chrysanthemum to Red Strobing with White Strobing Tail, Assorted Mixed Color Peony, Brocade Crown, Super Crackle-Salute with Magic Ball, Smiley faces, Titanium Salutes with Whistle and Color Tail and Fanned Shape Whistles and more!

False Finale Shells	2000
Grand Finale:	
2 ½" and 3" shells	350
4" Shells	24
5" Shells	25
6" Shells	20
Total Grand Finale	2,419
Total Program	4,595

There will be a "False Finale" followed by a pause of 20 seconds that will surprise and delight when the real finale starts. Doing the Finale in this way conveys emotion & excitement, creating a sense of False finale followed by a final barrage of shells will surely bring an amazing close to the displays. Comparing to a "random finale" of just various shells. This will be an ending not to be forgotten.

FireOne Electronic Firing



FE has been using, loving, learning and displaying pyrotechnics with the FireOne system for over 25 years. From the very beginning of the development of the system, we have learned from the many “issues” and problems we have encountered. We learn every day how to utilize the system to make things safer, more spectacular and to make the display we do in your “backyard” have the same technology as displays used across the globe. We expand our system yearly and have all of the equipment needed to make sure the only limitation in your display is your imagination.



John Sagaria, setting up multiple FireOne systems for a world record display in Dubai Arab Emirates in December 2013.

We have experience all over the globe in computerized displays. We gather all this experience and bring it home to your display.

If you choose to have a computerized display you will have a script showing the firing of each device down to 1/100th of a second. We can simulcast to music and we can ensure subscription displays are the same for each and every display in the subscription (ie Ball Parks). We have trained crews all over the world for various display companies and our knowledge in the system is world recognized.

DOING WHAT WE DO BEST @ HOME & AROUND THE GLOBE

Formed in April 1988 *Fireworks Extravaganza* is one of the fastest growing fireworks companies in the country. President and Owner, John Sagaria, has performed hundreds of displays around the world and has been an ATF license holder for over 25 years.



Above: Fireworks Display on Hudson River – NYC- 9-11 Memorial

Each year, Fireworks Extravaganza performs over 300 shows to include public displays, corporate and private displays and weddings. FE supplies custom fireworks displays to many communities across the Mid-Atlantic region to include New York, New Jersey, Maryland, Virginia, Delaware and Pennsylvania. We have offices and support staff in Rochelle Park New Jersey, Walden New York, and Baltimore Maryland, along with qualified and professionally trained shooters across the east coast.

FE provides shooters who are fully trained in both hand fire and electronically fired displays. Many of our Lead Shooters have over 20 years' experience with excellent safety records. FE uses the FireOne system, one of the industry's best firing systems for all our electronic displays.

Additionally, FE has product magazines conveniently located in New York, New Jersey, Pennsylvania and Maryland to support a more effective product transport to each display for both our clients and shooter crew members.

2017 Competition 1st Place Champion in Liuyang China

Most Notable, Fireworks Extravaganza has won various awards all over the world for the displays we have choreographed and executed.

In November of 2017, Fireworks Extravaganza won first place in the [2017 Liuyang International Fireworks Competition Champions](#); in Liuyang China, the birthplace of fireworks.



John Sagaria and his team captains were presented with the Litian Statue, a replica of the father of fireworks.

Please take a moment to review the link to see the caliber of work we hold ourselves to as an organization. We take all that we learn from our competitions to make the display at home the best they can be.

2009 Competition 1st Place Champion in Hanover Germany

In 2009 FE took first place in the [Hannover Germany World Fireworks Competition](#). A four month competition, the competing countries were France, Poland, Turkey, Malta, and China.

"Controlling the Burn" to win the 2009 Hannover International Fireworks Competition.

Written by John Sagaria • Photographs provided by Vulcan Fireworks, John Sagaria and Christoph Maier

The International Firework Competition in Hannover is annually held against the fabulous backdrop of the city's Herrenhausen Gardens. Year after year in the magnificent Baroque gardens, five different competing teams regularly set new standards in the art of pyrotechnics. This attractive event is organized by Hannover Marketing and Tourismus GmbH (HMTG).

The rules of the competition are clearly laid down: the 25-minute display consists of an obligatory presequence and a free section. The pyrotechnician is required to take the nature of the surroundings – the Baroque Gardens – into account, and the number of ground effects that are to be used is also fixed; but otherwise, free limits are set to their creativity, their choice of music or type of their pictorial representation. Afterwards, points are awarded for the practical workmanship and freedom from error of the realization, as well as for the interpretation of the music and the quality and diversity of the effects.

The Herrenhausen Gardens are Hannover's most important tourist attraction and was created by Sophia, Princess Palatine of the Rhine and Electress of Hanover. Inspired by the Sun King Louis XIV, she had the 150-acre garden laid out in the French manner at the end of the 17th century, making her life work.

This summer, once again, I had the opportunity to work with the wonderful people at Shogun/Vulcan. Some of you might remember that in 2007 I helped them produce an interesting story demo for that year's NEA Expo. This year, I was asked to choreograph their display for the 10th Annual Hannover International Fireworks Competition held in Germany. I couldn't have been happier.

The competition itself ran from May through September. The competing countries this year were France, Poland, Turkey, Malta and China. Vulcan/Shogun took first place in the competition and represented China. France and Poland came in 2nd and 3rd place respectively. It is a unique competition, similar in style to the international competition in Montreal—but on a much smaller scale.

What gives this competition its most important distinction is that it is held in one of the most beautiful gardens in Europe—the Royal Herrenhausen Gardens. This elaborate garden landscape is replete with beautiful fountains, fountains, standing water, formal bridges and at least 50 magnificently carved fifteen-foot tall statues. Since I'm also an avid gardener, it combined both of my loves into one—gardening and pyrotechnics. Lazing the garden with pyro, and teaching the crew about flora couldn't have been more fun.

Traveling the world as I have, and choreographing a wide variety of fireworks shows in different countries was excellent preparation for the opportunity offered to me by Vulcan Fireworks. The Vulcan company

management—Cindy Chung, Joe Wan and Erik Vermeulen—certainly set the stage for success as well. First, they sent John Werner and I to Hannover in May to watch the French performance and to see the site itself. I was also given total creative freedom for the project. To top it off, whenever product I needed, the Vulcan factory was quick to create.

Since Vulcan had so much faith in me, however, I honestly did feel pressure to do something somewhat spectacular, or at the very least special enough to place them in the final top three positions. Ironically, winning the competition was never discussed.

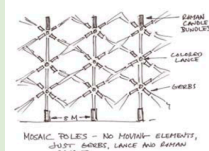
This competition had specific rules that directly affected the design of the show. The length of the show had to be between 20-25 minutes; you were limited to the number of mortars (3'250/4'300/5'200/6'200/8'15) you could use; you were not allowed to use any salutes; you could only set up the day before; and you were only given access to half the area the first day. In addition, you were mandated to use seven different ground effects—the goal being to illuminate the entire garden.

Only one song was mandatory: the "William Tell Overture," by Gioacchino Rossini. The rest of the music was our choice. I wanted music that would allow the fireworks to tell the story—music people could relate to. Joe and John from Vulcan suggested the Twelve Girls Band, a marvelous group of female Chinese musicians chosen from various musical conservatories throughout China. I used their "Spirit Dance" to open after the "William Tell Overture" because it immediately added an oriental feel to the show. After that, I predominantly chose instrumentals that could easily be emphasized by fireworks.

Here is the final soundtrack: "William Tell Overture" (Mandatorily), "Spirit Dance," Twelve Girls Band, "Beethoven" (Trans Siberian Orchestra), "Golden Ticket" from Willy Wonka and the Chocolate Factory, "Circle of Life," Disney's Lion King, The Suite from the film Polar Express, and "Wizards in Winter" (Trans Siberian Orchestra). Generally, the hardest part of putting together a show can be the restriction of working with just one company. Rarely does one company make everything great. Vulcan, however, is an exception. They have a great shell factory and they also make extraordinary ground pieces.

I knew from the start of this project that the garden itself would be a critically important element of our display. Accenting the garden with music and color, though, in some standard way would not be enough. The answer to this conundrum was John Werner, John works for Vulcan/Shogun and designed and created some truly amazing ground pieces for the show: a

NFA—9



John Werner's xx Drawing

10—NFA

"Green Glittering Horizontal Wheel w/Candle," a "Peacock Tail Wheel" (my favorite!), a "Chromotrope Wheel" and a "Mosaic Wall." I honestly believe that John's "Mosaic Wall" (laid during the Polar Express Suite) may have clinched the victory for Vulcan that night.

While John designed the wheels, I worked on my other two loves: Gerbs and Strobes. Personally, taking small, inexpensive items and putting them together to form a massive effect is one of my favorite challenges. I wanted to use a lot of these in our show, but they are labor intensive and setting up 75 Gerbs would take too much time. To counter that limitation, I came up with a "Gerb Rack" idea. A rack of Gerbs allowed us to have separate devices without the time consuming setup. This idea grew almost exponentially until our rack was so big it was in two pieces and held 9 devices. There were regular Gerbs, Bengal Flames, Lyceopodium Mines and Short Mines. We also had a beautiful set of Gerbs Cindy Chung found which went up and down in a random pattern (used in the "Circle of Life"). Since there were over 60 of them, rack setup and wiring was still time consuming.

Strobes can either be great or annoying. The key is to just concentrate on the light itself. John came up with a great strobe projector, and I put them on almost every rail of the show. The whistling strobes thus accentuated the "Snow" as it fell from the sky during the "Wizards in Winter" sequence.

Saving the racks was another challenge. I wanted to use all of the 3' racks for the finale, but I had none left for the fronts. The solution was to make custom 3' caks for all the fronts that had all the mines. This saved a great deal of set up time, and would have been impossible without factory help from Vulcan.

We also used a lot of single shot candles in racks, which worked great. Normally, because of timing issues, I never use large cone multi-shot candles because they are almost impossible to control. In Europe they love these for some reason, so I decided to put in two sets just so the Jury would see them when touring the field.

Another favorite technique of mine is to use cake rows. In the Wizards sequence, I managed a great crackle ending. Since we could not use salutes, the crackle was perfect and I shot all the rows and all the cakes at the same time. The rest of the cake rows were used during the rest of the show. To save more setup time, Vulcan offered these in what they called "Ser Meale" (a saying which comes from buying your lunch in Hong Kong).

"Ser Meale" are cakes designed specifically for a certain location. There may be 6 rows of different effects, or cakes with any combination of effects—all with match connections on each row. Therefore, there is no actual assembly on site. You just open the box and connect the cues.



As for shells, I was able to easily pick out everything I needed. Vulcan had a fabulous assortment of effects to choose from. I particularly liked the pattern shells we used in the "Imagination" segment of "Golden Ticket." Although shells are important, I do not think they are the most important aspect of a show. The truth is it is just as easy to have a great show with OK material, as it is to have a bad show with great material. It all depends on presentation. I've always felt that China's reputation for poor quality shells was wholly unwarranted and undeserved. Perhaps winning this competition with nothing but Chinese product will underscore that point quite effectively.

One problem we did have during the show was with cross ignition in the fronts. It happened multiple times. The first cue actually lit one of the mosaic pots! (Momentarily, my heart sank). You can see it happen 3-4 times during the show when you watch the video. Essentially, this was because the front area was very narrow. It will have to be better controlled in the future.

In addition to the people I have already mentioned, I also want to mention others who made this win possible: the Vulcan crew from China and Europe, and I want to specifically thank Elwin van den Berg for his help. There were also several great guys who came with me from the U.S.: Pete Hengen, John Dory and Arthur Buhler.

The more I watch the video of the show, the more I see things I would have changed or done differently. From mistakes I plan to fix, to new ideas I plan to create—maybe, just maybe the next show will be perfect. It probably won't, but as long as it is better than the previous show, I'll be happy. I know for as long as I am able, I will keep trying for that perfect show even if it seems only to exist in my mind.

Thanks to everyone who came to my seminar "Controlling the Burn" this year at the NEA Expo. I am glad so many people were able to come and see some of the things I have learned during the past 10 years trying to control pyrotechnics with computers.

You can see a Video of the Show here: <http://tmon.com/6372439>
Some Photos of the Site are available here: <http://gallery.mcom.com/jagaria/100111>



Above: SOCA Monarch Festival Display at the Hasley Crawford Stadium, Trinidad

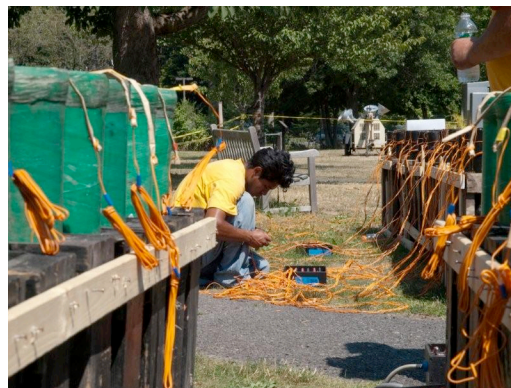
Home State - New Jersey

Best of Bergen 11 years Running

Fireworks Extravaganza has been recognized by 201 Magazine as the Best “4th of July” fireworks display in Bergen County, New Jersey for 11 years running.



Above: 201 Magazine naming Fireworks Extravaganza – Best Display in New Jersey for 11 years running.



These accomplishments demonstrate the caliber of work we hold ourselves to and the commitment we have in providing the highest quality of product and service. It makes us proud to work in this industry, to promote independence and support what freedom stands for in the great United States of America.

National Fireworks Association



Fireworks Extravaganza is also a proud member of the National Fireworks Association (NFA) since 2010. The NFA is an organization with a membership of companies and individuals that promote safety and insures proper regulatory measures within the fireworks industry. FE President John Sagaria is the NFA website administrator.

In 2017, he choreographed and performed the ["For the Love of it All"](#) public fireworks display held on the final day of the NFA's largest event, the 2017 NFA Expo, where thousands of NFA members and the public attended.



Our Promise To You Today & Always

We work 365 days a year to make the day of your event spectacular and consider our safety record second to none and are extremely proud of our work.

We are small enough to be able to offer close custom services and large enough to have the resources to safely produce the display. Please make sure to look at our website for references and a list of our clients.

Thousands of effects will be used in your display. We have designated the actual effects on the enclosed manifest of materials. If needed we can explain how FE's list of materials will differ greatly from any other proposal you may receive.

The piece of paper you are holding in your hand is really worthless. Anyone can make promises on paper. We have yet to earn your trust, but we hope you will call some of the sponsors that we have worked hard to earned their trust.

Some of the shows we perform are below and you can call any one of them:

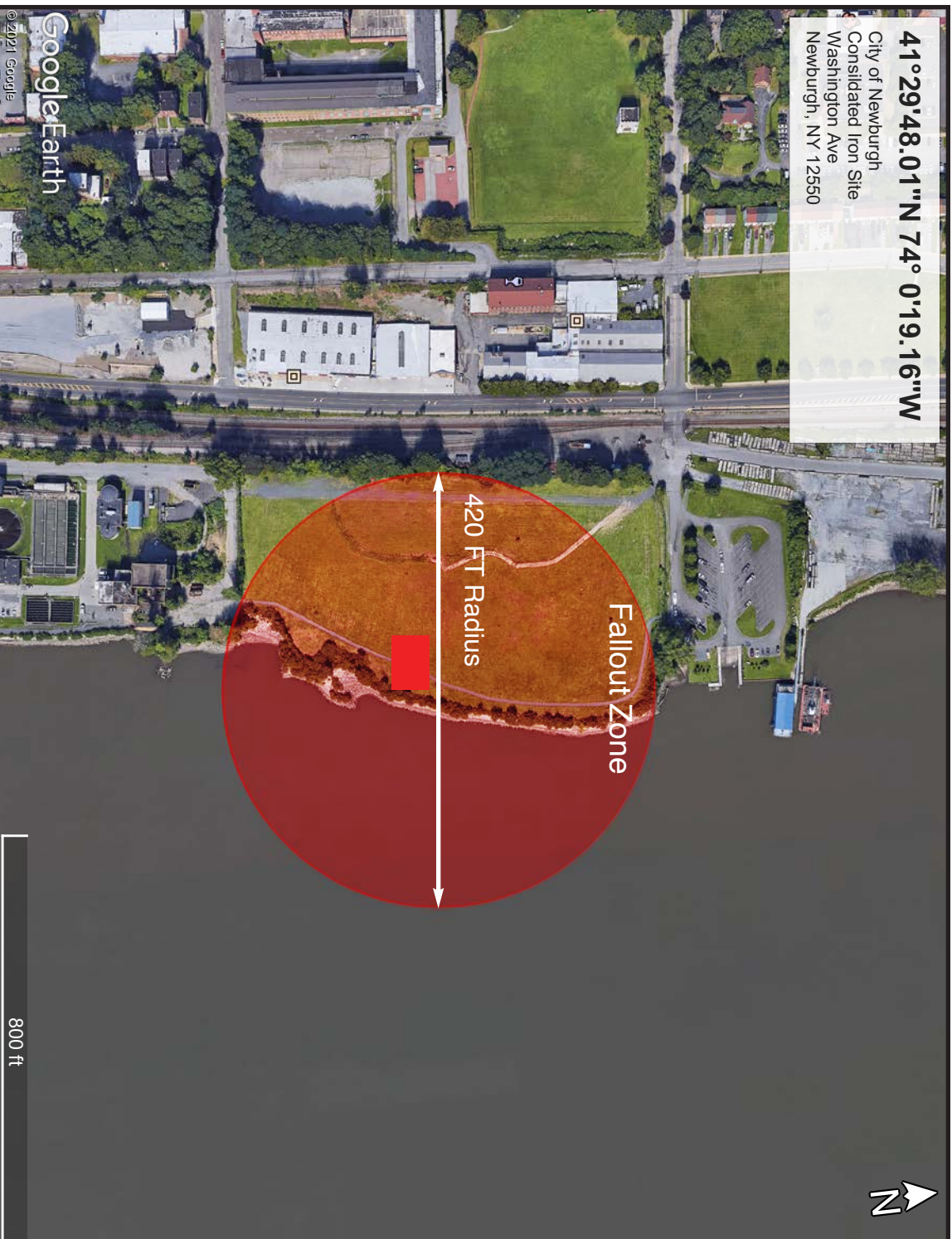
Rockland Boulders, NY; Town of Haverstraw, NY; Staten Island Borough President, NY; Village of Ridgewood, NJ; Hillsborough Township, NJ; City of Peekskill, NY; Rocking Horse Ranch, NY; Town of Newburgh, NY; Town of Southeast, NY; Village of Greenwood Lake, NY; Lake Mohawk Country Club, NY; Town of Clarkstown, NY; Town of Wallkill, NY; Town of Kent, NY; Village of Sleepy Hollow, NY; Town of Plattekill, NY; Town of Chester, NY; Town of Fallsburg, NY; Village of Catskill, NY; Town of Middletown, NY; Village of Spring Valley, NY; Borough of Park Ridge, NY; Ringwood Recreation, NJ; Brick Township, NJ; Indo American Festivals, NY & NJ; Bear Mountain State Park, NY; Town of Belair, MD; University of Maryland College Park, MD; Defenders Day Celebration, MD; City of Hagerstown, MD; Town of Elkton, MD; Fullerton Fireworks, MD; Salisbury Traditions, Inc, MD; Town of Cecilton, MD; City of Gaithersburg, MD; Aberdeen Ironbirds – Ripken Stadium, MD; Ocean Downs Racetrack, MD; Town of Boonsboro, MD; River Valley Ranch; MD; City of Chesapeake City, MD; City of Brunswick, MD; Snow Hill, MD; Calvert County Parks & Recreation, MD; City of Lebanon, PA; Upper Darby Township, PA; Mason Dixon Fair, PA; Crozet Community Association, VA; Farmington Country Club, VA; Fairfax County Park, VA; Town of Middletown, DE & Town of Smyrna, DE.

We look forward to performing your “***Fireworks Extravaganza***” and we are honored for the chance to work with you. If you have any questions regarding our proposal please feel free to call me directly at 800-765-2264, extension 713.

Kindest Regards,

John Sagaria
President
Fireworks Extravaganza
jsagaria@fwextravaganza.com

Fireworks Extravaganza



City of Newburgh
SITE PLAN

Location

Consolidated Iron Site
Washington Ave
Newburgh, NY
12550

FireMarshall - AHJ

City of Newburgh
Fire Dept.
(845) 562-1212

Approved Devices

6" Shells, Candles,
Cakes
Angles (Fanned)

Site Notes

Created Date

05/25/2021

Fireworks Extravaganza, 121 Gertrude Avenue, Paramus NJ 07652
www.fwextravaganza.com • 800-765-BANG (2264)

In accordance with the provisions of Title XI, Organized Crime Control Act of 1970, and the regulations issued thereunder (27 CFR Part 555), you may engage in the activity specified in this license or permit within the limitations of Chapter 40, Title 18, United States Code and the regulations issued thereunder, until the expiration date shown. **THIS LICENSE IS NOT TRANSFERABLE UNDER 27 CFR 555.53.** See "WARNINGS" and "NOTICES" on reverse.

Direct ATF
Correspondence To
ATF - Chief, FELC
244 Needy Road
Martinsburg, WV 25405-9431

License/Permit
Number

8-NJ-003-51-3F-00310

Chief, Federal Explosives Licensing Center (FELC)

Expiration
Date

June 1, 2023

Name
FIREWORKS EXTRAVAGANZA

Premises Address (Changes? Notify the FELC at least 10 days before the move.)

121 GERTRUDE AVE
PARAMUS, NJ 07652-

Type of License or Permit

51-IMPORTER OF EXPLOSIVES

Purchasing Certification Statement

The licensee or permittee named above shall use a copy of this license or permit to assist a transferor of explosives to verify the identity and the licensed status of the licensee or permittee as provided by 27 CFR Part 555. The signature on each copy must be an original signature. A faxed, scanned or e-mailed copy of the license or permit with a signature intended to be an original signature is acceptable. The signature must be that of the Federal Explosives Licensee (FEL) or a responsible person of the FEL. I certify that this is a true copy of a license or permit issued to the licensee or permittee named above to engage in the business or operations specified above under "Type of License or Permit."

Mailing Address (Changes? Notify the FELC of any changes.)

J & J COMPUTING, INC
FIREWORKS EXTRAVAGANZA
121 GERTRUDE AVE
PARAMUS, NJ 07652-

Licensee/Permittee Responsible Person Signature

Position/Title

Printed Name

Date

Previous Edition is Obsolete J & J COMPUTING, INC:121 GERTRUDE AVE:07652-8-NJ-003-51-3F-00310:June 1, 2023:51-IMPORTER OF EXPLOSIVES

ATF Form 5400.14/5400.15 Part I
Revised September 2011

Federal Explosives License (FEL) Customer Service Information

Federal Explosives Licensing Center (FELC)
244 Needy Road
Martinsburg, WV 25405-9431

Toll-free Telephone Number: (877) 283-3352
Fax Number: (304) 616-4401
E-mail: FELC@atf.gov

ATF Homepage: www.atf.gov

Change of Address (27 CFR 555.54(a)(1)). Licensees or permittees may during the term of their current license or permit remove their business or operations to a new location at which they intend regularly to carry on such business or operations. The licensee or permittee is required to give notification of the new location of the business or operations not less than 10 days prior to such removal with the Chief, Federal Explosives Licensing Center. The license or permit will be valid for the remainder of the term of the original license or permit. **(The Chief, FELC, shall, if the licensee or permittee is not qualified, refer the request for amended license or permit to the Director of Industry Operations for denial in accordance with § 555.54.)**

Right of Succession (27 CFR 555.59). (a) Certain persons other than the licensee or permittee may secure the right to carry on the same explosive materials business or operations at the same address shown on, and for the remainder of the term of, a current license or permit. Such persons are: (1) The surviving spouse or child, or executor, administrator, or other legal representative of a deceased licensee or permittee; and (2) A receiver or trustee in bankruptcy, or an assignee for benefit of creditors. (b) In order to secure the right provided by this section, the person or persons continuing the business or operations shall furnish the license or permit for that business or operations for endorsement of such succession to the Chief, FELC, within 30 days from the date on which the successor begins to carry on the business or operations.

(Continued on reverse side)

Cut Here ✂

Federal Explosives License/Permit (FEL) Information Card

License/Permit Name: J & J COMPUTING, INC

Business Name: FIREWORKS EXTRAVAGANZA

License/Permit Number: 8-NJ-003-51-3F-00310

License/Permit Type: 51-IMPORTER OF EXPLOSIVES

Expiration: June 1, 2023

Please Note: Not Valid for the Sale or Other Disposition of Explosives.



03/16/2021

NOTICE OF CLEARANCE

for individuals transporting, shipping, receiving, or possessing explosive materials.

ISSUED TO: J & J COMPUTING, INC

Federal Explosives license/permit no.: 8-NJ-003-51-3F-00310

NOTICE DATE: 03/16/2021

Expiration Date: **June 1, 2023**

Explosives License/Permit Type: 51-IMPORTER OF EXPLOSIVES

EXPIRATION DATE: This Notice expires when superseded by a newer Notice which will list all current responsible persons and employee possessors, or when the license or permit expires - whichever comes first.

- 1 WARNING.** Only those individuals listed below as **RESPONSIBLE PERSONS** and **EMPLOYEE POSSESSORS** with a background clearance status of "CLEARED" or "PENDING" are authorized to transport, ship, receive, or possess explosive materials in the course of employment with you.
- 2 "DENIED" STATUS.** If an employee possessor has a background clearance status of "DENIED", you **MUST** take immediate steps to remove the employee from a position requiring the transporting, shipping, receiving, or possessing of explosive materials. Also, if the employee has been listed as a person authorized to accept delivery of explosive materials, you **MUST** remove the employee from such list and immediately, and in no event later than the second business day after such change, notify distributors of such change, as stated in 27 CFR 555.33(a).
- 3 CHANGE IN RESPONSIBLE PERSONS.** You **MUST** report any change in responsible persons to the Chief, Federal Explosives Licensing Center, within 30 days of the change and new responsible persons **MUST** include "appropriate identifying information" as defined in 27 CFR 555.11. Fingerprints and photos are **NOT** required, however they will be required upon renewal of the license or permit.
- 4 CHANGE OF EMPLOYEES.** You **MUST** report any change of employee/possessors to the Chief, FELC, within 30 days. Reports relating to newly hired employees must be submitted on ATF Form 5400.28 for **EACH** employee.

Premises Address: 121 GERTRUDE AVE
PARAMUS, NJ 07652

Mailing Address:

J & J COMPUTING, INC
FIREWORKS EXTRAVAGANZA
121 GERTRUDE AVE
PARAMUS, NJ 07652

This 'Notice of Clearance' is provided to you as required by 18 U.S.C. 843(h) and **MUST** be retained as part of your permanent records and be made available for examination or inspection by ATF officers as required by 27 CFR 555.121. If you receive a Notice subsequent to this Notice, this Notice will no longer be valid.

In accordance with 27 CFR 555.33, Background Checks and Clearances, and 27 CFR 555.57, Change of Control, Change in Responsible Persons, and Change of Employees, ATF's Federal Explosives Licensing Center (FELC) has conducted background checks on the individual(s) you identified as a responsible person(s) and an employee/possessor(s) on your application, or reported after the issuance of your license/permit.

The following is a SUMMARY of the results of the background checks conducted on the individuals you reported as responsible persons and employee/possessors. ATF will be notifying ALL individuals listed on this document of their respective status by separate letter mailed to their residence address.

PLEASE BE ADVISED THAT IT IS UNLAWFUL FOR ANY PERSON REFLECTING A STATUS OF "DENIED" TO TRANSPORT, SHIP, RECEIVE, OR POSSESS EXPLOSIVE MATERIALS.

Please carefully review this Notice to ensure that all the information is accurate. If this Notice is incorrect, please return the Notice to the Chief, FELC, with a statement showing the nature of the error(s). The Chief, FELC, shall correct the error, and return a corrected Notice.

Number of RESPONSIBLE PERSON(S) : 2

Number of EMPLOYEE POSSESSOR(S): 0

LAST NAME, First Name, Middle Name

Clearance Status

RESPONSIBLE PERSONS:

2

0001 ROMANO, MICHAEL LOUIS
0002 SAGARIA, JOHN C

Cleared
Cleared

EMPLOYEE POSSESSORS:

0

continued

LAST NAME, First Name, Middle Name

Clearance Status

STATE OF NEW YORK
DEPARTMENT OF LABOR



DIVISION OF
SAFETY AND HEALTH

LICENSE TO DEAL IN OR MANUFACTURE EXPLOSIVES

Expires: 5/31/2022

J&J Computing, Inc.
121 Gertrude Avenue
Paramus, NJ 07652

**THIS LICENSE MUST BE
POSTED IN YOUR PLACE
OF BUSINESS**

John Sagaria

License No D-5741

is hereby licensed to deal in or manufacture explosives in compliance with the requirements of the Labor Law and Industrial Code Rules. Any change in the conditions under which this license is granted may cause it to be revoked.

Eileen M. Franko, Acting Director FOR
THE COMMISSIONER OF LABOR

Every person selling, delivering or giving away any explosives must keep at the principal place of business within the state, a record of each transaction, including:

- 1) the NAME or TYPE and QUANTITY of explosives SOLD, DELIVERED or GIVEN. Note: No license is needed to purchase smokeless powder, or black powder in quantities not exceeding five pounds for use in firing antique firearms or artifacts or replicas thereof. However, dealers MUST post all such transactions on the "Dealer-Manufacturer Report of Explosives Transactions".
- 2) the DATE OF EACH SALE, DELIVERY or GIFT.
- 3) the NAME, LICENSE NUMBER, and BUSINESS ADDRESS of the purchaser, donee, or person to whom the explosives were delivered and the firm, if any, represented by such person.
- 4) the NAME, ADDRESS, and LICENSE NUMBER of the person TAKING THE EXPLOSIVES AWAY from the seller or donor.

SH-862 (5-98)

Fireworks Extravaganza

Federal ATF Licensed Fireworks Importer License #8-NJ-00310

US DOT Hazardous Materials Carrier DOT#2064141

MD Explosive Dealer License #W-016

NY State Dealer/Manufacturer License #D-5741

NJ Permit to Use Explosives License #003309

NYC Fireworks Contractor — Certificate of Fitness #E11917

Worldwide Experience in Pyrotechnics - Since 1995



Hanover Germany 2009 International
Competition first place.

1-800-765-BANG (2264) • 206-202-1544 FAX

121 GERTRUDE AVE • PARAMUS, NJ 07652

www.fwextravaganza.com

THIS IS THE MOST IMPORTANT DOCUMENT WE CAN HAND YOU

What we promise to do in the future is one thing, what we have done in the past is what we are. Please call them! We will work very hard to add your organization to this list. This is just a small sample of the hundreds of displays we produce.

36th Annual QuickChek New Jersey Festival of Ballooning

Date: 7.28.2018

Location: Whitehouse Station, NJ

Howard Freeman, Executive Producer

"We recently had the pleasure of hiring Fireworks Extravaganza to do a show at the 36th annual QuickChek New Jersey Festival of Ballooning, July 27-29, 2018. They came highly recommended from a trusted source in the industry, and they exceeded all expectations. We have worked with many fireworks companies in the past, including many more "famous" than FE, but I have personally never experienced such a breathtaking show in terms of intensity, uniqueness of shells, duration for the money, numerous false finales and then an incredible one! The reactions and comments, that we got from our patrons was incredibly positive and actually overwhelming! One guest of a sponsor actually told me that "he could die happy now, as he has seen the best fireworks show of his life"! Seriously! John Sagaria promised to blow us away, and my staff and I truly believe that he actually under promised and over delivered! I would not hesitate to recommend Fireworks Extravaganza for any event that is looking for an incredible value and a tremendous result! They are true artists/showmen and well worth the price! "

BASEBALL CLUBS

Rockland Boulders Ball Park

2012 to Present

Date: 20 Shows During The Year

Location: Pomona, NY

Shawn Reilly - 845-364-0009 – "Best Shows of any Minor League Team"

Aberdeen IronBirds

2012 to Present

Date: Entire Season

Location: Aberdeen, MD

Jack Graham 443-327-8061 "Fireworks Extravaganza are the best! Our fans always love the show, and specifically show up to watch it!"

NEW YORK - NEW JERSEY

Town of Haverstraw Date: July 3 Location: Bowline Park Howard Phillips – 845-429-2200 - “The display was outstanding. Get’s better every year”	2005 to Present
Village of Ridgewood Date: July 4 Location: Ridgewood, NJ Mike Janke – 201-787-0190 - “NJ’s Magazine Best Fireworks Show – 10 Years in a row”	2006 to Present
Town of Newburgh Date: June 30 Location: Newburgh, NY Robert Petrillo – 845-564-2429 – “Loved it”	2010 to Present
Town of Putnam Valley Date: September 23 Location: Putnam Valley, NY Sam Oliverio 845-526-2121	2010 to Present
City of Peekskill Date: July 4 Location: Peekskill, NY Leonard Varella 914-490-9655	2011 to Present
Rocking Horse Ranch Date: 4 - 5 Shows Resort Location: Highland, NY Scott Butler 845-332-0202	2011 to Present
Kingston Uptown Business Date: December 31 Location: Kingston, NY Meghan Kleinhans 845-331-9434	2011 to Present
Warwick Fire Department Date: June 24 Location: Warwick, NY Tom Cosgrove 845-656-1778	2011 to Present
Village of Greenwood Lake Date: July 8 Location: Greenwood Lake, NY Pat Olsen 845-477-9215	2012 to Present
Town of Walkill Date: July 4 Location: Middletown NY Rudy Chares – 845-361-5087 – “Each year is bigger and better and you never disappoint. I would highly recommend this company”	2012 to Present

Town of Kent Date: July 3 Location: Carmel, NY Maureen Fleming – 845-225-3943	2012 to Present
Village of Sleepy Hollow Date: July 4 Location: Sleepy Hollow, NY Anthony Giaccio – 914-366-5105	2012 to Present
Town of Plattekill Date: July 9 Location: Modena, NY Joe Croce – 845-883-7331 “The Finale was the best we have had”	2012 to Present
Town of Chester Date: July 9 Location: Chester, NY Alex Jamieson – 845-325-6409 “Show was the best”	2012 to Present
Village of Walden Date: September 30 Location: Walden, NY John Revella 845-629-4473	2012 to Present
Town of Middletown Date: July 16 Location: Middletown, NY Rae Yingling – 302-275-0473	2012 to Present
Village of Spring Valley Date: July 14 Location: Spring Valley, NY Sherry Scott 845-352-1110	2012 to Present
Bear Mountain State Park Date: June 24 Location: Bear Mountain, NY Liz O’Loughlin – 845-786-2701	2012 to Present
Town of New Paltz Date: June 30 Location: New Paltz, NY Kathy Preston– 845-255- 0604 “Everyone gave 100%”	2012 to Present
Town of Lloyd Date: July 2 Location: Highland, NY Paul Hansut 845-750-4672 “Show was awesome!”	2012 to Present
Staten Island Borough President Date: 4 Shows During the Year Location: Staten Island NY – Barge Shows Lee Covino – 718-816-2034 “Best Shows SI has had”	2012 to 2013
City of Newburgh Date: July 2 Location: Newburgh, NY Kathryn Mack 845-569-7460	2013 to Present

Town of Clarkstown Date: June 30 Location: Nanuet NY Robert Berdy – 845-639-20148 “Excellent display, loved double finale”	2013 to Present
Ringwood Recreation Date: September 10 Location: Ringwood, NJ Kayla Piehler, -- 973-475-7108	2013 to Present
Indo American Festivals Date: October 16 Location: Long Branch, NY Kamal Daga – 732-322-2811	2013 to Present
Borough of Park Ridge Date: June 11 Location: Park Ridge Liz Falkenstern – 210-573-1800	2013 to 2016
Wyckoff Fire Department Date: September 2 Location: Wyckoff, NJ Stephen Kopshaw 201-694-5202	2015 to Present
Town of Fallsburg Date: July 3 Location: Fallsburg, NY James Goldfarb – 845-434-5877 “The finale was a 10”	2016 to Present
Village of Catskill Date: July 2 Location: Catskill, NY Heather Bagshaw – 518-819-8711	2016 to Present
Town of Southeast Date: July 2 Location: Brewster, NY Patricia Bohman – 845-279-3915	2016 to Present
Lake Mohawk County Club 4 th Date: July 3 Location: Sparta, NJ Barbara Wortman – 973-729-6156	2016 to Present
Town of Southeast Date: July 2 Location: Brewster, NY Patricia Bohman – 845-279-3915	2016 to Present
Township of Brick Date: July Shows Location: Brick, NJ Maryann Jusinski 732-262-1058	2017 to Present
Village of Warwick Date: August 5 Location: Warwick, NY Bill Lindberg 845-652-0633	2017 to Present

Village of Philmont Date: July 8 Location: Philmont, NY Monty Jennings – 518-929-7400	2017 to Present
Lindenwold Township Date: September 23 Location: Lidenwold, NJ Brenda Roach 856-784-5602 “Everyone did an amazing job!!”	2017 to Present
Thomas Cole House Date: June 23 Location: Catskill, NY Lisa Fox Martin – 917-371-0377	2017 to Present
Bergenfield Recreation Department Date: June 10 Location: Bergenfield, NJ Ed Volmer -201-304-2330	2017 to Present
Robbinsville Community Day Date: June 9 Location: Robbinsville, NJ Libny Sanchez -609-259-3600 “Display was very unique. Beautiful pieces we've never had.”	2018 to Present
Liberty Township Community Day Date: June 9 Location: Great Meadows, NJ Amanda Loguidice – 908-310-5876	2018 to Present
Echo Lake Country Club Date: June 30 Location: Westfield, NJ John Gomez 908-232-4163	2018 to Present
Borough of Lodi Date: June 29 Location: Lodi, NJ Paul Wanco, 973-859-7429	2018 to Present
Union Beach Recreation Commission Date: July 3 Location: Union Beach, NJ Allan Evans 732-670-7896	2018 to Present
Township of Pemberton Date: July 14 Location: Pemberton, NJ Joseph Marolli 609-893-5034 “Great Show!”	2018 to Present

MARYLAND

Town of Bel Air Date: July 4 th Location: Rockfield Ball Fields, Bel Air, MD Donald Stewart – 410-322-9342 - “Great Show”	1992 to Present
University of Maryland – College Park Date: July 4 th Location: University of Maryland Campus Lawn, College Park, MD Robert Ryan – 240-487-3570 - “The Show was great”	2000 to Present
North Point Edgemere Fire Company Date: July 31 Location: Baltimore, MD Albert Palcher 443-565-0514	2011 to Present
Herrington Harbour Inc. Date: July 3 Location: North Beach, MD Jed Dickman 410-741-5100	2011 to Present
Forest Hill Recreation Counsel Date: April 22 Location: Forest Hill, MD Deb Norcross 410-459-1433	2011 to Present
Woodholme Country Club Date: July 2 Location: Pikesville, MD Oliver Leoni 410-486-3700	2011 to Present
Baltimore Symphony Orchestra Date: July 3 Location: Cockeysville, MD Janette Matte 410-783-8065	2011 to Present
Charlestown Field of Honor Date: May 26 Location: Cantonsville, MD Daniel Simmons 410-242-3300	2011 to Present
City of Brunswick Date: July 3 Location: Brunswick, MD Carrie Myers 301-834-7500	2011 to Present
Darlington Lions Date: June 24 Location: Darlington, MD Larry Burton – 410-306-0615	2012 to Present

Chesapeake City Date: July 1 Location: Chesapeake Beach, MD Connie O'Dell – 301-938-4061 “Show was great!”	2012 to Present
City of Brunswick Date: July 2 Location: Brunswick, MD Carrie Myers – 301-834-7500	2012 to Present
Snow Hill Area Chamber Date: July 2 Location: Snow Hill, MD Lisa Moyer – 443-880-0183 “Everything!! Great crew and amazing display! THANK YOU!!”	2012 to Present
Town of Elkton Date: July 4 Location: Cecil County, MD Michelle Hensen – 410-398-0970	2012 to Present
City of Gaithersburg Date: July 4 Location: Gaithersburg Denise Kayser – 301-258-6350	2012 to Present
Ocean Downs Racetrack Date: June, July, August Location: Berlin, MD Joe Cavilla – 410-641-0600 “Great!”	2012 to Present
Calvert County & Parks Date: May 17 Location: Chesapeake Beach, MD Nola K. Formy-Duval – 410-535-1600 “Nice!”	2012 to Present
Girdletree Volunteer Fire Department Date: July 2 Location: Girdletree, MD Jeff McMahon 410-632-5666	2013 to Present
River Valley Ranch Date: July 1 Location: Washington County, MD Laura Krebs – 443-712-1010	2013 to Present
Town of Clear Springs Independence Day Jam Date: July 3 Location: Washington County, MD Juanita Grimm 301-842-2252	2013 to Present
Town of Cecilton Date: August 19 Location: Cecilton, MD Mike Cooper – 443-350-4265	2015 to Present
Pocomoke Area Chamber of Commerce Date: June 17 Location: Pocomoke City, MD Michelle Hickman 410-957-1919	2015 to Present

Mountain Christian Church Date: August 26, December 10 Location: Joppa, MD Kevin Bradley 443-655-5818	2015 to Present
North Point Edgemere Vol. Fire Co. Date: July 31 Location: Baltimore, MD Albert Palcher 443-565-0514	2015 to Present
Marine Trade Association of Baltimore County Date: June 30 Location: Middle River, MD Brian Schneider 410-627-0781 "Great Job!"	2018 to Present
Gambrills Odenton Recreation Council Date: June 30 Location: Odenton, MD Mike Pozdol 301-674-5180	2018 to Present

Pennsylvania

Selinsgrove Center Date: September 8 Location: Selinsgrove, PA Guy Stamm 570-372-5761 "The staff did a great job!"	2011 to Present
Hanover Country Club Date: July 3 Location: Abottstown, PA Dan Wildasin 717-451-8422	2011 to Present
Sellersville Fire Company Date: July 14 Location: Sellersville, PA Gregory Castelli 215-257-8170	2011 to Present
Jefferson Carnival Date: July 19 th Location: Spring Grove, PA Richard Krebs 717-229-2294	2011 to 2017
Hellam Area Recreation Commission Date: August 26 Location: Hellam, PA Mark Potosky 717-718-2480	2011 to 2017
Upper Darby Township Date: July 3 Location: Drexel Hill, PA Thomas Judge – 610-734-7622 "Best show in years!"	2012 to Present
Red Lion Recreation/New Years Date: July 3, Dec 31 Location: Red Lion, PA Tina Frutiger – 717-880-8959	2012 to Present

Whitetail Resort Date: December 31, New Years Location: Mercersburg, MD Katrina Gayman – 717-328-9400	2012 to Present
Ski Liberty Mountain Date: December 31 Location: Carroll Valley, PA Lonny Whitcomb – 717-586-7338	2012 to Present
Enterprise Fire Company Date: May 26 Location: Hatboro, PA April Mount 215-675-4040	2013 to Present
Capozi Adler, P.C Date: July 10 Location: Harrisburg, PA Cassandra Reed 717-233-4101 “Loved the finale where there was big gold bursts. “It was so beautiful and I've never seen anything like it!”	2015 to Present
Sunny Brook Country Club Date: July 8 Location: Plymouth Meeting, PA Susan Lauter 610-828-9617	2017 to Present
Country Club of York Date: Labor Day weekend Location: Country Club of York, York, Pa Jennifer Bachman “Show was great”	2005 to 2013
Pottstown Date: July 4 th Location: Memorial Park, Pottstown, Pa Chief Richard Lengel “Think this show was the best ever!”	2000 to 2013

VIRGINIA

Crozet Community Date: July 1 Location: Crozet, VA Tim Tolson – 434-243-6592 “Show was awesome!”	2012 to Present
Whilton Farms Date: July 2 Location: Greenwood, VA Terrence Daniels 434-979-9101	2012 to Present
Shenandoah Apple Blossom Date: 1 st Friday in May Location: Winchester VA John Rosenberger “Best Show Ever.”	2001 to 2014
Middleburg Community Center Date: July 4 th Location: Middleburg, VA Joanne Cole “Best job ever from set up to clean up”	1998 to 2013

DELAWARE

Town of Middletown	1998 to Present
Date: July 4 th	
Location: Middletown, DE	
Rae Yingling – 301-275-0473 “Always done a great job”	
Smyrna/Clayton July 4 th Assn	1998 to Present
Date: July 4 th	
Location: Smyrna, DE	
Robert Merrill – 302-653-6809 “Great all the way through. Terrific Finale!!”	
Town of Elsemere	2011 to Present
Date: July 1	
Location: Willmington, DE	
John Giles 302-998-2215	
LabWare	2017 to Present
Date: July 1	
Location: Greenville, DE	
Debra Adelman - 302-521-0250	
World Champion Punkin Chuckin Assn	2010 to 2013
Date: First Saturday in November	
Location: Bridgeville, DE	
John Huber “We have always been very happy with your company”	

WEDDINGS

Cedar Lake Estates

Date: August 5
Location: Port Jervis, NY
Anne Parizat 516-312-3669

Vanderbilt Museum

Date: June 24
Location: Centerport, NY
Gianne Ocampo - 516-729-4734

Lake Mohawk Country Club

Date: July 29
Location: Sparta, NJ
John Crowley - 516-233-7156

The Chandelier at Flanders Valley

Date: July 15
Location: Flanders, NJ
Joe Marotta 908-447-4696

The Marigold

Date: July 1
Location: Somerset, NJ
Pranav Shroff 609-816-5080

The Farm House at the Grand Colonial

Date: December 31
Location: Hampton, NJ
Emily Marotto 973-945-6736

Hyatt on the Hudson

Date: September 9
Location: Jersey City, NJ
Vaishall Deshpande 732-904-0908

Bear Brook Valley

Date: May 20
Location: Fredon, NJ
Jennifer Radeloff 973-670-1164

Ski Liberty Mountain Resort

Date: June 17
Location: Fairfield, PA
Leanne Grapes 215-534-9265

Oheka Castle

Date: October 22
Location: Huntington, NY
Anthony Zanni 516-922- 5468

Fiddler's Elbow Country Club

Date: October 28
Location: Bedminster, NJ
George Lambert 908-281-0701

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John I can't thank you enough. Apparently all of Twitter and Facebook is talking about the show as are our guests. But that's just a bonus. Elisa was crying during the show because she was so happy and I teared up as well. It was a magical night and made our wedding the event of a lifetime. I can't thank you guys enough for it and expect a gift in the mail soon!

Thank you again for being such a huge part of our wedding."

Stefanovic Wedding

"As relayed to Bryna this morning - I want to thank EVERYONE for your hard work on this event. It was spectacular and more than we had wished. Donna - your responsiveness and dedication was impeccable. The team on site including Michael who lead the team was fantastic and really worked hard under the gun to make it all happen.

I can't thank you all enough! We will definitely keep you first on our list for Firework needs in the future."

Best,

Anna Wells - Senior Event Planner



Making Memories That Last A Lifetime!



"Brian & FE worked flawlessly with my wedding planner...and all relevant parties, to connect all the dots and ensure we had an unforgettable once in a lifetime experience. The Manhattan skyline as a backdrop was as jaw dropping as we hoped, but I believe FE is capable of creating a breathtaking show no matter the location. **I was told, by too many guests to name, that it was THE BEST firework display they had ever seen.** Someone even asked me if FE had created a new type of firework (haha!!) because they had such a cool, unique, sophisticated display.

The amount of attention it received both privately and publicly (a few reality stars had snap chatted the display!! along with lots of general attention on social media) is a testament to the hard work FE put in to making a truly spectacular experience for us. It was by far the highlight of our wedding and truly an experience we will cherish for the rest of our lives. I wish I could re-live it over and over. We will be forever grateful to Brian and his crew!

Thank you a million times over, Supreet & Nishan Wedding

THANK YOU all so much for the incredible job you did. It was truly amazing. We will continue to highly recommend your company, for not only do you do great work but your also incredible people! Even real life has its fairytales. Thank you for being a part of our magical day of true love."

Zanni Wedding

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...but at the end of our life all we
get to take with us is memories...
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& John Sagaria





National Fireworks Association

NFA NEWS

- December 2017 -

NFA Mission Statement

The mission of the NFA is to work diligently to ensure that the Fireworks Industry is regulated in a fair and sensible manner. We promote Safety within the industry and to the Consumers that use our products. The NFA was established to serve the members no matter whether a company or an individual. The NFA promotes the Safe Use of Fireworks in all sections of the industry.

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Photo Courtesy of Will Vitanyi III

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Fireworks Extravaganza Wins 2017 Liuyang International Fireworks Competition

Fireworks Extravaganza is proud to have won 1st place in the 2017 Liuyang International Fireworks Competition which was held on November 4th in Liuyang China during the semi annual Liuyang Fireworks Festival.

The competition, held every two years, was performed in a large stadium in Liuyang, known as the "Birthplace of fireworks". The Stadium was filled to capacity on both nights of the 2 night festival that had performances from Chinese dancers and singers.

The 2nd night of the festival features the competition between 4 companies. The competition participants included the following companies; Yeng Feng from China, Super Fireworks from Russia, Nico Europe from Germany and Fireworks Extravaganza representing the U.S.A.

The show has the largest front of any FE show to date. The timing had to be sped up by 2x to cover such a vast area.

Each show was limited to 12 minutes and the music and all the effects are at the sole discretion of the team. The FE show had two new effects:

The Countdown in the start of the show was over 50' tall and supported by two cranes. Many times before doing the countdown has been done with 1 second Gerbs which creates a quiet display of the number for less than one second. This time FE used Airbursts for the countdown that exploded each number in a shock wave of sound. This idea was originally planned by the legendary Chinese designer Can Guo-Qiang for the Beijing Olympics, but the idea was never used. It really adds impact to the countdown.

Read more about the legend here: https://en.wikipedia.org/wiki/Cai_Guo-Qiang

The cube segment was created by Precise Comets on the ground and added depth and symmetry not seen often in Fireworks.

As the winning company, John Sagaria was presented with the Litian statue. He also signed a large flag, along with the other team captains, that will be hung in the Fireworks Museum in Liuyang

The competition statue given is based on the large wooden statue of Litian in China and says "Champion". Litian is the historic founder of fireworks.

Read More about Litian here: <https://epicfireworks.com/blog/2010/03/statue-of-litian-the-godfather-of-fireworks/>

Here is Link to Full Program as seen on Chinese Television.
Use Firefox to view and make sure Flash is Enabled:
<http://vzan.com/live/tvchat-499092?ver=636454375331923986>

The whole program is 2 hours long. The FE portion and display begins at 39 minutes in. The awards are at 2 hours and 5 minutes in.

Here is a Compilation of the FE Elements, and also some of the Chinese dancing segments that are very good:
<https://vimeo.com/241766506>

Liuyang International Fireworks Competition 2017



John Sagaria, FE President holds the Litian Champion Trophy on the night of the 11.04.2017 first place win.



Each team had a site they had to stay in on the field.



All Competitors signed the Flag to be displayed in the International Fireworks Museum in Liuyang City

DOT Regulatory Corner

ELECTRONIC
LOG UPDATES

by Tom Dunaway
Tom Dunaway & Associates, Inc.



ELD Extension Act Defeated

On July 18 of this year, Rep Brian Babin (R-TX-36) introduced H.R. 3282, the ELD Extension Act of 2017 that would delay the compliance date for installation of an Electronic Logging Device (ELD) on all appropriate commercial motor vehicles for an additional two years (December 2019). The legislation now has 48 cosponsors. Upon the introduction of H.R. 3282, a number of national trade associations also sent a letter in support of the legislation, primarily from the agriculture, construction, and energy industries. As of yet, there has been no companion legislation introduced in the Senate.

In a recent vote in the House of Representatives on an amendment delaying the ELD compliance date, the amendment was defeated by a vote of 173 (in favor) to 246 (opposed).

On Thursday, November 9, 2017 Rep Babin asked President Trump to delay the ELD, by way of an Executive Order. If that were to happen, it would most likely be by December 1, 2017. The State of California state legislators have hinted that they may introduce a state bill to delay ELDs for intra state drivers until December 31, 2020.

Most states enforcement agencies have indicated that they will issue violations to trucks not using a ELD but would not put them out of service until April 1, 2018.

Bottom line, the feds and states are all over the place on this issue and if not delayed becomes effective on December 17, 2017. As I have stated at our EXPOs last year and again this year, we must be ready and have also stressed the exceptions to this rule. Again they are:

Drivers operating within the 100 air mile exception rule do not have to comply with the ELD.

For those drivers that operate mostly within the 100 air mile exception, but on occasion operate over the 100 air miles, or over the 12 hours, or drivers that are seasonal and only drive a couple times a year, the ELD is not required, provided the requirement to generate a paper log does not exceed more than 8 in any 30 day window. The days operating within the 100 air mile exception would not count toward the 8 logs as no logs are required for those days.

Remember that the 30 day window is not counted by the month but is a 30 day window that moves by one day each day.

Remember to sign up now for the NFA HM training that will be conducted at the next EXPO. We must know how many regulations to order.

Tom Dunaway
Tom Dunaway & Associates, Inc.



John Sagaria presents the factory owner of Jintan Fireworks with the Litan Champion Trophy. The trophy will stay in Liuyang at the Jintan factory for all to view and remember the great accomplishment.



John Sagaria on the shoot site with the managers that built the display.



The Winning Certificate to be displayed at the FE office in the U.S.A.

JOHN SAGARIA: The Crème de la

In the world of pyrotechnics there are many capable people. John Sagaria, however, is an artist extraordinaire. His shows are well known for their artistry, color and exquisite choreography. That's why factories hire him to shoot their demos, and pyrotechnic clubs want him to headline their shows.

"Think small. Remember, there are few things in fireworks that are very big. Even a 16" shell is made of small stars."

—John Sagaria

2007
PGI "Inspiration"
show

Crème of the Fireworks Masters

by JEFF CELLUCCI

John Sagaria is a pyro's pyro. When designing and shooting fireworks displays, his philosophy will likely surprise many of you. While others in the industry work to fill every inch of the sky with the most brilliant and largest products possible, John's outlook is "think small."

John was born in the Bronx, N.Y. in 1966, graduated from high school in Rockland County, N.Y., and still lives in New York today. He was first introduced to fireworks by two of his uncles, Franny and Richie. Every 4th of July he would watch his uncles shoot fireworks. John's first fireworks were a brick of firecrackers for which his father paid \$15.00. Fireworks were and remain illegal in New York, so it wasn't unusual, even back then, to pay a premium. John remembers making his first fireworks purchase while he was still in school.

"I paid like \$45.00 and got a bag," John said. "I remember there were loose Jumping Jacks for 50 cents each. I was so happy, even though I later found out how I'd been ripped off!" His first "big time" purchase was made during high school when he sent \$475 to Fireworks Unlimited in Ohio. Shortly after he placed an order from their catalog, a tractor-trailer pulled up to his father's house with about 10 cases of fireworks. John was in heaven. His father, though, didn't think it was such a great thing to be unloading case after case of fireworks while John was at school.

John was on his way to orchestrating professional shows when he obtained his ATF license on July 1, 1989. "Back then you didn't even need storage, so my office was my storage," he explains. He attended his first formal training class with Vitale Fireworks almost three years later (May 2, 1992). After completing the class, he received a call to shoot a show at Mocatek Speedway in the Poconos, Pennsylvania. This hand-fired show was

the start of his professional career.

At the 1997 PGI convention, John was introduced to computerized firing. "It was the 'Dreams' segment of the public display done by Ken Nixon and Jack Harvey, working with Pyrodigital. It was the best show I had ever seen and something I have never forgotten," John remembers.

The following year, John did some trading to land a small Fireone 8-wire system with 10 modules, and did several small test shows for clubs. In 1999, he put on his first professional Fireone shows in Lancaster and Lititz, Pennsylvania (July 2 and 3rd). The Lancaster show was shot from the roof of a parking garage and hotel. Unfortunately, it started to rain and John discovered that the 8-wire system was anything but waterproof. The weather delayed the show for almost an hour and taught John the importance of carrying backup systems whenever he goes to a shoot.

John's current position in the fireworks industry is unique. Rather than selling shows directly to customers, he shoots for display companies. He has done work for about 15 display companies and factories. Sometimes he does everything, including picking and editing the music tracks, creating the program and orchestrating the *feel* of the show. He also picks the products from the display companies' inventories, and may set up and shoot the show with his crew. Often-times, he just provides his firing system and shoots the show as provided by the display company.

When producing the whole show, John decides which product is best for that venue. "Having the best show does not always need the largest shell size possible for that venue," John says. "Sometimes, I have gotten more of a reaction from the crowd from \$4 strobe pots than a 16" shell. Shows for display companies are not the most prestigious, but the goals are just the same – produce a safe environment that the public can enjoy."

One of John's favorite shows to produce is a factory demo. "I've produced demos for Shogun/Vulcan, Dancing, and Dominator. For these shows, we're trying to produce the best possible display for the devices," he explains. "I've traveled to China three times since 2003 and really enjoy working with the factories. They've always been very honest and hard working." The last factory demo John completed was for Shogun/Vulcan at the 2007 NFA Convention. For this show, he was able to pick out all the material from the factory and have it shipped to him. He also chose the music and designed the entire show. "These are the shows that put the most pressure on me to produce," John said, "The factory is investing so much in the product, shipping, and show expenses. I really want to make the show as good as is possible."

When it comes to choosing products for John's displays, the two things he considers are timing and consistency. "Time is two numbers," John says. "Everyone is always concerned with the 'lift' time, meaning the time the device needs to be fired in advance before it will display. Of course, this is important. But just as important as lift is duration. Duration is the time between when a product is displayed until it burns out. With cakes, this is obviously important. But with shells it's not so obvious and often effects are 'stepped on' by the next effect. Some shells could have only a one-second duration, while others could have eleven seconds."

As far as material selection and quality, John believes you can put together a "great" show from almost any pool of material. "I truly believe great material does not guarantee a great show. But great design and choreography can make a great show out of bad material," John said. He added, "Think small. Remember, there are few things in fireworks that are very big. Even a 16" shell is made of small stars. The biggest thing you are likely to deal with is a 4" comet. Keep

that in mind and use small devices in unison over a large area. This keeps material costs down, but does not risk the quality of the show at all."

John also urges you to test everything you use. "Lawyers have a policy that they should never ask a witness a question in court unless they know what the answer will be. The same holds true for fireworks. You should never use material in a choreographed show you have not tested," he says. "I'm a member of the Crackerjacks and have done most of my testing at club shoots. It gives the members something to see and gives me

look like a hand is placing the devices on a canvas in the sky. This is very hard to do, but if you keep this as your goal, the show will be as precise as possible."

Set pieces have always been one of John's favorites. "You don't see them as much as you used to in the old days," John said. "Luckily, I have some great guys who have worked very hard on the set pieces for shows. For the 2007 PGI show 'Inspiration,' Pete Hengen made a large flag that took eight months to build. It started out in the beginning of the show as lights, and then burst into flames at the end by tie-wrapping lance

like using strobe pots as far away as possible. In Wizards in Winter at the 2006 PGI convention, I used strobes where the big guns were 1200 feet away, and it worked great. Not too many times will you see a slat with a 16" shell on one cue and a 1" strobe pot on the next!"

As far as trademarks of John's shows, he says, "I'd like to think my trademark is that there is no trademark. This is hard to do sometimes, but I try to produce shows that are different and independent of each other." One of the staples of all John's computer fired shows is his Fireone system. "I have six Fireone



"Inspiration." Part of the 2007 PGI show.

a venue to test everything and record all the timings."

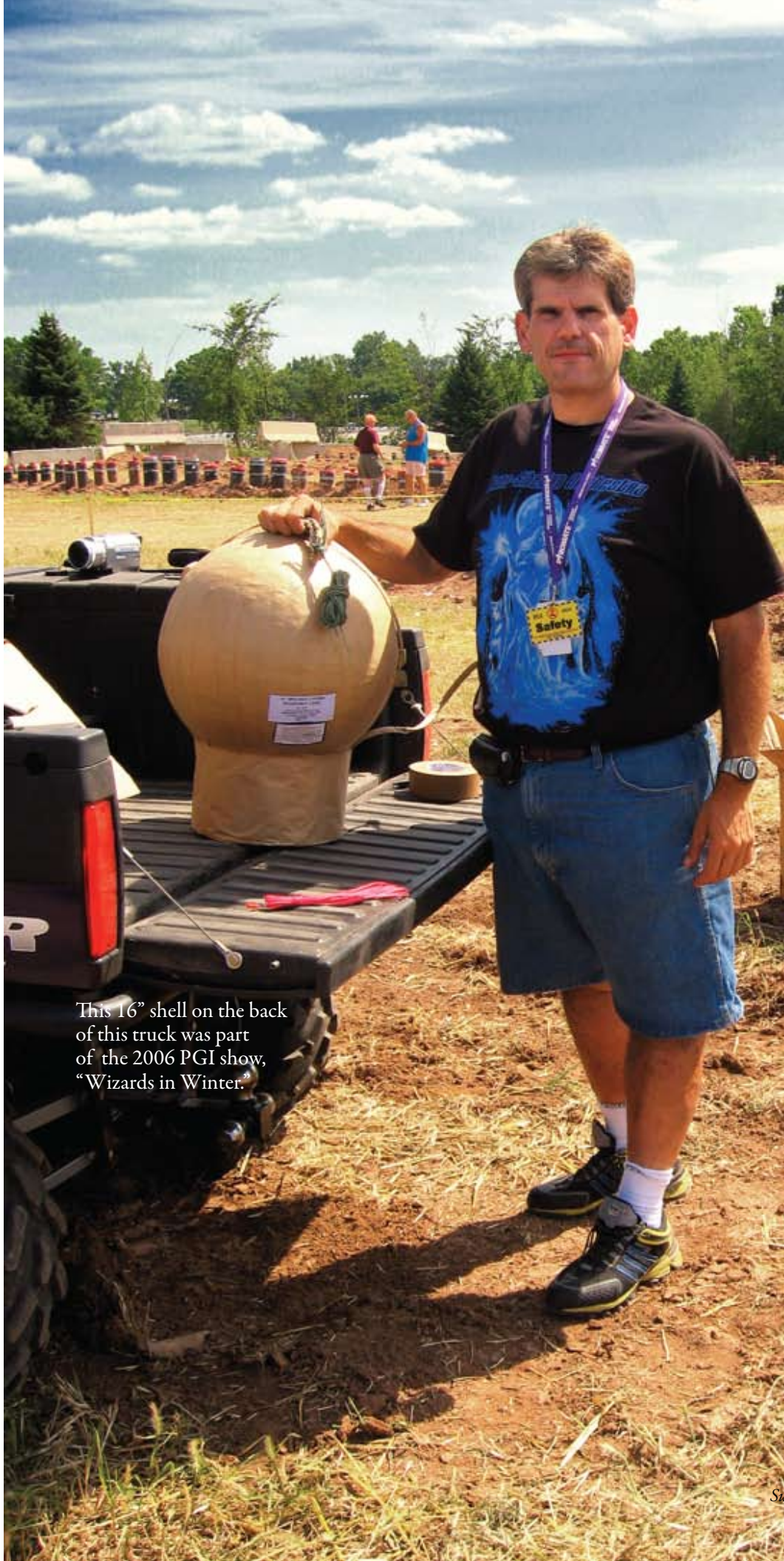
John's philosophy for setting up his shows is to try to make the material look as if it is behaving in a certain way and controlled. "On my company T-shirt, I use the line 'Computer Controlled Pyrotechnics,'" John said. "I try to accomplish this by measuring everything very precisely and making sure to think about heights. You have to measure the site and keep in mind how large the shells will display," he continues. "There are things you can't control like wind and product consistency, but you can do your best to control everything else. The goal is to

to the light bulbs." For the NFA convention in 2007, John Werner designed moving letters that spelled SHOGUN/VULCAN.

Keep in mind that timing is important with lance as well," John said. "The letters were raised in second intervals so they looked like they wiped left to right. You may not think so, but a second is a long time with fireworks." Fronts are also very important for John's shows. For the 2007 PGI convention, he wanted to create the stripes of the flag, so he needed 13 locations. He normally works with just six or seven front locations. "Fronts don't always have to be in front," John said. "I

systems now and most of the modules are two wire. This is the system I started with and have used ever since," he explains. "As far as the system's limitations, I have not come across something I have dreamed of doing that I could not accomplish. The only limiting factor would be cost, because the systems are so expensive. Every year I add a little more and things become easier. In the beginning I used a lot of scab wire to save on modules!"

What I have gotten out of working in fireworks the past 15 years, is the relationships and friends that I have made. Some of my best friends I have



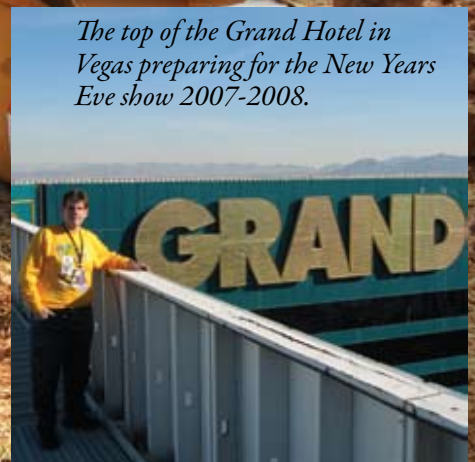
This 16" shell on the back of this truck was part of the 2006 PGI show, "Wizards in Winter."



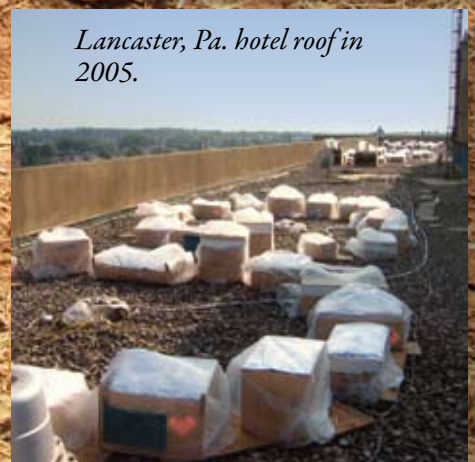
2005 trip to China.



2005 trip to China.



The top of the Grand Hotel in Vegas preparing for the New Years Eve show 2007-2008.



Lancaster, Pa. hotel roof in 2005.



2006 PGI "Wizards in Winter."

today have been from my involvement in fireworks. In China I was able to sponsor a student back in 2003 on my first trip. Her English name is "Doris." Many fireworks people have sponsored students, where we pay for the costs of their education. The students go there to learn English so they can get a better job. Now, 5 years later, Doris has graduated and works in Shanghai. There is not a week that goes by where we do not talk. I love going back to China and visiting with Doris and her family. All the companies that I have worked for have

taught me so much; there are so many people in this business that love to share all their knowledge. These relationships have made all the hard work and endless hours worthwhile.

As for the future, "I have some more ideas on my to-do list," John says. "I hope to be able to do more 'hobbyist' shows someday, and some of the songs I'm planning to use are songs people would never think would be good for fireworks." If it's fired by John Sagaria, it's bound to be better than good. ■



2007 NEA shoot for the Crackerjacks Club.



THE DAY AFTER THE 2007 NEA CONVENTION. What few of us ever see—the debris left to clean up after one of John's fireworks extravaganzas. Oftentimes, it takes as long to clean up after a show as it does to set it up in the first place.



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The 19th International Fireworks Competition was held this past August in perhaps one of the most beautiful locations ever chosen for fireworks: The Herrenhausen Gardens, located in Lower Saxony's capital of Hannover, Germany. Using John Sagaria's designs and choreography, VULCAN Fireworks (representing China) took first place.

Vulcan fireworks & John Sagaria take 1st Place at the 19th International Fireworks Competition in

HANNOVER

Written by JOHN SAGARIA • Photography by JOHN SAGARIA, THOMAS WICHMANN, & CHRISTOPH MAIER

This summer I was able to do something that would have probably fulfilled the childhood dream of almost every fireworks enthusiast I know: I was asked to work with Vulcan/Shogun to help produce their entry representing China in the 19th International Fireworks Competition in Hannover. I've worked with them before (I produced their NFA demos in 2005 and 2007), but this was something particularly special.

If you could go back 25 years and ask me when I was a child playing with jumping jacks and whistle bottle rockets in the street outside my house if I thought I would ever grow up and design a fireworks show, pick the music, direct the production of the fireworks I wanted to use, go to Europe and compete against some of the best companies representing different countries and win—I am sure that kid playing with class C back then would have thought you were crazy. But that is essentially what happened.

Given the amount of creative latitude I was given during the design process, though, put a

great deal of pressure on me personally. Even though winning the competition was never discussed, it was always the goal of everyone involved. It took an innumerable number of elements and the hard work of very many talented people to win this competition, however.

The competition itself ran from May through September. The competing countries this year were France, Poland, Turkey, Malta and China. Vulcan/Shogun—representing China—took first place in the competition, and France and Poland came in 2nd and 3rd place respectively. It was a unique competition, very similar in style to the international competition in Montreal, but on a much smaller scale.

What gives this competition its most important distinction is that it is held in one of the most beautiful gardens in Europe—the Royal Herrenhausen Gardens. This elaborate garden landscape is replete with beautiful flowers, fountains, standing water, formal hedges and at least 50 magnificently carved fifteen-foot

tall statues. Since I'm also an avid gardener, it combined both of my loves into one—gardening and pyrotechnics. Lacing the garden with pyro, and teaching the crew about the plant material surrounding us was a lot of fun. Never before was I able to load comets and look at "Nicotiana sylvestris" at the same time. It is funny, too, because many people describe the flowers of Nicotiana as looking like fireworks. Ironically, the Crackerjacks Fireworks Club I belong to has a very difficult time keeping the cow pastures clean where we shoot, so for me it was especially entertaining to be able to shoot such a large display surrounded by flowers.

The Vulcan company management—Cindy Cheung, Joe Wan and Erik Vermeulen—set the stage for success from the very beginning. First, they sent John Werner and I to Hannover in May to watch the French performance and to see the site itself. As I look back, I think this was an important key to us winning. It allowed me to not only see the site, but also get a feel the site and what kind



VER *Germany*

of fireworks would work best there.

It also gave me the chance to see how the spectators reacted and to watch the show from at the same angle as the Jury. To say people in Hannover love fireworks is an understatement. They sell 15,000 tickets to the shows there and our show was sold out months in advance. To be honest, part of that reason might have been because our show was scheduled for August and a lot of people were on vacation then and wanted to see the gardens.

The jury judging this competition is made up of 12 people. They tour the field before each show and some of them even maintain fireworks blogs on the internet. It was the same Jury for each show and they took the scoring very seriously.

I knew early on that I wanted to end the

show with "Wizards In Winter." I had used that in a PGI display in 2006 and felt it was one of my best shows. The problem, however, was that when I used "Wizards" in 2006, it was used for

the entire show (the song has almost 600 cues). In this show, it would only be used for three minutes of a 20+ minute display. So, the problem was twofold: I had a lot more time to fill, and at the same time I needed to keep the show manageable and within the rules of the competition.

While doing this work professionally for the past ten years, I have had the opportunity to work for a number of exceptional companies: Grucci, Zambelli, Vulcan, American, Legion, July 4 Ever, Fireworks Productions, Vitale (now Pyrotechnico), Kellners and Fireworks

City in Trinidad. What makes this important is that it has allowed me to learn a great deal about fireworks. You see, everyone—and every company—does things differently, and I try to learn something new while working on every show. One thing I do know for sure is that if you take a pile of fireworks and give it to 100 different people, you will get 100 different shows. That is what makes choreographing fireworks so fascinating—the finished display always provides the spectator with insight into the personality and feelings of the choreographer. What I did in Hannover was really a compilation of things I had learned from the many companies I had worked for throughout my career.

This competition had specific rules that directly affected the design of the show. The length of the show, for example, had to be precisely between 20-25 minutes long. In addition, you were limited to the number of mortars, could not use any salutes, only were





only given access to half the area the first day and couldn't set up until the day before the competition. To top it off, you were mandated to use seven different ground effects—the ultimate goal being to illuminate the entire garden.

Only one song was mandatory: the “William Tell Overture,” by Gioachino Rossini. The rest of the music was our choice. I wanted music that would allow the fireworks to tell the story—music people could relate to. Joe and John from Vulcan suggested the Twelve Girls Band, a marvelous group of female Chinese musicians chosen from various musical conservatories throughout China. I used their “Spirit Dance” to open right after the “William Tell Overture” because it immediately added an oriental feel to the show. After that, I predominantly chose instrumentals that could easily be emphasized by fireworks.

Here is the final soundtrack: “William Tell Overture” (Mandatory); “Spirit Dance”—Twelve Girls Band; “Beethoven”—Trans Siberian Orchestra; “Golden Ticket” from Willy Wonka and the Chocolate Factory; “Circle of Life”—Disney’s Lion King; The Suite from the film Polar Express; and “Wizards in Winter”—Trans Siberian Orchestra

Generally, the hardest part of putting together a show can be the restriction of working with just one company. Rarely does one company makes everything great. Vulcan, however, is an exception. They have a great shell factory and they also make extraordinary ground pieces. The process of developing new product for this show went exceptionally smooth. For example, I needed a really large hit for two sections of the Polar Express—it was nothing we could do with a cake—so I came up with this mine/comet combo called the “NBC Logo.” I wanted to use large single shot mines—2 of each color—and a comet in the center. It only took a couple of emails to Joe Wan before it was on YouTube for me to approve.

Yes, it was a fireworks dream come true! It was like having my own fireworks factory for awhile. If you look at the pictures, the comet really does look like the peacock head of the NBC logo. More importantly, the size was perfect for that section of the song.

I knew the garden itself would be a critically important element of our display. Accenting the garden with music and color, though, in some standard way would not be enough. Since this was the 19th year of this competition in the same gardens, the question was this: had everything been already been done?

John Werner, a well respected pyrotechnician and long time friend of mine, works for Vulcan/Shogun and designed and created some absolutely amazing ground pieces for this show: a “Green Glittering Horizontal

Wheel w/Candles”; a “Peacock Tail Wheel” (my favorite); a “Chromotrope Wheel”; and a “Mosaic Wall.” I honestly believe that John’s “Mosaic Wall” (fired during the Polar Express Suite) may have clinched the victory for Vulcan that night.

While John designed the wheels, I worked on my other two loves: Gerbs and Strobes. Personally, taking small, inexpensive items and putting them together to form a massive effect is one of my favorite challenges (I cover this in detail if you attended my seminar, “Controlling the Burn”). I wanted to use a lot of these in our show, but they are labor intensive and setting up 75 Gerbs would take far too much time. I came up with a “Gerb Rack” idea. A rack of Gerbs allowed us to have separate devices without the time-consuming setup. This idea grew almost exponentially until our rack was so big it was in two pieces and held 9 devices. There were regular Gerbs, Bengal Flames, Lycopodium Mines and Short Mines. We also had a beautiful set of Gerbs Cindy Cheung found us, which went up and down in a random pattern (used in the “Circle of Life”). Since there were over 60 of them, rack setup and wiring was still time-consuming, but I really think this made a major contribution to winning the show.

Strobes can either be great or annoying. The key is to just concentrate on the light itself, and not the flash. John came up with a great strobe projector, and I put them on almost every rail of the show. The vibrating strobes thus accented the “Snow” as it fell from the sky during the “Wizards in Winter” sequence. It looked so beautiful, I feel it may have been the best use of strobes I have ever done.

Saving the racks was another challenge. I wanted to use all of the 3” racks for the finale, but I had none left for the fronts. The solution was to make custom 3” cakes for all the fronts that had the mines. This saved a great deal of set up time, and would have been impossible without factory help from Vulcan.

We also used a lot of single shot candles in racks, which worked great. Normally, because of timing issues, I never use large-bore multi-shot candles because they are almost impossible to control. In Europe they love these for some reason, so I decided to put in two sets just so the Jury would see them when touring the field. I still hate them, but they worked out pretty good where I placed them in the show.

Another favorite technique of mine is to use cake rows. In the Wizards sequence, I managed a great crackle ending. Since we could not use salutes, the crackle was perfect and I shot all the rows and all the cakes at the same time. The rest of the cake rows were used during the rest of the show. To save more setup time, Vulcan offered these



*These four photos were taken by PyroPage / ©2009 Thomas Wichmann
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in what they called “Set Meals” (a saying which comes from buying your lunch in Hong Kong). “Set Meals” are cakes designed specifically for a certain location. There may be 6 rows of different effects, or cakes with any combination of effects—all with ematch connectors on each row. Therefore, there is no actual assembly on site. You just open the box and connect the cues.

As for shells, I was able to easily pick out everything I needed. Vulcan has a fabulous assortment of effects to choose from. I particularly liked the pattern shells we used in the “imagination” segment of “Golden Ticket.” Although shells are important, I do not think they are the most important aspect of a show. The truth is it is, it is just as easy to have a great show with OK material, as it is to have a bad show with great material. It all depends on presentation. I’ve always felt that China’s reputation for poor quality shells was wholly unwarranted and undeserved. Perhaps

winning this competition with nothing but Chinese product will underscore that point quite effectively.

In addition to the people I have already mentioned there were so many more people that made this win possible. First and foremost, there was the Vulcan crew from China and Europe—Steven and Ding Ding at the factory that made all the final serpieces and wheels. I need to specifically thank Elwin van den Berg and his “guys from Holland” for their help in getting us everything we needed, and all the hours of set up. Also to Kimbolton Fireworks, who drove 12 hours across the English Channel to bring us 55 FireOne modules. A special thanks to my crew that came with me from the US: John Doty, Arthur Buhler and Pete Hengen (Pete worked many hours on all my changes to the soundtrack even before we got to Hannover). Everyone helped make this the perfect crew.

The more I watch the video of the show, the more I see things I would have changed or done differently—from mistakes I plan to fix, to new ideas I plan to create. One problem we did have during the show was with cross ignition in the fronts. It happened multiple times. The first cue actually lit one of the mosaic poles! (Momentarily, my heart sank). You can see it happen 3-4 times during the show when you watch the video. Essentially, this was because the front area was very narrow. It will have to be better controlled in future shows.

Maybe, just maybe the next show will be perfect. It probably won’t be, but as long as it is better than the previous show, I’ll be happy. I know that for as long as I am able, I will keep trying for that perfect show even if it seems only to exist in my mind. 🍀

To see a video of the show:
<http://www.vimeo.com/6651544>

To see photos of the site:
<http://gallery.me.com/jsagaria#100111>





AN INTERVIEW WITH JOHN SAGARIA

By Elizabeth V. Musselwhite

EVM: How long have you been involved in fireworks?

JS: For over 20 years. I've held an ATF License since 1989 and I shot my first professional show for Vitale Fireworks in 1991.

EVM: What experience do you have in the fireworks trade?

JS: Since 1992 I have been shooting shows for display companies. I have worked for 15 companies all over the world, shooting all different types of shows. I've done shows in the US, China, Caribbean Islands, Germany and even Dubai.

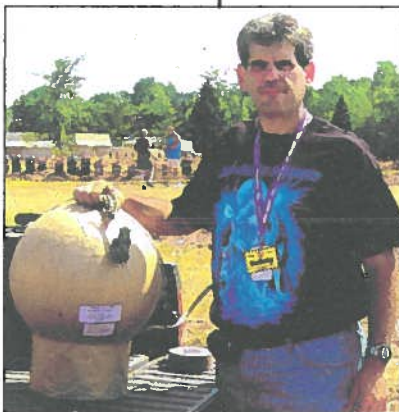
I have been using the FireOne firing system since 1998, during that time I have used it for hundreds of shows. I like the art of marrying technology with Pyrotechnics; there is really nothing you cannot do with the technology that exists today. As long as you can dream it (and pay for it) the sky is the limit.

In 2011 I started working with Will and Chris with Finale Fireworks inventory software. During the past 18 months I have really been able to steer them in creating a really great inventory system for fireworks. I have really enjoyed working with them. They are great developers and with my knowledge of fireworks, the ATF and computers they have been able to do so many things for us. The software is an important part of our business.

If I look back over the 20 years, I have done hundreds and hundreds of shows. I have also been able to teach many people with the PGI training courses that I have done and also my seminars "Controlling the Burn".

I am working on a new seminar called "9:30" it is about the pressures we have getting a show set up and ready safely by shoot time. The deadlines and pressures, coupled with weather, and employee knowledge make it very difficult, and this seminar is how I deal with it.

EVM: Why did you decide to make a living in fireworks?



JS: In 2010 I started Fireworks Extravaganza. This company was formed when two of the former companies that I shot for left the display and 1.3g businesses. I formed the company to do commercial displays and to continue to do the work that I had done previously.

EVM: Your new company, Fireworks Extravaganza, is a display company, correct? Do you offer other services besides shooting displays, e.g., product either 1.4G or 1.3G or renting firing equipment or import brokering?

JS: We only deal with professional pyrotechnics both 1.3G and proximate. We do not deal with consumer products at all. I really prefer it this way. I prefer to become the best we can be without trying to do too much and being over-stretched, and making mistakes.

The past two years we have kept a low profile and kept advertising to a minimum. We invested the time in perfecting our procedures and also obtaining storage from New York to Virginia. We now have the ability to store hundreds of thousands of pounds. We have storage within 1 hour of NYC, Pennsylvania, and Baltimore.

We have also developed systems to make it as easy as possible for shooters and crews. (While still staying compliant with DOT, ATF, OSHA).

Being a "Shooter" is really close to my heart. I wake up a shooter, and go to sleep a shooter. In between I have to deal with so many other issues, but being a shooter is what I like to do. There is something about being in a place where everyone is equal and looking towards the sky. I wanted the company to treat them all like employees and not just casual laborers that you use now again. We put procedures in place when a shooter does the show, he gets paid the following Friday like all the other employees in the company. I think the people that shoot for us make a difference.

We have also spent a lot of time developing the forms and procedures for the shooters, so they can spend as little amount of time doing paperwork. We all know shooters do it for the love first, and then money. We try to make everything as easy on them as possible, while staying in full compliance.

EVM: What other services do you offer?

JS: We only deal with 1.3g, for displays and wholesale. The past two years we have sold wholesale on a limited basis, but in 2013 we will do

more. I have been to China many times and have a good relationship with 7 factories. I am very proud of the products that we have coming in next year, from both a design standpoint and also safety.

Other than 1.3g products, we also provide firing systems and services to work on other shows with other companies. We rent FireOne equipment (alone or with a crew) when other display companies have large productions and need help. We have worked with many great companies as a sub-contractor over the years during which I have made many great relationships. Sometimes we have provided just equipment, and sometimes we have designed and choreographed the whole show and shot it with our crew.

EVM: You are an award-winning choreographer and fireworks display artist. How many awards have you won and what are they types (names)?

JS: I choreographed and shot the PGI best displays of 2005 in Mason City (PGI Radio Show) and 2006 in Appleton (Wizards in Winter). I also choreographed & shot the winning display for the 2009 Hanover Germany Fireworks competition (representing China and Vulcan/Shogun).

Designing shows is really what I love to do and keeps me in this business. Computer control of pyrotechnics to music is what I enjoy the most.

I think it is because what we seek is actually impossible. We try for perfection. However no matter what, with fireworks perfection is always elusive. Let me explain.

If we designed something like a song or animation or a computer program, we can try and strive for perfection and may realize it. But with fireworks, we are trying to make something perfect that can never be. Think about it, something is always not right. There are too many factors (product issues, weather, wind, slight differences in mortars plus you are dealing with chemical reactions that are never 100% consistent). Even if you designed a perfect show, and connected it all perfectly; it would still not be perfect in every way. So after each show, we always look to the next one to try to make it better and "perfect". But usually the perfect show is always in my mind, so the process is never ending.

For 2013 we are doing the Final Friday Night display at the PGI Convention in Butler. It is called "Remember the Magic" it compiles some of the best parts of all my PGI shows from the past 10 years and adds something new, it won't be perfect, but the fun is trying to make it the best it can be. I

have never done a "Best of" show, and I am looking forward to having a show that is made up of the best parts of the past 20 years.

But the ending is all new, I think people will really be surprised, at the ending selections. For 20 years, I have always dreamed of doing the Friday show at the PGI, so this year I will work very hard to make that the best that I can.

EVM: As a business owner in the fireworks trade, do you find it smart business to attend the APA meeting, and/or the NFA Expo, PGI convention and even local club shoots, etc.?

JS: We are a member of the APA, NFA and PGI. I am also a member of the Crackerjacks, PA Pyrotechnic Artists, Western Pyrotechnics Association, Mid-Atlantic Pyro Artist Guild, and the New Hampshire Pyrotechnic Association.

I have learned a lot from attending the above. The PGI is where I first started in fireworks 20 years ago. Each club/organization has its strengths & focus and it pays to support as many as possible.

I try to donate as much time and resources as I can, It is very hard though to balance time. Of all the things in the world time is the only thing we all have totally equal. We all get 24 hours a day to do as we wish; how we spend those hours is up to us. Think about it: no matter what person on this earth, no matter how wealthy or where they live, all get the same amount of time. I try the best I can to make time for everything, and hope to do more in the future. In 2012 I became the webmaster for the NFA and I redesigned the website for them. Hopefully I will have more time in the future.

EVM: Are you glad you got involved in the fireworks industry?

JS: Yes, I have seen more of the world and met more people than I would have ever had if I did not. That is the biggest thing I got from fireworks - the relationships and experiences.

EVM: If you had to do it all over again, would you?

JS: Yes, I would.

EVM: What do you see for the fireworks industry for the future, say the next five years?

JS: I cannot speak for consumer, but as far as displays, it is a hard business. Phil Grucci once told me "If it was an easy business everyone would do it" and he was 100% right. It is a hard business, and it is not getting easier.

We look at fireworks (in a way) as "artful, enter-

tainment devices". However the US Government, DOT & OSHA do not. To them they are just EXPLOSIVES. Like any other explosives they are highly regulated and they should be. The government has to protect the safety of the people. I think we should try to respect that and try to live (and thrive) within the world they have set up.

It is no secret the ATF would like less and less people to have access to them (explosives). Licenses are harder to get and once you have them harder to keep. I think we have seen a shrinking of the number of organizations providing displays. However having a small amount of companies doing a majority of the shows is not good either.

I think the balance is companies have to be big enough to take advantage of the economies of scale, while being small enough to be safe and provide a great product.

For my company, in 5 years I would like to be the same place I am today, just stronger. I want to stay in the six states we are in now, have the best shooters, and be limited on the shows that we do and make them the best. I would much rather do four great shows then 10 poor shows. *

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RESOLUTION NO.: 209 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
ANNUAL INTERNATIONAL FESTIVAL**

WHEREAS, the City of Newburgh's Annual International Festival was held on Friday, September 3, 2021 through Monday, September 6, 2021, respectively, at the Delano-Hitch Recreation Park; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding available in Trust and Agency Account for the International Festival and in the 2021 City budget; and

WHEREAS, such agreements shall not exceed the funds in the Trust and Agency Account and the 2021 Budget; and

WHEREAS, this Council has determined that entering into agreements in connection with the 2021 Annual International Festival is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into agreements with terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the 2021 Annual International Festival.

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OF

SEPTEMBER 13, 2021

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AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2021, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the “**CITY**,” with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and _____, a firm with principal offices at _____, hereinafter referred to as “**VENDOR**.”

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and/or supply the goods identified in Schedule A, (the “SERVICES”) which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES and/or supply the goods in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES and/or goods provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Change Order or Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter “Department Head”).

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning _____, 2021, and ending _____, 2021.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY an itemized invoice for SERVICES rendered during the event as otherwise set forth in Schedule A,

and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

Any bills or invoices sent by VENDOR to the CITY more than one (1) year after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

The CITY shall have no liability under this Agreement to VENDOR or to anyone else beyond funds appropriated and available for this Agreement.

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

Agreement and the CITY relies upon such representations and warranties in the execution hereof.

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

ARTICLE 6. CONFLICT OF INTEREST

VENDOR represents and warrants that neither it nor any of its directors, officers, members, partners or employees, have any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the SERVICES herein provided. VENDOR further represents and warrants that in the performance of this Agreement, no person having such interest or possible interest shall be employed by it and that no elected official or other officer or employee of the CITY, nor any person whose salary is payable, in whole or in part, by the CITY, or any corporation, partnership or association in which such official, officer or employee is directly or indirectly interested shall have any such interest, direct or indirect, in this Agreement or in the proceeds thereof, unless such person submits a letter disclosing such an interest, or the appearance or potential of same, to the City Manager and a copy to the Corporation Counsel of the CITY in advance of the negotiation and execution of this Agreement.

For failure to submit such letter of disclosure, or for a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement

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

ARTICLE 7. FAIR PRACTICES

VENDOR and each person signing on behalf of the VENDOR represents, warrants and certifies under penalty of perjury, that to the best of their knowledge and belief:

A. The prices in this Agreement have been arrived at independently by VENDOR without collusion, consultation, communication, or agreement with any other bidder, proposer or with any competitor as to any matter relating to such prices which has the effect of, or has as its purpose, restricting competition;

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal or quote submitted by VENDOR have not been knowingly disclosed by VENDOR prior to the communication of such quote to the CITY or the proposal opening directly or indirectly, to any other bidder, proposer or to any competitor; and

C. No attempt has been made or will be made by VENDOR to induce any other person, partnership, corporation or entity to submit or not to submit a proposal or quote for the purpose of restricting competition.

The fact that VENDOR (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has provided the same items to the other customers at the same prices being bid or quoted does not

constitute, without more, a disclosure within the meaning of this Article.

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and

accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 13. INSURANCE

For all of the SERVICES set forth herein and as hereinafter amended, and to the extent practicable and if required by law, VENDOR shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the CITY who have been fully informed as to the nature of the SERVICES to be performed. Except for Workers' Compensation and professional liability, the CITY shall be an additional insured on all such policies with the understanding that any obligations imposed upon the insured (including, without limitation, the liability to pay premiums) shall be the sole obligation of VENDOR and not those of the CITY. Notwithstanding anything to the contrary in

this Agreement, VENDOR irrevocably waives all claims against the CITY for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 13. The provisions of insurance by VENDOR shall not in any way limit VENDOR'S liability under this Agreement.

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

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

ARTICLE 14. INDEMNIFICATION

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party

or any other person or entity, arising out of the SERVICES performed and/or goods supplied pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

VENDOR assumes the risk of and shall be responsible for, any loss or damage to CITY property, including property and equipment leased by the CITY, used in the performance of this Agreement and caused, either directly or indirectly by the acts, conduct, omissions or lack of good faith of VENDOR, its officers, directors, members, partners, employees, representatives or assignees, or any person, firm, company, agent or others engaged by VENDOR as an expert consultant specialist or subcontractor hereunder.

In the event that any such CITY property is lost or damaged, except for normal wear and tear, then the CITY shall have the right to withhold further payments hereunder for the purposes of set-off in sufficient sums to cover such loss or damage.

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all

liability or claim for loss, cost, damage or expense (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 16. CONFIDENTIAL INFORMATION

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

ARTICLE 17. TERMINATION

The CITY may, by written notice to VENDOR effective upon mailing, terminate this Agreement in whole or in part at any time (i) for CITY'S convenience, (ii) upon the failure of VENDOR to comply with any of the terms or conditions of this agreement, or (iii) upon the VENDOR becoming insolvent or bankrupt.

Upon termination of this Agreement, the VENDOR shall comply with any and all CITY closeout procedures, including, but not limited to:

A. Accounting for and refunding to the CITY within thirty (30) days, any unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

B. Furnishing within thirty (30) days an inventory to the CITY of all equipment, appurtenances and property purchased by VENDOR through or provided under this Agreement, and carrying out any CITY directive concerning the disposition thereof.

In the event the CITY terminates this Agreement in whole or in part, as provided in this Article, the CITY may procure, upon such terms and in such manner as deemed appropriate, SERVICES similar to those so terminated, and the VENDOR shall continue the performance of this Agreement to the extent not terminated hereby. If this Agreement is terminated in whole or in part for other than the convenience of the CITY, any SERVICES or goods procured by the CITY to complete the SERVICES herein will be charged to VENDOR and/or set-off against any sums due VENDOR.

Notwithstanding any other provision of this Agreement, VENDOR shall not be relieved of liability to the CITY for damages sustained by the CITY by virtue of VENDOR'S breach of the Agreement or failure to perform in accordance with applicable standards, and the CITY may withhold payments to VENDOR for the purposes of set-off until such time as the exact amount of damages due to the CITY from VENDOR is determined.

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

ARTICLE 18. GENERAL RELEASE

The acceptance by VENDOR or its assignees of the final payment under this Agreement, whether by Claimant's Certification form, judgment of any court of competent jurisdiction, or administrative means shall constitute and operate as a general release to the CITY from any and all claims of

VENDOR arising out of the performance of this Agreement.

ARTICLE 19. SET-OFF RIGHTS

The CITY shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but are not limited to, the CITY'S right to withhold for the purposes of set-off any monies otherwise due VENDOR (i) under this Agreement, (ii) under any other agreement or contract with the CITY, including any agreement or contract for a term commencing prior to or after the term of this Agreement, (iii) from the CITY by operation of law, the CITY also has the right to withhold any monies otherwise due under this Agreement for the purposes of set-off as to any amounts due and owing to the CITY for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies or monetary penalties or interest relative thereto.

ARTICLE 20. NO ARBITRATION

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

ARTICLE 21. GOVERNING LAW

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

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

VENDOR represents and warrants that it shall not retain the SERVICES of any CITY

employee or former CITY employee in connection with this Agreement or any other agreement that said VENDOR has or may have with the CITY without the express written permission of the CITY. This limitation period covers the preceding three (3) years or longer if the CITY employee or former CITY employee has or may have an actual or perceived conflict of interests due to their position with the CITY.

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

ARTICLE 23. ENTIRE AGREEMENT

The rights and obligations of the parties and their respective agents, successors and assignees shall be subject to and governed by

this Agreement, including Schedules A and B, which supersede any other understandings or writings between or among the parties.

ARTICLE 24. MODIFICATION

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

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

THE CITY OF NEWBURGH

VENDOR

BY: _____
Todd Venning
City Manager
Per Resolution No.

BY: _____
NAME:
TITLE:

DATE: _____

DATE: _____

SCHEDULE A

SCOPE OF SERVICES AND FEES AND EXPENSES

RESOLUTION NO.: 210 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION OPENING A SECOND 30-DAY PUBLIC COMMENT PERIOD AND
SCHEDULING A SECOND PUBLIC HEARING FOR SEPTEMBER 27, 2021
TO RECEIVE PUBLIC COMMENT ON THE CITY OF NEWBURGH'S
PROPOSED ACTIONS WITH RESPECT TO
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE
ANNUAL ACTION PLAN FOR FISCAL YEAR 2022**

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

WHEREAS, the City is now preparing a one-year Annual Action Plan for FY 2022 in order to implement various elements of the strategies identified in its Consolidated Plan and must satisfy all statutory requirements, including those related to citizen participation; and

WHEREAS the City has convened and completed a public hearing and 30-day public comment period on its proposed one-year Annual Action Plan for FY 2022 and continues to solicit citizen participation in the preparation of same;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the time for citizen participation is continued by opening a second 30-day period beginning on September 28, 2021 and closing on October 28, 2021 to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program for the FY 2022 Annual Action Plan; and

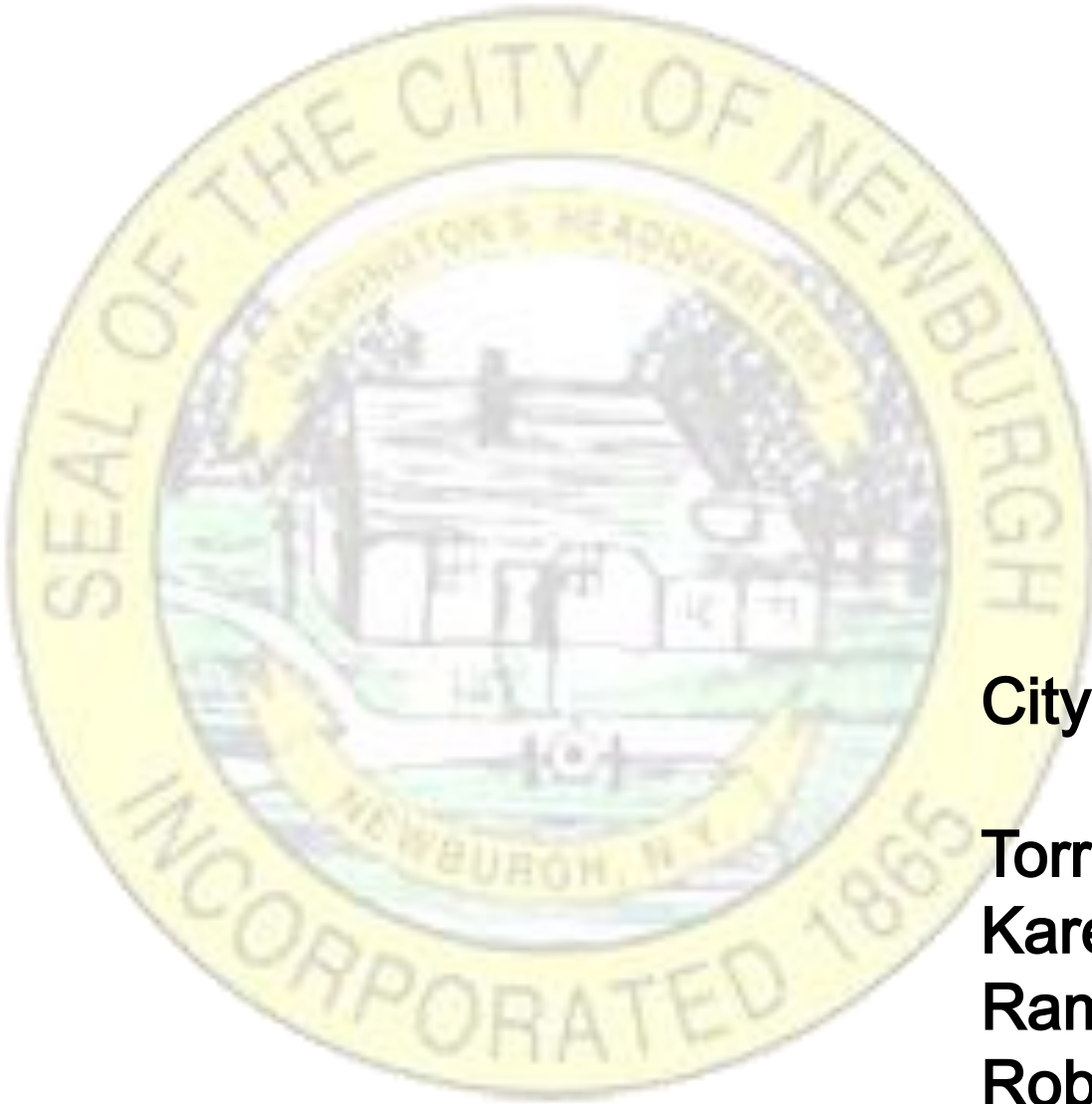
BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a second public hearing to receive comments regarding the housing and community development needs of the City of Newburgh and to hear public comment on the City of Newburgh's one-year Annual Action Plan for FY 2022; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 27th day of September, 2021, in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York.



Community Development Block Grant (“CDBG”) FY2022 Annual Action Plan

**Department of Planning &
Development
June, 2021**





City of Newburgh City Council:

Torrance Harvey, Mayor

Karen Mejia, Ward 1

Ramona Monteverde, Ward 2

Robert Sklarz, Ward 3

Patty Sofokles, Ward 4

Anthony Grice, At-Large

Omari Shakur, At-Large

City of Newburgh Community Development Goals - Refresher

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

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



“CDBG” - Brief Primer



- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is under the Orange County Consortium (Orange County, City of Newburgh, City of Middletown).
- The City of Newburgh is required to prepare and submit a **Consolidated Plan** that establishes goals for the use of CDBG funds. The new City of Newburgh Consolidated Plan: **FY2020-FY2024**
- Projects **MUST** be consistent with national priorities for CDBG:
 - Activities that benefit low- and moderate-income people;
 - The prevention or elimination of slums or blight; or
 - Community development activities to address an urgent threat to health or safety.



Proposed FY2022 CDBG Projects/Funding

					% Project increase, if HUD allocation greater than proposed (approx.)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding		
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$230,000.00	No Increase	10%
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	\$50,000.00	25%	10%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$300,000.00	25%	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	\$40,000.00	25%	20%
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	\$75,000.00	15%	10%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%	20%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$135,000.00	No Increase	5%
Proposed Total FY2022 Allocation				\$855,000.00		

Contingency Funding

If the actual annual allocation amount exceeds the proposed estimate, the project budgets will increase by:

	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project increase, if HUD allocation greater than proposed (approx.)
Projects Funded through Entitlement Grant	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	No Increase
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	25%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	25%
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	15%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	10%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	No Increase

Contingency Funding

If the actual annual allocation amount is less than the proposed estimate, the project budgets will decrease by:

	Priority Need Addressed	Project Name	Proposed Activities (Examples)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	10%
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	10%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	20%
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	10%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	20%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	5%

Project: Housing

Proposed Activities:

- In Rem Property Program
- Homeowner Repair Assistance Program
(Implemented by City of Newburgh
Housing Partner)



Proposed Housing Activity: In Rem Property Program

Budget: \$230,000.00

Description:

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



Proposed Housing Activity: Home Repair Assistance Program

Budget: \$50,000.00

Description:

- Funding for Light Home Repair Assistance Program for Low/Moderate Income City of Newburgh Homeowners.* Implemented through City of Newburgh Housing Partner.
- * Light repairs, such as railings, steps, etc.

Proposed Infrastructure Improvements

Activity: Curb Ramp and Sidewalk Upgrades

Budget: \$300,000.00

Description:

- Funding to continue funding Curb Ramp & Sidewalk Improvements project.

Proposed Infrastructure Improvements

Activity: Public Facility Improvements

Budget: \$40,000.00

Description:

- Funding for Public Accessibility Improvements to City of Newburgh Buildings.

Proposed Economic Development Activity:

Business Assistance

Budget: \$75,000.00

Description:

- Funding for business assistance such as Business Façade and Signage grants, Workforce Training.

Proposed Quality of Life Activity: Neighborhood Services

Budget: \$25,000.00

Description (Anticipated Services):

- 2022 Summer Film Festival
- Health Outreach Initiative
- National Night Out

Important: Public Service Activity, subject to 15% Annual Allocation Cap.



Proposed Activity: Administration

Budget: \$135,000.00

Description:

- Funding for program administration, staff salary and benefits, language translation services, program operating costs (including mailings), program trainings/conference.

FY2022 CDBG AAP Timeline



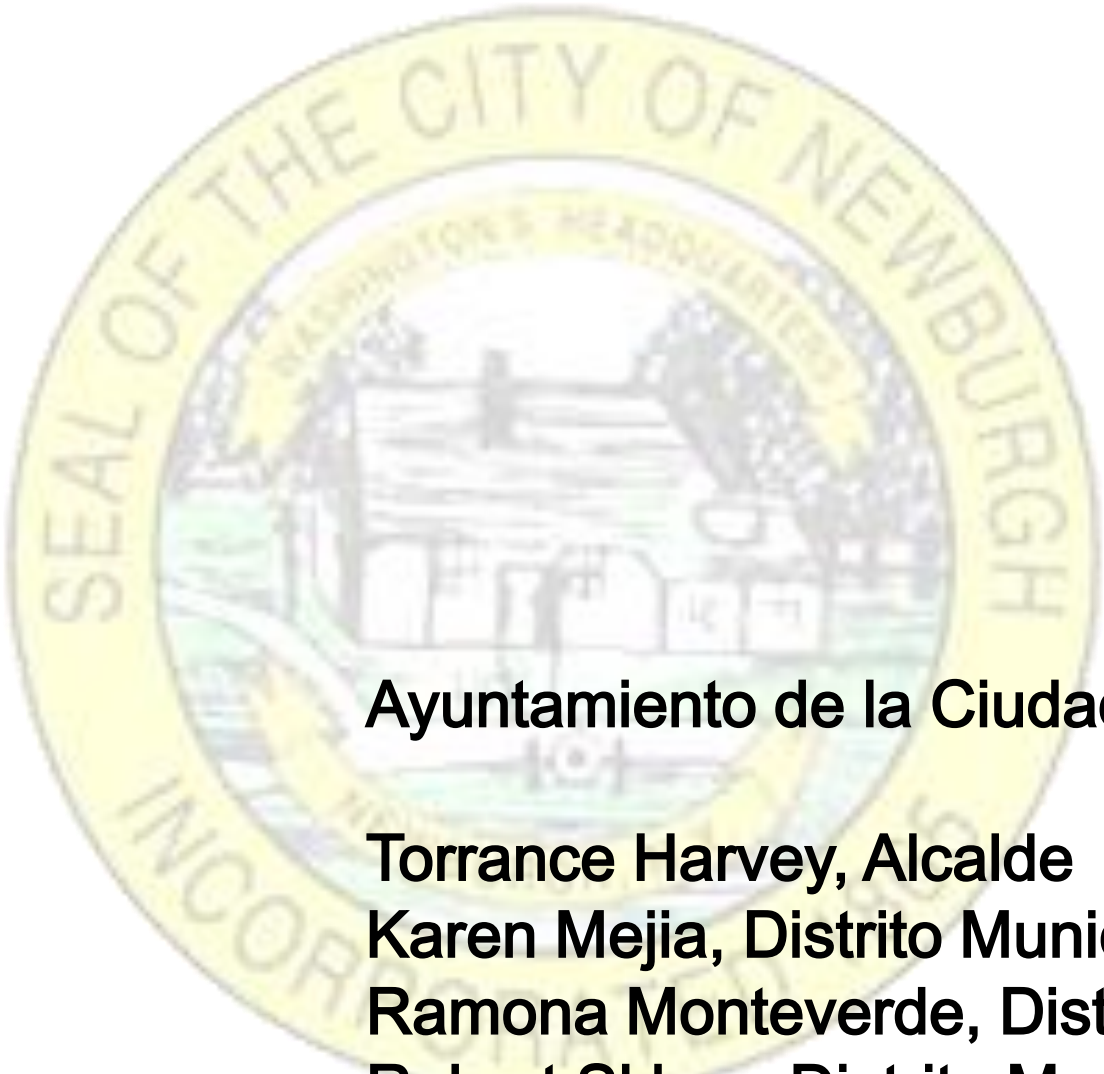
FY 2022 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECTS TIMELINE

The seal of the City of Newburgh is a circular emblem. The outer ring is yellow with the text "SEAL OF THE CITY OF NEWBURGH" at the top and "INCORPORATED 1808" at the bottom. The inner circle features a landscape with a river, a bridge, and a building, with the text "WASHINGTON'S HEADQUARTERS" above the building.

Subvención en Bloque para el Desarrollo de la Comunidad ("CDBG")

Año Fiscal-2022 Plan Anual de Acción

**Departamento de Planeamiento
y Desarrollo
Junio de 2021**



Ayuntamiento de la Ciudad de Newburgh:

Torrance Harvey, Alcalde

Karen Mejia, Distrito Municipal 1

Ramona Monteverde, Distrito Municipal 2

Robert Sklarz, Distrito Municipal 3

Patty Sofokles, Distrito Municipal 4

Anthony Grice, Representante Independiente

Omari Shakur, Representante Independiente

Metas para el Desarrollo Comunitario de la Ciudad de Newburgh - Actualización

- Desarrollo Económico sin Desplazamiento.
- Mejorar el alcance y comunicaciones con la comunidad.
- Apoyar un ambiente que valore la diversidad, recompense la independencia, alimente la creatividad, y nos reúna a todos.

El éxito de la construcción de una comunidad requiere reestablecer la confianza; lo que lleva tiempo, paciencia, comunicación y la inclusión de todos.



“CDBG” – Breve Introducción



- Subvención en Bloque para el Desarrollo de la Comunidad (CDBG) - Administrado por el Departamento de Vivienda y Desarrollo Urbano de Estados Unidos (HUD).
- Adjudicado a los gobiernos locales y estatales sobre la base de una fórmula.
- La Ciudad de Newburgh está bajo el Consorcio del Condado de Orange (Condado de Orange, Ciudad de Newburgh, Ciudad de Middletown).
- Se requiere que la Ciudad de Newburgh prepare y presente un **Plan General** que establezca metas para el uso de los fondos CDBG. El nuevo Plan General de la Ciudad de Newburgh: **Año Fiscal-2020 - Año Fiscal-2024**.
- Los proyectos DEBEN ser consistentes con las prioridades nacionales del CDBG:
 - Actividades que beneficien a las personas de bajos-o-moderados ingresos;
 - La prevención o eliminación de barriadas precarias o barrios arruinados; o
 - Las actividades de desarrollo de la comunidad que abarquen las amenazas urgentes a la salud o seguridad.



Propuesta: Año Fiscal-2022 CDBG

Proyectos/Financiación

	Necesidad Prioritaria Abordada	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	Fondos del Proyecto	% de Incremento del Proyecto, si la adjudicación de HUD es mayor a la propuesta (aprox.)	% de Disminución del Proyecto, si la adjudicación de HUD es menor a la propuesta (aprox.)
Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (Entitlement)	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para continuar financiando los salarios/beneficios de 3 Empleados de la Ciudad de Newburgh. Además financiar los materiales necesarios para mantener las propiedades en ejecución hipotecaria, como ser, palas quitanieve, recortadoras de hierba, cerraduras/llaves.	\$230,000.00	Sin Incremento	10%
	Vivienda	Vivienda	Programa de Asistencia a Reparaciones en los Hogares, desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	\$50,000.00	25%	10%
	Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.	\$300,000.00	25%	25%
	Mejoramientos de Infraestructura	Mejoramientos de Instalaciones Públicas	Mejoramientos del Acceso Público a Edificios de la Ciudad de Newburgh	\$40,000.00	25%	20%
	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades para Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento del Personal.	\$75,000.00	15%	10%
	Mejoramientos de Calidad de Vida	Servicios a los Barrios	Actividad de Servicio Público, Sujeta a un Límite de 15% de Adjudicación Anual. Ejemplos de Actividades: Festival de Cine de Verano, Iniciativas de Extensión Comunitaria para la Salud, Noche Nacional de Salida (Sujeta a la aprobación de las operaciones de la Ciudad de Newburgh).	\$25,000.00	10%	20%
	Administración	Administración	Programa de Administración, Salario y Beneficios del Personal, servicios de traducción, costes de operación del programa (incluyendo correos), entrenamientos del programa/conferencias.	\$135,000.00	No Increase	5%
	Adjudicación Total Propuesta para el Año Fiscal 2022			\$855,000.00		

Financiación de Contingencia

Si el monto de la actual adjudicación anual excede el estimado propuesto, el presupuesto del proyecto se incrementará en:

				% de incremento del proyecto, si la adjudicación HUD es mayor a la propuesta (aprox.)
Necesidad Prioritaria Abordada				
Nombre del Proyecto				
Actividades Propuestas (Ejemplos)				
Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (entitlement)	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para continuar financiando los salarios/beneficios de los Empleados de la Ciudad de Newburgh. Además, financiar los fondos para los materiales necesarios para mantener las propiedades en ejecución hipotecaria, como ser, palas quitanieve, recortadoras de hierba, cerraduras/llaves.	Sin incremento
	Vivienda	Vivienda	Programa de Asistencia para Reparación de Hogares, desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	25%
	Mejoramientos de Infraestructura	Mejoramientos de Infraestructura	Para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.	25%
	Mejoramientos de Infraestructura	Mejoramiento de Instalaciones Públicas	Mejoramiento de Accesos a Edificios Públicos de la Ciudad de Newburgh.	25%
	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades de Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento de Fuerzas de Trabajo.	15%
	Mejoramientos de Calidad de Vida	Servicios en los Barrios	Actividades de Servicio Público, Sujetas al Límite del 15% de la Adjudicación Anual. Ejemplos de Actividades: Festival de Cine de Verano, Iniciativas de Extensión Comunitaria de Salud, Noche Nacional de Salida. Actividades Sujetas a la aprobación operativa de la Ciudad de Newburgh).	10%
	Administración	Administración	Administración del Programa, Salario y Beneficios del Personal, servicios de Traducción de Idioma, costes de Operación del programa (incluyendo correo), Programas de Entrenamientos/conferencia.	Sin incremento

Financiación de Contingencia

Si el monto de la actual adjudicación anual es menor al estimado
propuesto, el presupuesto del proyecto se disminuirá en:

				% Disminución del proyecto, si la adjudicación HUD es menor a la propuesta (aprox.)
Proyectos Financiados a través de una Adjudicación de Subvención por Derecho (Entitlement)	Necesidad Prioritaria Abordada	Nombre del Proyecto	Actividades Propuestas (Ejemplos)	
	Vivienda	Vivienda	En-Efecto Programa de Propiedades: Para Continuar financiando los salarios/beneficios de los Empleados de la Ciudad de Newburgh. Además, financiar los materiales necesarios para el mantenimiento de propiedades en ejecución hipotecaria, como ser palas de quitanieve, recortadoras de hierba, cerraduras/llaves.	10%
	Vivienda	Vivienda	Programa de Asistencia de la Reparación de Hogares, Desempeñado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.	10%
	Mejoramiento de Infraestructuras	Mejoramiento de Infraestructuras	Para Continuar financiando el Proyecto de Mejoramiento de Aceras y Rampas en Bordillos.	25%
	Mejoramiento de Infraestructuras	Mejoramiento de Instalaciones Públicas	Mejoramiento de Accesos a los Edificios Públicos de la Ciudad de Newburgh.	20%
	Desarrollo Económico	Desarrollo Económico	Ejemplos de Actividades de Desarrollo Económico: Fachadas y Carteles de Negocios, Entrenamiento de Personal.	10%
	Mejoramiento de la Calidad de Vida	Servicios en los Barrios	Actividades de Servicios Públicos, Sujeto al límite de 15% de Adjudicación Anual, Ejemplos de Actividades: Festival de Cine de Verano, Iniciativas de Extensión Comunitaria de Salud, Noche Nacional de Salida, Actividades Sujetas a la aprobación operativa de la Ciudad de Newburgh).	20%
	Administración	Administración	Administración del Programa, Salario y Beneficios del Personal, servicios de traducción de lenguaje, Costes de Operación del programa (incluyendo correo), Programa de entrenamientos/conferencia.	5%

Proyecto: Vivienda

Actividades Propuestas:

- En-Efecto Programa de Propiedades
- Programa de Asistencia al Propietario para la Reparación de su Hogar (Implementado por una Organización para la Vivienda Asociada con la Ciudad de Newburgh)

Actividad de Vivienda Propuesta: En-Efecto Programa de Propiedades

Presupuesto: \$230,000.00

Descripción:

- Actividad desempeñada por 2 empleados a tiempo completo del Departamento de Obras Públicas y 1 empleado de Planeamiento y Desarrollo dedicado al programa en-efecto.
- Provee mantenimiento y seguridad a las propiedades vacantes. Mantiene las propiedades habitables, el buen aspecto de los barrios, mantiene/incrementa el valor de las propiedades.

Actividad de Vivienda Propuesta: Programa de Asistencia para la Reparación de Hogares

Presupuesto: \$50,000.00

Descripción:

- Financiación del Programa de Asistencia para Reparaciones Menores del Hogar para propietarios de Bajos/Moderados Ingresos de la Ciudad de Newburgh.* Implementado a través de una Organización para la Vivienda Asociada con la Ciudad de Newburgh.

* Reparaciones menores, como ser, pasamanos, escalones, etc.



Actividad Propuesta para Mejoramiento de Infraestructura: Mejoramiento de Aceras y Rampas en Bordillos.

Presupuesto: \$300,000.00

Descripción:

- Fondos para continuar la financiación del proyecto de Mejoramiento de Aceras y Rampas en Bordillos.

Actividad Propuesta de Mejoramientos de Infraestructura: Mejoramientos de Instalaciones Públicas

Presupuesto: \$40,000.00

Descripción:

- Mejoramiento del Acceso Público a los Edificios de la Ciudad de Newburgh.

Actividad de Desarrollo Económico

Propuesta: Asistencia a Negocios

Presupuesto: \$75,000.00

Descripción:

- Financiación para la asistencia a negocios, como ser, subvenciones para Fachadas y Carteles, Entrenamiento a Fuerzas de Trabajo.

Actividad Propuesta para Calidad de Vida: Servicios en los Barrios

Presupuesto: \$25,000.00

Descripción (Servicios Anticipados):

- 2022 Festival de Cine de Verano
- Iniciativa de Extensión Comunitaria de Salud
- Noche Nacional de Salida

Importante: La Actividad de Servicio Público,
está sujeta al 15% de límite de Adjudicación
Anual.



Actividad Propuesta: Administración

Presupuesto: \$135,000.00

Descripción:

- Financiamiento del programa de administración, salario y beneficios del personal, servicios de traducción de lenguaje, costes operativos del programa (incluyendo correo), programa de entrenamientos/conferencia.

Línea del Tiempo del Año Fiscal-2022

CDBG - Plan Anual de Acción (AAP)



**Año Fiscal-2022 - SUBVENCIÓN EN BLOQUE PARA EL
DESARROLLO DE LA COMUNIDAD (CDBG)
LÍNEA DEL TIEMPO DE LOS PROYECTOS**

**FY2022 Annual Action Plan
Community Development Block Grant (CDBG)**

					% Project increase, if HUD allocation greater than proposed (approx.)	% Project decrease, if HUD allocation less than proposed (approx.)
Projects Funded through Entitlement Grant	Priority Need Addressed	Project Name	Proposed Activities (Examples)	Project Funding		
	Housing	Housing	In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.	\$230,000.00	No Increase	10%
	Housing	Housing	Home Repair Assistance Program, performed through a City of Newburgh Housing Partner.	\$50,000.00	25%	10%
	Infrastructure Improvements	Infrastructure Improvements	To continue funding Curb Ramp & Sidewalk Improvements project.	\$300,000.00	25%	25%
	Infrastructure Improvements	Public Facility Improvements	Public Accessibility Improvements to City of Newburgh Buildings.	\$40,000.00	25%	20%
	Economic Development	Economic Development	Examples of Economic Development Activities: Business Façade and signage, Workforce Training.	\$75,000.00	15%	10%
	Quality of Life Improvements	Neighborhood Services	Public Service Activity, Subject to 15% Annual Allocation Cap, Examples of Activities: Summer Film Festival, Health Outreach Initiatives, National Night Out (Activities Subject to City of Newburgh operational approval).	\$25,000.00	10%	20%
	Administration	Administration	Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference.	\$135,000.00	No Increase	5%
			Proposed Total FY2022 Allocation	\$855,000.00		

RESOLUTION NO.: 211 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO A LICENSE AGREEMENT WITH
THE GREATER NEWBURGH PARKS CONSERVANCY, INC.
TO ALLOW USE AND ACCESS TO CITY-OWNED PROPERTY SITES
FOR A SEASONAL PLANTING PROJECT**

WHEREAS, the Greater Newburgh Parks Conservancy, Inc. proposes a seasonal planting project at a number of City-owned parks, open spaces and properties; and

WHEREAS, the proposed project envisions planting perennial flowers and bulbs where appropriate and as locations and budget allow and will develop planting plans in close coordination with community stakeholders through community engagement events and surveys; and

WHEREAS, access to the City-owned parks, open-spaces and properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with the Greater Newburgh Parks Conservancy, Inc. to allow use and access to City-owned property sites for a seasonal planting project.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2021, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 (“City” or “Licensor”); and

GREATER NEWBURGH PARKS CONSERVANCY, INC. a New York not-for-profit corporation with an address of 28 Bay View Terrace, Newburgh New York 12550 (“Licensee”).

WHEREAS, the City is the owner of various parcels of land located within the City of Newburgh and more specifically described in **Schedule A**, annexed hereto and made a part hereof (all parcels collectively hereinafter referred to as “the Property”); and

WHEREAS, the Licensee has requested access to the Property for the purpose of installing seasonally appropriate plantings; and

NOW, THEREFORE, it is hereby agreed between the parties as follows:

Section 1. Grant of License. The City hereby represents that it owns the Property, and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee’s employees, apprentices, volunteers, agents, invited guests, and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Property, and taking thereupon such equipment, tools, machinery and other materials as may be necessary, for the purpose of installing seasonally appropriate plantings.

Section 2. Use of, and Access to, the Property.

- A. Entry to the Property is limited to the use and access necessary to conducting a seasonal planting project administered by the Licensee. In addition to Property access, Licensee shall be permitted to install seasonally appropriate plantings. Licensee shall perform its planting project in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, in the sole discretion of the City. Licensee may perform maintenance and clean-up in and around the Property as approved by the Licensor and as related to the planting project.
- B. Licensee shall submit a planting plan to the City Manager or his designee for review and approval at least 2 weeks prior to commencing any activities related to the planting project. Planting location plans shall include, but are not limited to, the dates, times, and exact locations of the plantings; the types of plantings to be installed; the methods, tools, and equipment to be used to install the plantings; and maintenance plan.
- C. Licensee shall call 811 for a utility markout before commencing any planting activities and shall wait the required time before any land disturbance activities take place.

Section 3. Insurance. Licensee shall not commence or perform work nor operate machinery under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

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

2. Property Damage Insurance in an amount not less than \$50,000.00 for damage on account of all occurrences. The Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement.

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

Section 4. Damages. The relation of the Licensee to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God or hidden defects under the City's or a previous licensee's prior care. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume blame, loss and responsibility of any nature to the extent of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby. Licensee will not be liable for damages in excess of Licensee's insurance coverage per occurrence, except such limitations will not apply to claims based on Licensee's intentional breach of this agreement or willful misconduct.

Section 5. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Property under this License Agreement, excepting gross negligence, intentional breach of this agreement or misconduct by the Licensor.

Section 6. Term of License. The license or privilege hereby given shall commence upon the signing of this License Agreement and shall expire without further notice to either party to the other at 11:59 p.m. on November 1, 2023 (“Expiration Date”), subject to Section 8 below. The license may be renewed thereafter by the mutual consent of both parties on such terms and conditions as the parties shall agree at that time.

Section 7. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 8. Termination of License. Either party may terminate this license prior to the Expiration Date, with or without cause, on at least thirty (30) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this License.

The City may terminate this license agreement by ten (10) days’ written notice when and if in its sole judgment it deems such termination is necessary by operation of law in the City’s sole reasonable discretion.

Section 9. Notices. Notices shall be in writing and shall be deemed properly served when deposited with the United States Postal Service, as certified mail, return receipt requested, bearing adequate postage or being deposited with a reputable overnight courier service for guaranteed next business day delivery and addressed as follows:

a. If to Licensor:

City of Newburgh
attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to

Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

b. If to Licensee:
Greater Newburgh Parks Conservancy, Inc.
attn: _____
28 Bay View Terrace
Newburgh, New York 12550

Section 10. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 12. No Vested Right. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this License.

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[Signature Page to Follow]

Signature Page

License Agreement: City of Newburgh / Greater Newburgh Parks Conservancy, Inc.

IN WITNESS WHEREOF, Licensors and Licensee have executed this Agreement the day and year herein mentioned.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.:

GREATER NEWBURGH PARKS CONSERVANCY, INC.
LICENSEE

By: _____

Approved as to form:

MICHELLE KELSON, Corporation Counsel

JANICE GASTON, City Comptroller

Remainder of this page intentionally left blank/Schedule A to follow

Schedule A – Property List

SCHEDULE "A"

Serial	Name	Address	SBL	Area (acre)	Owner
		Parks and Open Spaces			
1.	1st Street Fishing Pier	1st St.	Right-of-way	0.1123	City of Newburgh
2.	See 23.f				
3.	Delano-Hitch Recreation Park	401 Washington St.	34-4-1.22	27.1102	City of Newburgh
4.	Audrey Carey Park	251 Liberty St.	18-8-1.2	0.5957	City of Newburgh
5.	Downing Vaux Park	1 Broadway	31-4-54	0.4602	City of Newburgh
6.	See 23.b				
7., 8.	See 3.				
9.	Desmond Tennis Courts	385 South St.	16-2-1	0.3236	City of Newburgh
10.	Downing Park East	123 Carpenter Ave.	17-9-1	15.4165	City of Newburgh
10.	Downing Park West	123 Carpenter Ave.	17-10-1	15.4668	City of Newburgh
10.	Downing Park Green Houses	207 Carpenter Ave.	17-5-6	1.8863	City of Newburgh
11.	Gidney Ave Basketball Courts	14 Gidney Ave.	11-4-34.1	0.6612	City of Newburgh
12.	Hasbrouck Street Park	10 Hasbrouck St.	38-3-35.1	0.2247	City of Newburgh
13.	Newburgh Boat Launch	144 S Water St.	37-4-4	2.0755	City of Newburgh
14.	Unico Park & Newburgh Landing	70 Front St.	51-1-3	2.0755	City of Newburgh
15.	People's Park	1 Washington St.	40-3-3	7.4022	City of Newburgh
17.	Schleiermacher Park	4 West St.	33-6-1.1	0.8662	City of Newburgh
18.	South Street Park	180 Water St.	12-6-5.2	0.7653	City of Newburgh
19.	Tyrone Crabb Park	210 Grand St.	12-2-6	0.7657	City of Newburgh
20.	See 14.				
21.	Ward Brothers Memorial	2 Renwick St.	49-1-5.1-1	11.0166	City of Newburgh
	Rowing Park	2 Renwick St.	49-1-5.1-2	-	City of Newburgh
22.	Xavier Lunan Park	66 Courtney Ave.	48-2-22.2	0.1691	City of Newburgh
		Triangle Parks			
23.a	Cerone Drive Triangle	37 Cerone Pl.	42-2-6.121	0.1037	City of Newburgh
23.b, 6.	Clinton Square	374 Third St.	16-7-1	0.2028	City of Newburgh
23.c	Dupont Broadway Triangle	562 Broadway	26-1-43	0.0198	City of Newburgh
23.d	Forsyth Place Triangle	38 Forsythe Pl.	9-3-1	0.0976	City of Newburgh
23. e	Leroy Pl. & Liberty St. Park	Leroy Pl + Liberty St.	4-10-1	0.0812	City of Newburgh
23.f, 2.	Vietnam Memorial Park	Liberty St + Leroy Pl.	4-4-1	0.2817	City of Newburgh
23.g	Montgomery Street Triangle	367 Water St.	9-5-1.11	0.0631	City of Newburgh
23.h	North Street Triangle	N Plank Rd & North St.	3-5-1	0.2223	City of Newburgh
23.i	Park Place Park	Park Place	Right-of-way	0.8181	City of Newburgh
23.j	Thompson Street Triangle	South St & Pierce Rd S	13-3-1.1	0.0532	City of Newburgh
		Public Open Spaces			
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-1	2.0159	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-8	0.2563	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-9	0.0779	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-10	0.0799	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.11	0.0483	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.12	0.5383	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.2	0.3430	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-18.3	0.1628	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-20	0.0210	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-21	0.0265	City of Newburgh
24.a	Bay View Terrace Open Space	Bay View Ter.	49-1-23	0.0489	City of Newburgh
24.b	Crystal Lake	60 Temple Ave.	41-2-11.2	19.7913	City of Newburgh
24.c	Marne Ave Water Storage Tank	283 Carpenter Ave.	7-2-2	4.6379	City of Newburgh
24.d	Muchattoes Lake	136 Lake St Rear	33-7-29.2	7.0386	City of Newburgh
24.d	Muchattoes Lake	192 Lake St.	42-2-8	3.3415	City of Newburgh
24.e	Quassaick Creek Open Space	Dickson St.	43-1-35	1.7019	City of Newburgh
24.f	See 17.				
24.g	West Street Open Space	48 Orchard St.	14-3-54.2	6.4824	City of Newburgh
		Other Locations			
25.1	City Hall	83 Broadway	37-1-3	0.2676	City of Newburgh
25.2	Newburgh Heritage Center	123 Grand St.	24-1-1	0.6188	City of Newburgh
25.2	Newburgh Heritage Center	125 Grand St.	24-1-2	0.3599	City of Newburgh
25.3	Police Department	55 Broadway	37-2-4	2.0885	City of Newburgh
25.4	Fire Department	55 Broadway	37-2-4	-	City of Newburgh

GREATER NEWBURGH PARKS CONSERVANCY

To: Ellen Fillo, Director of Community Development, City of Newburgh
From: Kathy Lawrence, Board Chair, Greater Newburgh Parks Conservancy
Date: Aug. 3, 2021

The Greater Newburgh Parks Conservancy seeks a license agreement with the City of Newburgh to do a variety of plantings at seasonally appropriate times between October 2021 & October 2023 in some or all of the City parks, open spaces and public properties listed below.

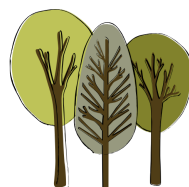
The precise timing and location of plantings will be determined by the Conservancy Board and informed by discussions with our Stakeholder Committee, community engagement events and surveys. We envision planting perennial flowers and bulbs where appropriate, and will consider installing flower boxes as locations and budget allow. We will develop our planting plans in close coordination and prior agreement with the entities in charge of the properties (e.g. Department of Public Works, Safe Harbors of the Hudson, Department of Ed, etc.).

The Conservancy will provide a certificate of Liability Insurance, covering the events to be held, naming the City of Newburgh as an additional insured on the Certificate with the limits of liability of at least one million dollars (\$1,000,000) for each occurrence and two million dollars (\$2,000,000) aggregate for bodily injury and fifty thousand dollars (\$50,000) for each occurrence and one hundred thousand dollars (\$100,000) aggregate for property damage.

If more than 10 people will be involved in a planting event, the Conservancy will submit the required Public Event Permit Application.

We look forward to working with you to help bring beauty and a shared sense of purpose to our beautiful City, and hope you will reach out soon with any questions or additional information needed.

Yours most sincerely,



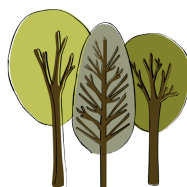
GREATER NEWBURGH PARKS CONSERVANCY

Newburgh City Parks and Open Spaces

1. 1st Street Fishing Pier (waterfront)
2. 9/11 Memorial Park (Park Place)
3. Aquatic Center (Robinson Ave/Washington St)
4. Audrey Carey Park (Liberty Street)
5. Broadway Park (also known as Downing Vaux Park) (Broadway/Colden St.)
6. Clinton Square (Fullerton St)
7. Delano-Hitch Recreation Park (Washington/Lake St)
8. Delano-Hitch Stadium (Washington/Lake St)
9. Desmond Tennis Courts (South St)
10. Downing Park (Robinson/South St)
23. Triangle Parks
 - a. Cerone Drive Triangle
 - b. Clinton Square
 - c. Dupont Broadway Triangle
 - d. Forsyth Street Triangle
 - e. Leroy & Liberty Triangle
 - f. Leroy Place Park
 - g. Montgomery Street Triangle
 - h. North Street Triangle
 - i. Park Place Park
 - j. Thompson Street Triangle
24. Public Open Spaces
 - a. Bay View Terrace Open Space
 - b. Crystal Lake
 - c. Marne Ave
 - d. Muchattoes Lake
 - e. Quassaick Creek Open Space
 - f. Schleiermacher Park
 - g. West Street Open Space
11. Gidney Avenue Basketball Courts
12. Hasbrouck Street Park
13. Newburgh Boat Launch (waterfront)
14. Newburgh Landing (waterfront)
15. People's Park
16. Safe Harbors Green
17. Schleiermacher Park (Washington Terrace)
18. South Street Park
19. Tyrone Crabb Park (Grand/South Streets)
20. Unico Park (waterfront)
21. Ward Brothers Memorial Rowing Park (waterfront)
22. Xavier Lunan Park (Courtney Ave)

Other City of Newburgh Locations

1. City Hall (83 Broadway)
2. Newburgh Heritage Center (123 Grand)
3. Police Department (55 Broadway)
4. Fire Department (22 Grand)
5. Newburgh Free Library (124 Grand)



RESOLUTION NO.: 212 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH CHOICE FILMS, INC.
FOR USE AND OCCUPANCY OF 104 SOUTH LANDER STREET
(SECTION 48, BLOCK 2, LOT 25) FOR FILM PRODUCTION OFFICE SPACE**

WHEREAS, Choice Films, Inc. has submitted an application for a film permit in connection with the production of a Hallmark holiday movie entitled “Duet”;

WHEREAS, in addition to filming activities at various locations within the City of Newburgh, Choice Films, Inc. has requested the use and occupancy of City-owned property located at 104 South Lander Street, and more particularly identified as Section 48, Block 2, Lot 25 on the official Tax Map of the City of Newburgh (the “Property”); and

WHEREAS, the request for the use and occupancy of the Property requires a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license agreement and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with the Choice Films, Inc. to allow use and occupancy of City-owned property located at 104 South Lander Street (Section 48, Block 2, Lot 25) for film production office space in connection with a film permit.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2021, by and between:

THE CITY OF NEWBURGH, a New York municipal corporation with offices at 83 Broadway, City Hall, Newburgh, New York 12550 (“City” or “Licensor”); and

CHOICE FILMS, INC. a for-profit corporation with an address of 9 Scobie Drive, Newburgh, New York 12550 (“Licensee”).

WHEREAS, the City is the owner of the property located at 104 South Lander Street in the City of Newburgh, and more accurately described as Section 48, Block 2, Lot 25 on the official tax map of the City of Newburgh (hereinafter referred to as “the Property”); and

WHEREAS, the Licensee has requested use and occupancy of the Property for film production office space in connection with a film permit;

NOW, THEREFORE, it is hereby agreed between the parties as follows:

Section 1. Grant of License. The City hereby represents that it owns the Property, located at 104 South Lander Street in the City of Newburgh, and more accurately described as Section 48, Block 2, Lot 25 on the official tax map of the City of Newburgh, and that it has duly authorized this License Agreement. The City hereby grants Licensee a revocable license for Licensee and Licensee’s employees, volunteers, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Property, for the purpose of establishing a fixed office for the conduct of its business operations in connection with a film permit submitted to the City of Newburgh and attached hereto as **Exhibit A**.

Section 2. Use and Occupancy of the Property. Entry to the Property is limited to the use of the of the building and occupancy necessary to complete the film production described in the film permit submitted to the City of Newburgh and attached hereto as **Exhibit A**. Licensee shall use and occupy the Premises in a careful, safe and proper manner, and shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises. Licensee may provide office furniture and equipment necessary and proper for the intended use of the Premises which shall be removed upon the termination of this Agreement. Prior to the expiration of the license, Licensee shall remove all materials related to the film production and shall restore the Property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. Licensor shall be responsible to provide utility service during the term of this License Agreement which costs are included in the License Fee as provided in Section 4 of this License Agreement.

Section 3. Insurance. The Licensee shall not enter the Property or commence or perform work under this License Agreement until it has obtained all insurance required under this Section 3 and such insurance has been approved by the City.

A. Workers' Compensation Insurance - The Licensee shall take out and maintain during the life of this agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. General Liability and Property Damage Insurance - The Licensee shall take out and maintain during the life of this agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

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

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

Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this License Agreement.

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

Section 4. Fees, costs and expenses. Licensee shall pay to Licensor, as and for a fee for the use and occupancy of the Property during the period of this agreement, \$6,100.00 per month, which shall be prorated for the months of September and November in accordance with the License term set forth in Section 7, for a total License Fee in the amount of \$14,233.33, payable as follows:

- A. \$3,050.00 due upon execution of this Agreement;
- B. \$6,100.00 due on or before October 1, 2021; and
- C. \$5,083.33 due on or before November 1, 2021.

It is expressly understood that Licensee will be responsible for all costs and expenses related to the film production.

Section 5. Damages. The relation of the Licensee to the City as to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity. Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Property under this License Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License. The license or privilege hereby given shall commence September 15, 2021 and shall expire without further notice to either party to the other at 11:59 p.m. on November 25, 2021 ("Expiration Date"), subject to Section 9 below. The license may be renewed thereafter by the mutual consent of both parties on such terms and conditions as the parties shall agree at that time.

Section 8. Assignment of License; No Sub-Licensing. This License may not be assigned or sub-let to any other party.

Section 9. Termination of License. Either party may terminate this License prior to the Expiration Date without cause on at least seven (7) days prior written notice to the other party. In the event of termination without cause by either party, Licensee shall receive a refund of any license fees paid by the Licensor in an amount prorated to the unexpired portion of the term. Licensor may terminate this License with cause by first providing a written notice to cure, with a list of deficiencies and curative instructions. Licensee shall then have ten (10) days from the date of the notice to cure to remedy all of the deficiencies listed in the notice and provide proof of same to the Licensor. Licensor retains the sole right to determine whether any deficiencies have been satisfactorily cured. Should Licensee fail to completely cure all deficiencies listed in the notice, this License shall terminate with no further notice to either party, and Licensor shall be entitled to keep any and all sums collected to the date of License termination.

Section 10. Security Deposit. In addition to the License Fee in Section 4, Licensee shall deposit an amount of four thousand and 00/100 dollars (\$4,000.00) to be held as security by the Licensor ("Security Deposit"). This Security Deposit is security that Licensee will comply with all of the terms of this License, and to restore the Property to a clean and orderly state in substantially the same condition as existed prior to the granting of this License.

Section 11. New York Law. This License Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 12. Notices. Notices shall be in writing and shall be deemed properly served when deposited with the United States Postal Service, as certified mail, return receipt requested, bearing adequate postage or being deposited with a reputable overnight courier service for guaranteed next business day delivery and addressed as follows:

a. If to Licensor:

City of Newburgh
attn: City Manager
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7301

With a copy to:

Corporation Counsel
City Hall, 83 Broadway
Newburgh, New York 12550
(845) 569-7335

b. If to Licensee:

Choice Films, Inc.
attn: _____
9 Scobie Drive
Newburgh, New York 12550

Section 13. Modification of License Agreement. This License Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 14. No Vested Right. It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this License.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK
[Signature Page to Follow]

Signature Page

License Agreement: City of Newburgh / Choice Films, Inc.

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement the day and year herein mentioned.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.:

CHOICE FILMS, INC.
LICENSEE

By: _____

Approved as to form:

MICHELLE KELSON, Corporation Counsel

JANICE GASTON, City Comptroller

Remainder of this page intentionally left blank/Exhibit A to follow

Exhibit A – Film Permit



City of Newburgh

Film Office

City Hall – 83 Broadway

Newburgh, New York 12550 www.cityofnewburgh-ny.gov

TEL: (845) 569-9400

FAX: (845) 569 9700

FOR OFFICE USE ONLY

Certificate of Insurance:

Date: _____ Approved: _____ Disapproved: _____ Not Required: _____

CORPORATION COUNSEL

Date	Department Head	Recommendation	Adjustment
_____	Comptroller _____	Yes____ No ____	_____
_____	Planning & Dev. _____	Yes____ No ____	_____
08/30/2021	Comm. Dev. Director <i>Ellen J. Fillo</i>	Yes <u>x</u> No ____	_____
_____	Codes _____	Yes____ No ____	_____
_____	Fire _____	Yes____ No ____	_____
_____	Police _____	Yes____ No ____	_____
_____	Engineering _____	Yes____ No ____	_____
_____	DPW _____	Yes____ No ____	_____
_____	Recreation _____	Yes____ No ____	_____
_____	Other _____	Yes____ No ____	_____

CITY MANAGER: Approved: _____ Denied: _____

Todd Venning
City Manager

DATE



City of Newburgh

Film Permit

Name of Applicant: Choice Films Inc / Duet Film, LLC

Production Company: Choice Films Inc / Duet Film LLC

Film Location(s): Various Locations in the City of Newburgh, including Downing Park, 117 Broadway, 109 S. William St.

Permit Date(s) Valid: 09/07/2021 – 11/30/2021

Special Conditions:

IMPORTANT:

ALL modifications to the "Filming Location Spreadsheet" MUST be submitted no later than 3:00 PM each day for approval by close of business, 4:00 PM, pursuant to Section 168 of the City of Newburgh Code.

City of Newburgh Public Safety Dispatch MUST be notified at least One (1) Hour prior to EACH INSTANCE of street/lane closure, and upon re-opening:

Fire Dispatch: (845) 562-1212

Police Dispatch: (845) 561-3131

City Manager

Date

File Edit Query Record Field Setup Window Help

ENTRY MODE

Year: 2021 Period: 8 Trans Date: 08/23/2021 Status: Batch
Roll Type: GR GENERAL RECEIPTS Batch No: AMC
Entered By: ANNA 08/23/2021 Trans No: 280943 Source:
Description: FILM SECURITY DEPOSIT AND PERMIT APPLICATION FEES - ACH PAYMENT
FOR HALLMARK MOVIE - DUET FILM LLC
Attachments

Receipt Type	Description	Amount	GL
A06901255	FILMING-REFUNDABLE SECURITY DEPOSITS	1,500.00	*
A12550016	CITY CLERK-FILMING NON-REFUNDABLE APPLICATION FEE	50.00	*

Payor Name: DUE FILM LLC Subtotal: 1,550.00
Customer: Address Tax: 0.00 Pay Type: ACH
Reference: ACH PMT PERMIT & APPLICATION FEE Total: 1,550.00 Check/Ref No: 5299989949
Receipt Printer: HP4200-AP Amt Paid: 1,550.00 Receipt No: 272328
Change: 0.00 — Select —

Enter value for Trans Date

Record: 1/1 <OSC> <DBG>



Welcome, Anna - Last Login: 08/20/2021 16:06 (Eastern Time)

Alerts: 55 Approvals: 0 Messages: 17
eLearning | Inbox | Log Off

- Treasury Dashboard
- Accounts
- Payments
- Transfers
- Fraud Control
- Check Services
- File Services
- Tools
- Administration

Timeout: 0:29:37

View Transaction

Use this page to view a cleared transaction.

Help ?

Account

CITY OF NEWBURGH TAX COLLECTION - 4277652115

Transaction

ACH Credit Received 142

Customer Reference

Transaction Date

08/23/2021

Amount

\$1,550.00

Bank Reference ID

Supplementary Details

Description

DUET FILM LLC Application Fee 5299989949

Back



City of Newburgh

Film Office

City Hall – 83 Broadway

Newburgh, New York 12550 www.cityofnewburgh-ny.gov

TEL: (845) 569-9400

FAX: (845) 569-9700



Film Permit Application

Applicant Information	
Name:	Choice Films Inc / Duet Film, LLC
Address: (Street, City, Zip/Postal Code)	9 Scobie Dr. Newburgh, NY 12550
Telephone Number: (Best number ex. Cell)	917-856-5003
Email Address:	tony@choicefilms.com

Production Company Information	
Name:	Choice Films Inc / Duet Film LLC
Address: (Street, City, Zip/Postal Code)	385 Broadway, Newburgh, NY 12550
Telephone Number: (Best number ex. Cell)	917-856-5003
Email Address:	tony@choicefilms.com



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Newburgh, New York 12550 www.cityofnewburgh-ny.gov

TEL: (845) 569-9400

FAX: (845) 569-9700

Production Company Owner Information	
Name:	Tony Glazer and Summer Crocket Moore
Address: (Street, City, Zip/Postal Code)	385 Broadway, Newburgh, NY 12550
Telephone Number: (Best number ex. Cell)	917-856-5003
Email Address:	tony@choicefilms.com

Contact Information for Person(s) in charge of the Production	
Name:	Summer Crocket Moore
Address: (Street, City, Zip/Postal Code)	9 Scobie Dr., Newburgh, NY 12550
Telephone Number: (Best number ex. Cell)	917-207-5015
Email Address:	summer@choicefilms.com



City of Newburgh

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FAX: (845) 569-9700

Note: Please include this information on the attached spreadsheet.

Street Address(es) of location(s) at which filming will take place	Date(s) Filming will occur at this location	Hour(s) Filming will occur at this location
2 Alices 117 Broadway	9/27/2021	8am-10am
Downing Park 181-141 Carpenter Ave	9/27/2021	8am-2pm
Delano-Hitch Stadium 401 Washington St	9/10/2021	10am - 4pm
The above dates are a placeholder as we lock our filming schedule and we will submit specific dates and times in advance to the city for notification and approval		



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Estimated Number of persons involved in project

Cast: 2

Crew: 50

Note: If the following information is already available in another document, please reference and attach to the application.

List of equipment for the production, including generator

Camera

Trailer

Lights

Generator

Steadicam and Dolly



City of Newburgh

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FAX: (845) 569-9700

Note: If the following information is already available in another document, please reference and attach to the application.

List Vehicles used in Production	Historic or Period Vehicle? (Y/N)
Electrical Truck	N
Talent Truck	N
Camera Truck	N
Hair and Makeup Truck	N



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List of Animals, Pyrotechnics, Hazardous Chemicals, Demolition of Buildings or Structures and use of Residential Vehicles Proposed to be used in the Production.

Note: Please attach Safety Plan to Application if above Items are Used during Production.



City of Newburgh

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FAX: (845) 569-9700

Note: If the following information is already available in another document, please reference and attach to the application.

Plan to Minimize Disruption of Traffic and Parking during Filming.

We will follow all city ordinances in regards to parking and do not anticipate any disruption to traffic.

We will submit parking requests and pay parking fees for any production vehicle.



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List of City of Newburgh Services Required during the Film Shoot, including, but not limited to Signs and Barricades.
Parking
Signs

Proposed Scene	Proposed	Proposed Location Street Address and/or	Scene Description (ex. park,	Scene Activity or Activities (ex.	Scene will need City of	Need Assistance from City
9/27/2021	8am-2pm	Downing Park	outdoor market	walking through an outdoor	No	No
9/7/2021	8am-10am	2 Alices - 117 Broadway	coffee shop	busker performs on the street	Street Parking needed	No
9/7/2021	10am-10pm	Beahive - 109 S. William St	record label office location	Lead character works at her	Street Parking needed	No



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Newburgh, New York 12550 www.cityofnewburgh-ny.gov

TEL: (845) 569-9400

FAX: (845) 569-9700

FILM INDEMNITY FORM

The applicant agrees to indemnify and hold harmless the City of Newburgh and to be solely and absolutely liable for any and all claims, actions, proceedings suits, and judgments against the City and/or occurring during the activities of the applicant, its employees, volunteers, contractors and agents or otherwise. The applicant further agrees to comply with all pertinent provisions of New York State and City of Newburgh laws, rules, and regulations. The filming permit may be revoked at any time.

8/18/21

Date

Choice Films Inc. / Duet Film LLC

Applicant Name (Print)

Applicant Signature



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
08/19/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Front Row Insurance Brokers, LLC. 14156 Magnolia Blvd, Suite 200 Sherman Oaks, CA. 91423	CONTACT NAME: Kent Hamilton	
	PHONE (A/C, No, Ext): 424-529-6700	FAX (A/C, No):
	E-MAIL ADDRESS: kent@frontrowinsurance.com	
	INSURER(S) AFFORDING COVERAGE	
INSURED Duet Film LLC 9 Scobie Drive Newburgh, NY 12550	INSURER A: Fireman's Fund Insurance Compa	
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INS R LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YY)	POLICY EXP (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ ☐ ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER:	Y	N	UST0195 80210	08/10/21	08/10/22	EACH OCCURRENCE	\$1,000,000
							FIRE DAMAGE (Any one fire)	\$1,000,000
							MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$1,000,000
							GENERAL AGGREGATE	\$2,000,000
							PRODUCTS-COMP/OP AGG	\$1,000,000
							COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☒ HIRED AUTOS ☐ SCHEDULED AUTOS ☒ NON OWNED AUTOS	Y	N	UST0195 80210	08/10/21	08/10/22	BODILY INJURY (Per Person)	
							BODILY INJURY (Per Accident)	
							PROPERTY DAMAGE (Per accident)	
							AGG \$	
A	WORKERS' COMPENSATION ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICE / MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	n/a	N	SCW081 121	08/10/21	08/10/22	☒ WC STATUT- ORY LIMITS	OTHER
							E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE-EA EMPLOYEE	\$1,000,000
							E.L. DISEASE-POLICY LIMIT	\$1,000,000
A	ENTERTAINMENT PACKAGE	n/a	N	UST0170 69210	08/10/21	08/10/22	MISCELLANEOUS RENTED EQUIPMENT	\$2,000,000 Limit \$7,500 Ded.
							PROPS, SETS & WARDROBE	\$2,000,000 Limit \$7,500 Ded.
							3 RD PARTY PROPERTY DAMAGE	\$1,000,000 Limit \$7,500 Ded.
							HIRED AUTO PHYSICAL DAMAGE	\$1,000,000 Limit Ded: 10% of loss, \$3,500 min / \$7,500 max
A	UMBRELLA LIABILITY	Y	N	UST0048 3721U	08/10/21	08/10/22	Per Occurrence Aggregate	\$5,000,000 \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 The certificate holder is included as additional insured and/or loss payee as their interest may appear, but only as respects Liability arising out of the operations of the named insured. Excludes filming exposures related to stunts and hazardous activities, unless declared and approved. Production: "Duet"

CERTIFICATE HOLDER

ADDITIONAL INSURED; INSURER LETTER:

CANCELLATION

City of Newburgh
83 Broadway
Newburgh, NY 12550

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (use street address only) CHOICE FILMS, INC. 9 SCOBIE DRIVE NEWBURGH, NY 12550 Work Location of Insured (Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)	1b. Business Telephone Number of Insured 212-206-1099 1c. NYS Unemployment Insurance Employer Registration Number of Insured 1d. Federal Employer Identification Number of Insured or Social Security Number 74-3029361
2. Name and Address of Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) City Of Newburgh 83 Broadway Newburgh, NY 12550	3a. Name of Insurance Carrier NATIONAL FIRE INSURANCE COMPANY OF HARTFORD 3b. Policy Number of Entity Listed in Box "1a" WC6025211665 3c. Policy effective period <u>4/23/2021</u> to <u>4/23/2022</u> 3d. The Proprietor, Partners or Executive Officers are ☐ included. (Only check box if all partners/officers included) ☐ all excluded or certain partners/officers excluded.

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. **(To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy).** The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The insurance carrier must notify the above certificate holder and the Workers' Compensation Board within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) **Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.**

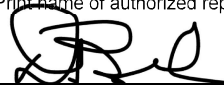
This certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend or alter the coverage afforded by the policy listed, nor does it confer any rights or responsibilities beyond those contained in the referenced policy.

This certificate may be used as evidence of a Workers' Compensation contract of insurance only while the underlying policy is in effect.

Please Note: Upon cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Dominique N. Butler
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by:  8/24/2021
(Signature) (Date)

Title: Assistant Vice President

Telephone Number of authorized representative or licensed agent of insurance carrier: (805) 537-0006

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

Workers' Compensation Law

Section 57. Restriction on issue of permits and the entering into contracts unless compensation is secured.

1. The head of a state or municipal department, board, commission or office authorized or required by law to issue any permit for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, and notwithstanding any general or special statute requiring or authorizing the issue of such permits, shall not issue such permit unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter. Nothing herein, however, shall be construed as creating any liability on the part of such state or municipal department, board, commission or office to pay any compensation to any such employee if so employed.
2. The head of a state or municipal department, board, commission or office authorized or required by law to enter into any contract for or in connection with any work involving the employment of employees in a hazardous employment defined by this chapter, notwithstanding any general or special statute requiring or authorizing any such contract, shall not enter into any such contract unless proof duly subscribed by an insurance carrier is produced in a form satisfactory to the chair, that compensation for all employees has been secured as provided by this chapter.

I. Introduction

- A. The protocols in this document are based on guidelines from Industry Guilds & Unions (The Safe Way Forward Report), Industry-Wide Labor Management Safety Committee Task Force, the CDC, and outside medical advice from infectious disease expert Erin Bromage. Links to the CDC website, The White Paper, and other contributing sources can be found in the Reference section at the end of this document.
- B. Given how quickly information about COVID-19 evolves, these policies will also evolve to reflect the most current research, techniques, and practical application in our day-to-day work. Feedback from all departments is welcome. Please report problems, ask questions, and suggest solutions or modifications based on your department specifics, so that we can adapt and enhance everyone's safety and efficiency.
- C. Adherence to these safety protocols is a condition of hire and of continuing employment. Anyone not following these rules will be reminded to do so, and failure to comply may result in discipline up to and including termination. A new COVID Compliance Department, composed of a Health Safety Supervisor (HSS), Health Safety Manager (HSM) and other supervisory and operational staff, will be formed to oversee and help execute these practices. However, real implementation, and our ability to function during this period, will depend on everyone.
- D. Culture is the most important element in this program. Personal responsibility is the key, and we need each of you to take seriously the role you play in keeping everyone on the production safe. Without the committed involvement of each cast and crew member, the program does not work. Diligence will determine our ability to keep everyone safe and complete the production. Please think carefully about these protocols while in the workplace, but also while at home. Please be conscious of contacts with those outside your household in your off hours.
- E. When followed, these protocols are designed to break the active transmission of the virus. However with the current infection rate in the United States, even these measures cannot guarantee a risk-free environment. Each crew member must make their own decision, based on their specific circumstances, about whether coming back to work at this time is the right thing for them. Production will continue to communicate the latest guidance regarding COVID-19 and industry practice in curbing the spread.
- F. Cast and crew are encouraged to ask questions and provide feedback about which policies are working and which are not. Please do not hesitate to reach out to Production, the HSS or the HSM with questions, concerns, or suggestions.
- G. These protocols are subject to change and generally subject to any provisions agreed upon by the AMPTP. Anything covered herein or adopted that is different from AMPTP standards is non-precedential and non-citable.

II. **About COVID-19 and How it Spreads**

- A. People with COVID-19 may have wide range of symptoms¹--ranging from mild symptoms to severe illness.
1. Symptoms may appear 2-14 days after exposure to the virus:
 - a) Fever
 - b) Cough
 - c) Shortness of breath or difficulty breathing
 - d) Fatigue
 - e) Muscle or body aches
 - f) Headaches
 - g) New loss of taste or smell
 - h) Sore throat
 - i) Congestion or runny nose
 - j) Nausea or vomiting
 - k) Diarrhea
 2. Seek emergency medical care immediately for the following emergency warning signs:
 - a) Trouble breathing
 - b) Persistent pain or pressure in the chest
 - c) New confusion
 - d) Inability to wake or stay awake
 - e) Bluish lips or face
 - f) This list is not all possible symptoms. Please call your medical provider for any other symptoms that are severe or concerning to you.
- B. COVID-19 is primarily transmitted from person-to-person through respiratory droplets. These droplets are released when someone with COVID-19 sneezes, coughs, or talks. Infectious droplets can land in the mouths or noses of people who are nearby or possibly be inhaled into the lungs (cdc.gov).
- C. Evidence of aerosol transmission of COVID-19 is controversial. There is growing evidence to show that virus-containing particles or droplets can remain airborne (suspended in the air) and travel distances beyond 6 feet (cdc.gov / khn.org), resulting in possible infection if inhaled by others.

¹ [Centers for Disease Control and Prevention: Symptoms of Coronavirus](#)

- D. Evidence shows that viral transmission on surfaces accounts for less than ten (10%) percent of infections.
- E. We offer this information to contextualize our safety practices that mitigate these risks of transmission.

III. Introducing Health and Safety Team

A. Health and Safety Team

- 1. Health and Safety Supervisor: James Glorioso (518-227-7266 cell / jglorioso2012@gmail.com)
- 2. Unit Production Manager: Summer Crockett Moore (917-207-5015 cell / summer@choicofilms.com)
- 3. Testing Coordinator: Middletown Medical (Barbara Cue) barbara.cue@middletownmedical.com

B. Healthcare Provider: Middletown Medical

- 1. Testing: Jennifer Mocera (845-214-6989 cell / jennifer.mocera@middletownmedical.com)

C. Production has received expert advice on all of our safety protocols, especially practices around PPE, testing, and physical distancing.

F
or up to date Covid-19 Prevention Information and Training Courses
visit: <https://practicesafesets.co/change-log/>

IV. General Notes

A. Education and Training

- 1. Every cast and crew member will have the option to participate in a health and safety training with the Health and Safety team.

B. Working Hours

- 1. A typical shoot day will be approximately 11-12 hours from general crew call to wrap. Off Production will also work approximately 10-hour days. These are overall goals for length of work and may be adjusted as needed based on production needs.
- 2. Cast and crew members will take breaks every two to four hours. Break time will be used for handwashing, equipment wiping, airing out of locations with fans on, going to a safe place to remove masks, drinking water, etc.
- 3. Check-in Protocol

- a) On a cast or crew member's first day of work, they will be checked in to the worksite by the HSS or the HSM.
- b) HSS or HSM will confirm each morning that all cast and crew members are clear to work.

C. Visitor Policy

- 1. Access to the set will be strictly controlled. Production will issue colored identification and only those badge-holders with the approved color will be permitted on the set during filming. No visitors will be allowed on set or in any Production area including basecamp and the production office without prior approval from production.

D. Code of Conduct

- 1. Cast and crew are expected to avoid all medium, medium/high, and high risk activities for the full duration of test-in, pre-production, and production.
 - a) Medium-High Risk activities include
 - (1) Eating at an indoor restaurant or coffee shop
 - (2) Exercising at a gym
 - (3) Visiting hair or nail salons
 - (4) Visiting a museum
 - (5) Attending an indoor party
 - (6) Attending a concert
 - (7) Visiting a movie theater
 - (8) Visiting bars and nightclubs
 - (9) Non essential travel
 - b) Low-Medium/Low Risk activities include
 - (1) Walking outdoors
 - (2) Running or biking
 - (3) Outdoor picnic (6ft away from others)
 - (4) Grocery shopping
 - (5) Picking up takeout food

COVID-19 Risk Index

Risk levels for exposure vary based on four main factors:



Enclosed space



Duration of interaction



Crowds

Density of people + challenges for social distancing



Forceful exhalation

Sneezing, yelling, singing, and coughing

Low

Staying at home
Alone or with members of your household

Walking outdoors
With or without pets

Running or biking
Alone or with another person

Risks: Close contact or potential clustering of people

Outdoor picnic or porch dining
With non-household people and physical distancing

Risks: Potential crowding and activity

Picking up takeout food, coffee, or groceries from stores
Risks: Potential crowding



Medium

Low / Medium

Playing "distanced" sports outside
Ex: Tennis or golf

Grocery shopping
Risks: Indoor, close contact, potential clustering of people, high-touch surfaces

Retail shopping
Risks: Indoor, close contact, potential clustering of people

Visiting hospital emergency department
Risks: Indoor, potential clustering of people

Medical office visit
Risks: Indoor, close contact, potential clustering of people, high-touch surfaces

Dentist appointment
Risks: Indoor, close contact, potential clustering of people, patient not wearing a mask

Taking a taxi or a ride-sharing service
Risks: Dependency on frequency of cleaning, duration of ride, and number of passengers

Museum
Risks: Indoor, close contact/potential clustering of people

Outdoor restaurant dining
Risks: Close contact, potential clustering of people, challenge to wear a mask during eating

Medium / High

Exercising at a gym
Risks: Indoor, close contact/potential clustering of people, high-touch surfaces, difficult to wear a mask, high respiratory rate

Hair/nail salon and barbershops
Risks: Prolonged close contact, difficult to wear a mask

Working in an office
Risks: Indoor, high-touch surfaces, prolonged close contact/potential clustering of people

Indoor restaurant or coffee shop
Risks: Indoor, prolonged close contact/potential clustering of people, difficult to wear mask while eating and drinking

High

Bars and nightclubs
Risks: Enclosed space, prolonged close contact/potential clustering of people, high respiratory rate, yelling/projection of voice

Indoor party
Risks: Indoor, prolonged close contact/potential clustering of people
Additional risks: alcohol (loss of inhibition), shared food/drink (coughing)

Playing contact sports
Football, basketball, soccer, etc.
Risks: Prolonged close contact/potential clustering of people, high respiratory rate, unable to wear a mask

Public transportation
Subway or bus
Risks: Enclosed space, prolonged close contact/potential clustering of people, and high-touch surfaces

Air travel
Risks: Enclosed space, prolonged close contact/potential clustering of people, and high-touch surfaces

Concert
Risks: Enclosed space, prolonged close contact/potential clustering of people, high-touch surfaces, yelling/projection of voice

Religious services
Risks: Enclosed space, prolonged close contact/potential clustering of people, high-touch surfaces, singing/projection of voice

Movie theater or live theater
Risks: Enclosed space, prolonged close contact/potential clustering of people, high-touch surfaces

Watching sports
Risks: Prolonged close contact/potential clustering of people, high-touch surfaces, yelling/projection of voice, enclosed space (if indoor)

REOPEN INTELLIGENTLY.
REOPEN SAFELY.

V. Health Screening

A. Testing for COVID-19

1. Pre-Employment Testing

- a) For the safety of all cast and crew members, two negative COVID-19 tests are required to begin work, taken at least 24 hours apart, prior to the start of employment.
- b) The second pre-employment test will be conducted and results obtained within 48hrs to the start of employment.
- c) The Testing Coordinator will communicate with each cast and crew member about how and when to take their tests.
- a) It is understood that offers of employment are contingent on the prospective employee undergoing the pre-employment tests required by the Producer which yield two negative test results.
- d) Each crew member is expected to avoid medium to high risk activities, and only engage in low risk activities, after taking their first COVID-19 test.
- e) Compensation
 - (1) An employee other than a background actor who travels outside his/her home to undergo a test on a day in which the employee does not work for the Producer shall receive a stipend (no fringes).
 - (2) Such stipend may also cover payment for time spent completing COVID-19 training of up to one hour, which need not occur on the same day as the test, and time spent completing start paperwork, if the Producer elects to require the employee to complete start paperwork on a day when the employee does not work.
 - (3) An employee who undergoes a test at home on a day in which the employee does not work for the Producer shall not receive a stipend.
 - (4) However, no stipend is due if the employee is otherwise paid for the day.

2. Pre-Employment Testing with Travel

- a) Cast and crew members traveling by air or by car are required to obtain a negative result from a COVID-19 test 48hrs prior to departure.
- b) Per New York State travel restrictions, upon arrival in New York, traveling cast and crew members must quarantine for three days. On day 4 of their

quarantine, the traveler must test again and begin periodic testing. If all tests are negative, the traveler may exit quarantine early upon receipt of the post-travel negative diagnostic test and is cleared to begin working. **Please see section “XIII. Travel” for more information on New York State’s travel restrictions.**

3. Periodic Testing

a) Upon beginning work, each cast and crew member will begin their periodic testing regimen. Testing will be at different intervals depending on your Zone.

b) **Prep Testing Cadence:**

(1) Zone A

(a) Monday - PCR

(b) Wednesday - PCR

(c) Friday - PCR

(2) Zone B

(a) Tuesday - PCR

c) **Principal Photography Cadence:**

(1) Zone A

(a) Monday - PCR

(b) Wednesday - PCR

(c) Friday - PCR

(2) Zone B

(a) Monday - PCR

(b) Thursday - PCR

4. Test Results

a) Your personal and individual test results will be shared with you. Your status will also be reported to the Health Safety Supervisor (HSS) and Testing Coordinator. All health information is confidential per HIPAA regulations. Production will only receive confidential information on a need-to-know basis.

B. Health Assessment Survey

1. Each work day, crew members will be guided through a daily health screening in the form of a brief digital questionnaire. Crew members are expected to complete the questionnaire before reporting to set.

C. Temperature Checks

1. Employees will be subject to temperature checks, to take place during their check-in to the workplace. Anyone with a temperature above 100.4 degrees will be subject to further health screening.
2. An employee who does not pass a temperature check conducted at the work site may rest for fifteen (15) minutes, before having his/her temperature checked again. If the employee does not pass the second temperature check, he/she will not be cleared to work.

D. Sick Leave Policy

1. Currently working cast or crew members are eligible for up to 10 days (80 hours) of paid supplemental COVID-19 sick leave in accordance with applicable federal and/or state law when they are unable to work (or telework) for any of the following reasons:
 - a) They are subject to a federal, state, or local quarantine or isolation order related to COVID-19
 - b) They have been advised by a healthcare provider to self-quarantine or self-isolate due to concerns related to COVID-19
 - c) They are experiencing symptoms of COVID-19 and seeking a medical diagnosis
 - d) They are prohibited from working/coming to set due to health concerns related to the potential transmission of COVID-19 (e.g., as a result of being sent home due to a positive test or confirmed symptoms of illness, due to symptoms reported on the daily symptom screening, etc.)
 - e) They are caring for an individual who is either subject to a quarantine or isolation order related to COVID-19 or who has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19; and/or
 - f) They are caring for a child whose school or place of care has been closed, or whose childcare provider is unavailable, due to COVID-19 precautions.
2. Documentation may be required to substantiate the need for supplemental COVID-19 sick leave, to the extent permitted by law. If any cast or crew members have questions, they should contact production.

VI. Physical Distancing

A. Definition of Close Contact as defined by the New York State Department of Health:

1. **Cumulative 10-minutes of face-to-face conversation, eating, or moderate-to-heavy physical activity within 6ft of distance over the course of 24hrs, regardless of PPE usage.**

2. Unmasked interaction within 6ft of each other in an enclosed room for any period of time.
 3. Unmasked interaction in the same room or set for 10 minutes regardless of distance.
 4. Other close encounters with the index case, deemed high risk following contact tracing interviews.
- B. For the duration of employment, cast and crew members are expected to limit close contact with individuals outside your household, both indoors and outdoors. This means:
1. Stay at least 6 feet away from other people
 2. Do not gather in large groups with people outside your household, especially when 6ft of distance cannot be maintained
 3. Avoid crowded places and mass gatherings, especially in interior spaces/
 4. Avoid Bars, Indoor Dining, and Gyms
 5. Limit the duration of any interaction not conducted with distancing

C. Zones System

1. Zone A definition: The performance zone where activity must occur without physical distancing or the use of PPE.
 - a) The members of Zone A are:
 - (1) Cast members and background actors without PPE
 - (2) Crew members who have direct close contact with cast without PPE (i.e. vanities)
 - (3) Crew members who are present within the performance zone when cast or background are not wearing PPE
2. Zone B definition: Everywhere the production has a footprint that is not Zone A. Use of PPE and stringent physical distancing practices are observed and enforced.
 - a) The members of Zone B are:
 - (1) Permitted on a "hot" set to perform their duties, but are required to clear the performance zone when cast or background is present without PPE
3. Zone C definition: Crew members who are able to wear PPE at all times while working and are not required to be within six feet of other individuals for longer than 15 minutes while working.
 - a) The members of Zone C are:
 - (1) Off-production / working remotely

- (2) Not permitted to have any close contact with members of Zone B or Zone A

D. Pods

1. Pods are an additional layer of separation based on department responsibility, proximity to the set/cast, and specific required interactions. The objective of pods is to limit, control, and trace any necessary points of close contact.
2. Cast and crew members who must regularly have close contact throughout the day to perform their job function will be placed into pods together. If you are in a pod with another crew member, it is anticipated that you may have close contact with that person in order to perform your work duties.
3. **Close contact should always be limited to what's needed to perform your job. To be clear, it is always safest to follow physical distancing protocols, even within pods. The pods themselves should never be considered a safe-zone.**
4. Whenever possible, contact between cast and crew members should be conducted virtually – by radio, telephone, FaceTime, Zoom, etc. That said, it is OK to have a face to face conversation with a member of another pod, if it is conducted while both parties are wearing masks and more than 6' separation is maintained.
5. All close contacts will be recorded by Supervisor or designated COVID liaison in a daily audit that will be given to the Health and Safety team at the end of each work day. Any close contact that happens with someone outside your pod must be reported to the Health and Safety team for documentation. This is extremely important in the event that contact tracing is required.

VII. Air Purification

A. Ventilation

1. Any interior space should be regularly and consistently ventilated for minimum 4x but ideally 6x air exchanges/turnovers per hour.
2. Ventilation is achieved by taking air from the outside and bringing it in, and taking the air from inside and blowing it out. This can be achieved with multiple box fans, industrial blowers for larger spaces, or with HVAC systems that conduct air exchange with outside air.

B. Filtration

1. While ventilation is preferable to filtration, alternatively the producer can filter recirculated air.

2. Any HVAC systems filters should be regularly inspected for clean filters and equipped with MERV 13 or higher rated filters (i.e., filtration of particles as small as 0.3 microns, and minimum of 90% filtration of particles larger than 1 micron).
3. If the HVAC system is not easily equipped with proper filtration, the Producer may conduct air filtration using portable HEPA filters in accordance with the manufacturer's specifications.

VIII. Personal Protective Equipment

- A. All persons wishing to enter the Premises will be required to show that they have suitable face covering to wear while on the Premises, before being permitted entry.
- B. Producers will provide all employees with face coverings to be worn at all times on the job site, except when eating, drinking, or when their job duties prevent them from doing so i.e. cast when they are performing or while hair and make-up is being applied. PPE is to be put back on as soon as the necessary action is over.
- C. Producers recognize that wearing a mask all day is tiring. Safe Zones will be provided to remove your mask to eat, drink, and breathe freely. Each Safe Zone will allow for physical distancing and will preferably be outdoors or in a well ventilated environment. However, removing your mask for such activities is only allowed within a safe zone designated by production. This is nonnegotiable.
- D. Type of Mask
 1. Level 3 Surgical Masks are recommended to be worn by all cast and crew working in interior locations.
 2. Cloth masks with three layers or two layers and folds are acceptable while working in exterior locations.
 3. Cloth masks should be washed at the end of the day on which they are used.
 4. Masks with exhaust valves are considered ineffective PPE.
- E. Proper Handling of Masks
 1. Wash hands or use hand sanitizer before putting on a mask.
 2. Position the mask under your chin with the nosepiece up.
 3. Pull the ear loop to each ear and adjust it so that it's in a comfortable position on your nose.
 4. Using both hands, mold the nosepiece to your nose by moving hands downward and outward.
 5. Perform a fit-check by placing both hands over the mask, exhale sharply, if air leaks re-adjust the nosepiece.

6. PPE is not considered Hazardous Waste and may be deposited in regular trash bins.

F. Additional PPE

1. **Anyone working in close contact with another cast or crew member not wearing PPE is required to don a face shield or goggles in addition to their face mask.**
2. Anyone working in close contact with another cast or crew member will be supplied with a face shield and goggles should they want to use those. However it is not required by production, so long masks are in use by all parties.

G. Gloves

1. Production will have latex or nitrile gloves available for cast and crew, however, universal glove use by cast and crew is not recommended. Gloves may provide a false sense of security and actually increase risk due to self-contamination while donning and doffing. Frequent hand-washing and use of hand sanitizer is typically more efficient at curbing viral spread.
2. Latex or nitrile gloves may be appropriate for wear during task-specific periods and should then be removed immediately after the task is completed. Hand hygiene should be performed both before and after wearing gloves.
3. Gloves should be removed by the cuff without touching the outside surface of the actual glove. Proper instruction for glove use can be found on Page 17.
4. Non-medical work gloves may be worn as usual whenever appropriate. Work gloves should be periodically sanitized with a spray solution.

Best and worst face coverings

TYPE OF COVERING	EFFICIENCY AT FILTERING LARGE DROPLETS	EFFICIENCY AT FILTERING AEROSOLS	WHERE IT CAN BE WORN
 N95 mask	99.9%	95%	Healthcare settings
 Surgical mask	98.5%	89.5%	Healthcare settings
 Hybrid mask	96%	94%	Public, indoor, and/or crowded settings
 Two-layer cotton mask	99.5%	82%	Public, indoor, and/or crowded settings
 Tea towel or dishcloth	98%	72.5%	Outdoor areas
 100% cotton t-shirt	97%	51%	Outdoor areas
 Natural silk	56%	54%	Outdoor areas
 Scarf or bandana	44%	49%	As a last resort
 Mask with built-in valve or vent	90%	90%	Never (does not protect others)

Sources: Democritus University of Thrace; Duke University; Journal of Hospital Infection; Public Health England; University of Chicago; University of Illinois at Urbana-Champaign

INSIDER

DO choose masks that



Have two or more layers of washable, breathable fabric



Completely cover your nose and mouth



Fit snugly against the sides of your face and don't have gaps

DO NOT choose masks that



Are made of fabric that makes it hard to breathe, for example, vinyl



Have exhalation valves or vents, which allow virus particles to escape



Are intended for healthcare workers, including N95 respirators or surgical masks

HOW TO

SAFELY REMOVE YOUR DISPOSABLE GLOVES



Always
Remember

Clean to Clean

A clean bare hand touches only clean areas inside the other glove

Dirty to Dirty

Contaminated surfaces only touch other contaminated surfaces

- ✗ Do not touch your face or adjust PPE with contaminated gloves
- ✗ Do not touch environmental surfaces – eg: door handles, a keyboard, a computer mouse – with contaminated gloves
- ✗ Never wash or reuse disposable gloves

- ✓ Safely remove excess liquid beforehand
- ✓ Change gloves when heavily soiled or if they are torn
- ✓ Dispose of used gloves appropriately – in accordance with your company's policy

IX. Hand Hygiene

A. Hand Hygiene

1. Hand hygiene is a cornerstone of infection prevention and will need to be practiced widely. It is essential to stopping the transfer of infectious droplets from surfaces to hands, mouth & eyes, and frequency of hand-washing makes a huge difference.
 - a) Handwashing facilities with running water, soap and paper towels (dispensed using a non-touch system, if possible), adequate for the number of cast and crew, will be available and accessible from the first day of work. Handwashing facilities shall be kept clean and well-stocked.
 - b) Avoid air dryer/steaming whenever possible as they can aerosolize and spread infection.
 - c) When production is taking place where hand washing facilities are not readily available, mobile hand washing stations will be provided.
 - d) Cast and crew will be trained on hand hygiene practices (washing for a minimum of 20 seconds of duration, scrubbing all surfaces). Signage on proper hand hygiene will also be posted.
2. Hand Sanitation
 - a) Hand washing with soap and water is considered more effective than hand sanitizer in preventing the spread of COVID-19. However hand sanitizer will be used as a supplement to hand washing. If hands are visibly soiled, perform handwashing over sanitizing.
 - b) Stations with alcohol-based hand rub ("hand sanitizer") with at least 60% alcohol will be strategically placed around work areas and readily accessible. Sufficient supplies of hand sanitizer shall be stocked and maintained.
 - c) Cast and crew will be provided with pocket-sized hand sanitizer that can be used if hand washing or sanitizing stations are not available, such as in vehicles or remote locations.
3. Hands should be washed or sanitized:
 - a) Upon arriving at the job site
 - b) After blowing one's nose, coughing, or sneezing
 - c) After using the restroom
 - d) Before and after eating or drinking
 - e) After contact with animals or pets
 - f) Before handling props or other items passed to cast or between crew

- g) After handling shared equipment or objects
- h) Before and after cleaning or disinfecting equipment, tools or workspaces
- i) Before putting on gloves and immediately after removing gloves
- j) At other appropriate times throughout the workday.
- k) As deemed necessary by the health and safety team.



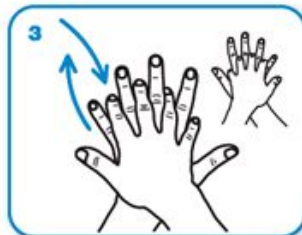
Wet hands with water



apply enough soap to cover all hand surfaces.



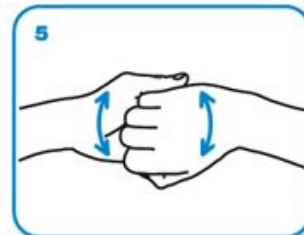
Rub hands palm to palm



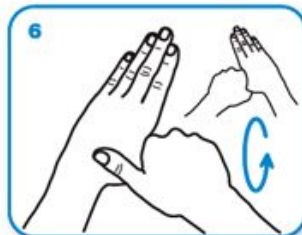
right palm over left dorsum
with interlaced fingers
and vice versa



palm to palm with fingers
interlaced



backs of fingers to opposing
palms with fingers interlocked



rotational rubbing of left thumb
clasped in right palm
and vice versa



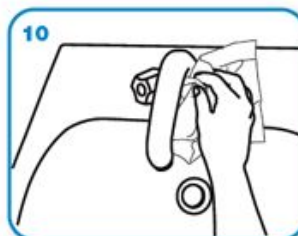
rotational rubbing, backwards
and forwards with clasped
fingers of right hand in left
palm and vice versa.



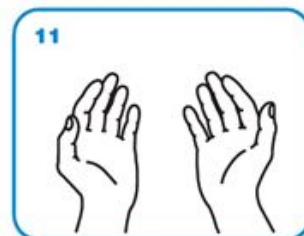
Rinse hands with water



dry thoroughly with a single
use towel



use towel to turn off faucet



...and your hands are safe.

X. Cleaning and Disinfection

- A. Crew will be responsible for disinfecting the tools of their own trade. Appropriate, EPA-registered disinfecting methods and supplies with a claim against SARS-CoV-2 will be available and provided in all workspaces.
- B. Personal equipment (such as tools, headsets, microphones and radios) shall be cleaned and disinfected before being issued and then at least once per day. Manufacturer's suggested cleaning instructions should be followed for electronics and other sensitive items.
 - 1. Equipment such as radios/walkie-talkies will be issued to a single cast or crew member and used exclusively by that cast or crew member for the duration of production.
 - 2. Personal items or equipment that must be shared between members of the cast and/or crew must be wiped down with disinfectant between use and hand hygiene shall be performed after handling. Each crew member has a responsibility to protect the coworker who will be next to handle the gear.
- C. Production will hire an on-set sanitizer who will:
 - 1. Wipe down high touch surfaces and touch points periodically with appropriate, EPA-registered disinfectant, following the disinfectant manufacturer's instructions (e.g., safety requirements, protective equipment, concentration, contact time). Examples of high-touch surfaces are tables, doorknobs, countertops, phones, faucets, etc.
 - 2. Make sure the hand-washing stations are stocked
 - 3. Refill hand-sanitizer stations and move them, if required
 - 4. Sanitize bathrooms regularly
- D. Production shall employ overnight/weekend cleaning staff to sanitize designated areas and trailers during company off-hours.

XI. Health and Safety Operations

- A. Team
 - 1. Health and Safety Supervisor
 - 2. Health and Safety Manager
 - 3. Testing Coordinator
 - 4. Production Assistants
- B. Department Designees

1. Each department should consider appointing a COVID Department Designee. This crew member would communicate departmental concerns or suggestions to the HSS and HSM to ensure proper procedures within the department.
2. Best Boys and Department Heads will be asked to track and report any close contacts that happen away from the main set.

C. Documentation

1. A Daily Health and Safety report will be maintained by the HSS. The report will include location and set operation specifics, as well as close contact reporting. Any crews, departments or units working 'off-set' will be visited, or contacted for updates and information. This documentation will serve as a log, in the event contact tracing is required. A copy of these materials will be available to production.

XII. Department Specific Notes

A. Department Specific Notes

1. Production Office

- a) Work-stations must be at least 6 feet apart. The area within a 6' circle around the desk or work-station must be completely clear of any other employees, or their work-stations.
- b) Those with individual offices and closing doors can close them. In this circumstance, it's allowable for crew to remove masks while in office with the door closed. If this is the case, there must be signage on doors to "Knock Before Entry", giving time to put on a mask.

2. Paper

- a) Whenever possible, use of paper should be minimized. Alternatives such as electronic scripts and electronic sign-in/out should be explored.
- b) Consider alternatives to petty cash to minimize the need to handle paper money, such as purchase cards.
- c) When paper scripts are unavoidable, they should be assigned to a specific individual, clearly labeled with their name, and not shared between others.
- d) Crew lists, call sheets, production reports and other similar documents should be electronic whenever possible.
- e) When use of shared paperwork is required, such as blueprints or editing binders, hand hygiene before and after handling is recommended

3. Trailers

- a) Production will provide HEPA filters for trailers.

- b) When possible, doors should be left open to allow fresh air.
- c) There will be an allowable maximum of 2 crew members & 2 cast per trailer.

4. Hair and Makeup

- a) Stations in the Hair/MU trailer are disinfected in between cast by Sanitizing Personnel.
- b) No brushes or other application tools will be shared. All tools are sterilized after use.
- c) Cast will have make-up that is individually assigned to them.
- d) Hair/MU Mirror will be available on set for cast to make self- adjustments to hair or MU, at the direction of Hair/MU staff.
- e) Hair and makeup assistance should be limited to only cast members that require it and cannot do it themselves.
- f) Cast members should stay as silent as possible during hair and makeup sessions to avoid spreading droplets through talking.
- g) The date, time and crew in the session should be recorded for later reference.
- h) When possible, pair hair & makeup artists with specific cast members.

5. Costumes

- a) Costumes must be sanitized use with a CDC-approved product that is safe for fabric.
- b) Dedicated garment bags will be available for extras and cast to place street clothes in upon arrival.
- c) Fittings will be done in tents outdoors or in a well-ventilated stage.
- d) Designate and isolate a “worn costumes” area, to be sanitized appropriately.
- e) Wardrobe assistance should be limited to only cast members that require it and cannot do it themselves.

6. Camera/Grip/Electric

- a) All equipment and gear that is physically carried or handled should be wiped down frequently and before and after use

7. Props

- a) All props will be sterilized before and after use.
- b) Hands shall be cleaned before and after handling props, accessories and other items.

- c) A “staging” area for props will be provided adjacent to the Cast Zone A holding area on stage.
- 8. Props, Costumes, Accessories, Wigs, and Other Specialty Items
 - a) Due to inability to clean many of these objects, special care should be taken.
 - b) As many of these items have unique cleaning requirements, those responsible for cleaning such items will do so in the customary manner.
- 9. Sound/Video
 - a) No gathering around monitors or behind sound and video carts. All crew who require a monitor should use the Q-Take system on their iPads or phones.
 - b) Lavalier Microphones must be sanitized before and after use.
 - c) Cable being shared between Zones/Pods should be wiped daily and each end connected by its Pods respective members.
- 10. Walkies
 - a) All walkies will be sanitized before the start of the job.
 - b) All walkies will be labeled w/ crew names. No sharing of walkies.
 - c) Chargers should be kept on departmental trucks.
 - d) Each walkie is wiped by its user nightly before it goes into the charger.
 - e) Each walkie is wiped by its user each morning before use.
 - f) Each charger should have a designated space for designated walkie.
 - g) Batteries –sanitized and bagged before handing out to the crew.
- 11. Transportation
 - a) Windows should be kept open if feasible.
 - b) Passenger capacity shall be established for each vehicle and posted on the side of the vehicle.
 - c) Crew should be loaded with awareness of pods and zones potentially with assigned seating in order to avoid close contact between pods and zones.
 - d) Vehicles should be loaded to allow appropriate social distancing.
 - e) All cast and crew members traveling in a vehicle with another individual should wear a face covering.
 - f) Same driver operates and transports the same individuals wherever possible.
 - g) Promptly practice hand hygiene after leaving the vehicle.

12. Vehicles

- a) High-touch surfaces in vehicles (e.g., steering wheels, controls, seatbelts, door handles, arm rests) shall be cleaned at least once per day and prior to a change in operator or passenger.

13. Picture Cars and Process Trailer

- a) Picture Cars will be sanitized per protocol
- b) One picture car driver (transpo) will be assigned to work with the cast and the car on set. The picture car driver will adhere to Zone A PPE & Sanitation guidelines.
- c) Process Trailer driver will need to adhere to Zone A PPE while rigging once the cast are on set (in car).
- d) All Zone B will also have to adhere to Zone A guidelines while rigging with cast in the car.
- e) In order to maintain social distance, depending on camera placement, it may be necessary to limit the number of riders.
- f) It may be necessary to transmit video to a follow (or lead) van.

14. Catering and Craft Service

- a) Meals and snacks will be served in individually packaged or wrapped portions. Communal “buffet style” food service, including salad bars, trays of food, or any food service that requires sharing of utensils such as serving spoons or tongs, will not be permitted.
- b) Those responsible for preparing and distributing food must clean their hands with soap and water or hand sanitizer prior to beginning food preparation and/or distribution and regularly thereafter
- c) All local public health regulations regarding preparing and distributing food must be followed, including regulations regarding the use of appropriate food service PPE (hair nets, gloves, and face coverings), safe food temperatures, etc., and all personnel responsible for the preparing and/or distribution of food must be properly certified to do so.

15. Meals

- a) As face coverings cannot be worn while eating, adequate eating space will be provided to ensure physical distancing can be maintained during meal periods. These locations will preferably be outdoors.
- b) Meal times should be staggered in a manner designed to avoid the gathering of large groups in the same location at the same time.
- c) If food is to be delivered to the job site, one or more individual(s) should be designated to receive the delivery. Appropriate PPE should be worn

when interacting with the delivery person and hand hygiene should be performed after handling the delivery.

- d) When water is served from water dispensers, then levers or buttons on the dispenser will be cleaned after each use. It is preferable that beverages are served in single use containers.

16. On Set Sanitation

- a) High touch surfaces should be sanitized throughout the day.
- b) Handwashing facilities and/or hand sanitizer must be readily accessible at the entrance of any designated eating area and shall be used when entering and leaving the area.
- c) All eating surfaces shall be cleaned and disinfected before and after use.

17. Location Scouting

- a) Every Locations Department employee will prep and scout alone. They will not be in close contact with any other Locations Department or Production employees.
- b) Locations Department employees working on location before the production office is established locally will be supplied PPE by Production.
- c) The use of PPE is required when engaging with the general public, location owners, rental agents, or any other persons with which a Locations Department employee meets in order to conduct their work.
- d) The employee shall maintain a distance of at least 6 feet from other people at all times.
- e) Upon completion of work at a location or visit to any food service / bathroom area, the Locations Department employee will dispose of nitrile gloves (if used) and sanitize their hands and any other body part used to touch any high-touch surfaces.
- f) Locations Department employees shall provide their own vehicle for all prep work. Employees will travel by themselves in their assigned / owned vehicle only. Ride-sharing, carpooling, and delivery vehicles are prohibited at this time.
- g) Locations Department employees shall provide a full itinerary for each off site day at least 16 hours in advance of the start of each day. Itinerary shall include: date, location(s), rough time of arrival and departure for each location, list of people engaging with employees at each location, and any additional relevant notes. Itineraries will be submitted to Production for review and approval.

- h) In conjunction with the HSS, Location Manager will furnish details to create a full risk assessment of each location used for filming as soon as it is contracted to be used for filming.
- i) Locations should be completely secure to prevent access by the public. Locations should be remote, fenced or otherwise well-secured from public access.

XIII. Travel

- A. New York State has strict travel restrictions in place to prevent the spread of COVID-19 from out of State travelers. If traveling to New York from out of state, please keep in mind these guidelines allowing travelers to New York to “test out” of the mandatory 10-day quarantine for asymptomatic individuals. Travelers from states that are contiguous with New York are exempt from the travel advisory; however covered travelers must continue to fill out the [Traveler Health Form](https://forms.ny.gov/s3/Welcome-to-New-York-State-Traveler-Health-Form) (<https://forms.ny.gov/s3/Welcome-to-New-York-State-Traveler-Health-Form>).
- B. For any traveler to New York State from a noncontiguous state, US territory or CDC level 2 and higher country, the new guidelines for travelers to test-out of the mandatory 10-day quarantine are below:
 - 1. For travelers who were out-of-state for more than 24 hours:
 - a) Travelers must obtain a test within three days of departure, prior to arrival in New York.
 - b) The traveler must, upon arrival in New York, quarantine for three days.
 - c) On day 4 of their quarantine, the traveler must obtain another COVID test. If both tests come back negative, the traveler may exit quarantine early upon receipt of the second negative diagnostic test.
 - 2. For travelers who were out-of-state for less than 24 hours:
 - a) The traveler does not need a test prior to their departure from the other state, and does not need to quarantine upon arrival in New York State.
 - b) However, the traveler must fill out our traveler form upon entry into New York State, and take a COVID diagnostic test 4 days after their arrival in New York.
 - 3. Contiguous states are Pennsylvania, New Jersey, Connecticut, Massachusetts and Vermont. Travelers from these states are not subject to this guidance.
- C. For **International Travelers** beginning January 26th, 2021 per the CDC new guidelines:

1. All air passengers arriving to the US from a foreign country are to get tested for COVID-19 infection no more than 3 days before their flight departs and to provide proof of the negative result or documentation of having recovered from COVID-19 to the airline before boarding the flight.
2. Get tested 1-3 days before your flight.
3. Get tested 3-5 days after travel AND stay home for 7 days after travel.
 - a) Even if you test negative, stay home for the full 7 days.
 - b) If you don't get tested, it's safest to stay home for 10 days after travel.

XIV. References

- A. Bromage, Erin - [The Risks - Know Them Avoid Them](#) - May 20 2020
- B. Bromage, Erin - [Flying in the Age of COVID-19](#) - May 16 2020
- C. Center for Disease Control - [CDC](#) - Ongoing
- D. Taskforce - [The White Paper](#) - June 1 2020
- E. Taskforce - [Return to Work Agreement](#) - September 21 2020
- F. SAG-AFTRA, IATSE, DGA, Teamsters - [The Safe Way Forward](#) - June 1 2020
- G. [NY State COVID 19 Travel Advisory](#)



OUR COMMITMENT TO YOU

Choice Films at Umbra Stages is committed to ensuring that the health and safety of all who enter our doors is our top priority! We have updated our protocols and procedures to comply with all recommendations made by the Department of Labor, the CDC, WHO and all applicable unions. Please know that Choice Films at Umbra Stages is doing everything we can in order to create a safe and comfortable working environment.

REDUCING THE SPREAD – UMBRA SOUNDSTAGE

Our top priority is to STOP THE SPREAD of COVID-19. To do this, we have implemented key protocols and structural changes to the facility. These include:

- Round-the-clock cleaning and sanitation services.
- Daily temperature checks upon check-in performed by our security personnel. (Results will be kept anonymous to protect cast and crew identity should results be above average temperature.)
- “No-touch” sanitation stations placed strategically throughout the facility.
- All work stations, eating areas, holding spaces to accommodate social distancing of at least 6 feet.
- The enforcement of mandated face coverings by all individuals when around others, frequent hand washing, and limiting the sharing of tools and materials whenever possible.
- Daily CDC, WHO, NYS and union guidelines and updates posted on our UMBRA Bulletin Board.
- Providing multiple restrooms and access to hand washing stations to reduce build-up of foot traffic in any one area.
- Providing face coverings (in the form of paper masks) to those who do not have one upon entry.

REDUCING THE SPREAD – ON SET

In addition to the facility's procedures, Choice Films will implement the following:

- Staggered call times.
- On-set, round-the-clock sanitation staff to clean, sanitize, and disinfect frequently touched surfaces.
- Providing periodic sanitation breaks to sterilize gear and equipment throughout the work day. For example: sanitation periods to take place before call, before crew lunch, and at wrap.
- All HMU, Sound, Catering, and Craft Services personnel to wear face shield *and* mask when in close contact with Cast, Crew, or food.
- Catering and Craft Services to be individually served and packaged – no open containers or liquids prior to hand off to crew.
- Providing remote work stations when possible and available for those at higher risk for illness and disease (those with pre-existing conditions and/or 65 years or older).
- Cast and Background to be sectioned off from nonessential personnel.
- All Cast, Crew, and Background will be kept at least 6ft apart with the exception of those living in the same home.
- Providing one (1) face covering (in the form of a paper mask) and one (1) refillable hand sanitizer bottle provided for those who do not have them.
- Holding and Catering areas to be divided into sections to allow for proper social distancing.
- Holding to be held outdoors whenever available and when weather permits for proper ventilation.
- If available, daily or weekly testing to be conducted – all test results will be kept anonymous to protect cast and crew identity should results test positive.
- Additional protocols are in place should a member of the cast or crew test positive for COVID-19.
- Individual departments will have additional safety guidelines and protocols in addition to the above designed for their specific needs. (To be submitted and approved prior to start of production.)

Our hope in creating these new protocols and procedures is to help one feel a sense of confidence stepping back onto set. We will do our best to make sure these guidelines are adhered to in order to take care of our
#FilmFamily.

Sincerely,

The COVID Council of Choice Films at Umbra Stages



RECOMMENDATIONS FOR SAFE & HEALTHY PRODUCTION SETS

Here at the Orange County NY Tourism & Film Office, we recognize that these are challenging times for film productions due to the COVID-19 crisis. Our office has been consulting with government, and film industry professionals to find solutions and come up with recommendations for best practices to ensure productions maintain a healthy set. The safety and health of everyone on set is a top priority of OCNY Film, and we hope these guidelines can help productions create a safe environment to work in.

GENERAL RECOMMENDATIONS

- Ask crew to fill out health questionnaires to determine if someone could have been exposed to illness recently.
- Daily temperature checks for All cast and crew members.
- Self-monitor for signs / symptoms of illness and report if you are feeling ill.
- Require anyone who is sick to get tested and stay at home.
- Incorporate daily updates of pertinent CDC, Union and state; COVID-19 recommendations.
- Consider sequestering cast and crew in hotels, or rental homes to control the environment and avoid bringing illness to and from set.
- Principal actors in scenes that do not allow for social distancing, should consider quarantining together.
- Cover your mouth (not with hand) for coughs and sneezes.
- Utilize appropriate Personal Protective Equipment (PPE), including but not limited to gloves, goggles, face shields, masks that cover the nose and mouth, etc.
- Crew should always wear (PPE) on set (masks, gloves). (Production and/or individuals need to provide).
- Cast or crew who find wearing a mask difficult to breathe in, due to outdoor weather conditions, indoor temperatures, or underlying respiratory conditions, should wear a face shield and retreat to an open space for fresh air when necessary.
- Limit number of people in all areas to essential personnel only.
- Maintain social distancing of no less than 6 feet whenever possible.
- Make 6-foot distance markings on the floor in environments where people need to line up.
- When possible, have one department at a time in a work area.
- All on set personnel must wash hands frequently.
- If hand washing stations are not available, use alcohol-based hand sanitizer or sanitizing wipes.
- Frequently clean and disinfect of surfaces, equipment, and other elements of the work environment using alcohol-based sanitizing wipes.
- Divide up studio backstage space and/or on-location areas into sections with production teams isolated from each other.





- Identify who may effectively be able to work from home for prep, shoot, wrap.
- Once production starts, the director should limit takes to make sets more efficient and result in less standing around/congregating time.
- When filming in doors, limit those on set to essential personnel only.
- Assign one individual per department to be responsible for constant wipe-downs of surfaces

PRODUCTION OFFICE / TRAILER / TENTS

- Consider utilizing larger tents with portable A/C or heat in lieu of trailers/motorhomes.
- Limit the amount of people in a trailer and maintain social distance.
- Keep windows and doors open to increase ventilation when possible.
- Deliveries should be handled outside of an office or any closed space and wiped down/sprayed with sanitizing solution.
- Use disposable, ecologically friendly flatware, plates, and cups, when possible.
- Place sanitizing wipes at printer station if there is a community printer/copier.

HANDLING OF EQUIPMENT

- Use gloves and change regularly.
- Walkies and surveillances should be disinfected before each use.
- Members of each department should disinfect gear during breaks in activity.
- Minimize the number of people having to touch the same items. This may require additional gear.
- Strive for consistency regarding which pieces of equipment are handled by whom.
- All crew that requires tools should consider bringing their own, when possible and not allow sharing.

CASTING

- When possible, castings and callbacks should be done remotely via Facetime, Zoom, Skype, etc.
- When in-person auditions and callbacks are necessary, schedule auditions further apart and require social distancing. and wear clear face shields and gloves,
- Eliminate “open calls” and give everyone assigned window to arrive.
- Encourage actors to wait in their cars, not in the waiting area of the casting facility.
- Have actors check in from outside using their cell phone with Casting Personnel.
- Identify wardrobe specs in the breakdowns to increase the likelihood the actor brings something that can be worn on the shoot.





STAFFING

- Anticipate inefficiencies due to new procedures. When possible, call times should be staggered to avoid large groups converging on a single area at one time.
- Build in time for one department to “step in, step out” at a time.
- Consider whether a prep or pre-light day will be required to lessen the amount of crew on shoot day.
- Some locations may only allow limited truck parking resulting in the need to cross-load and drop off gear.
- Be prepared with back up crew in case of illness during filming.

LOCATION / TECH SCOUT

- Scouting should be done virtually as much as possible.
- Schedule the tech scout as early as possible.
- Digitally distribute tech scout packets.
- Consider size and space when deciding among location options.
- Carefully consider the number of locations that get director scouted in-person.
- Self-drive when possible.
- If carpooling, everyone should be in masks, gloves, etc.
- Consider renting multiple vehicles to allow distance between seats.
- While at location, have as much conversation outside as possible.
- Try to maximize space and air flow when designating spaces for a shoot.
- Drivers should wipe down inside vans (seats, handles, etc.) inside and out every time people exit the vehicle.

ON-SET PROTOCOL

- Departments should sequester in department pods.
- Eliminate crossing pods as much as possible.
- Each department should individually set up the
- filming area and leave sequentially, so as not to cross contaminate personnel crew.





BREAKDOWN OF RECOMMENDATIONS BY DEPARTMENT

ART DEPARTMENT

- Ask owner of the location to reduce personal items until after wrap.
- Make decisions on the tech scout, get approvals as early as possible.
- Consider potential value of prep and strike days. This may be combined with location cleaning requirements.

CAMERA DEPARTMENT

- Crew doing pick-up must handle cases with gloves.
- Cases should be wiped down before loading into vehicle.
- Only camera personnel should handle camera gear including carts, cases, tape, etc.
- Personal equipment should be wiped down upon arrival and before departure each day.
- Each camera crew personnel should have their own non-shareable camera kits.
- Camera prep should be isolated in individual area.

CATERING

- Hand washing stations should be present. Consider staggering lunch to ensure social distancing.
- Eliminate self-serve.
- Utensils should be individually wrapped in plastic (or similar).
- Seating should adhere to 6-foot rule. Order more tables or encourage crew to eat in their own vehicles.
- Serve boxed meals when possible.
- Allow cast and crew to bring their own food and/or eat in their car.

CRAFT SERVICES

- Everyone must wash their hands before entering the craft services area.
- Craft services table should include hand sanitizer and/or sanitizing wipes.
- Craft services should have capability to refill an individual's reusable water bottle brought to set without contact between refill source and bottle.
- Reduce and streamline variety of beverages.
- Community drink dispensers should not be used.
- Eliminate any self-service snacks or fruit bowls.





ELECTRIC, GRIP DEPARTMENTS

- More gear may be required to ensure people don't pass gear.
- Grip gear should only be handled by the grip department (apple boxes and stands often support other departments).
- Consider ordering additional gear and assign apple boxes and stands to other departments.

HAIR AND MAKE-UP

- PPE must be worn for the duration of person-to-person contact.
- Face shield should be worn by the Make-up Artist or Hair Stylist.
- Make-up stations should be a minimum of 6 feet apart.
- Talent and make-up artist should wash their hands with soap before and after session.
- Consider having a designated makeup kit for principal talent.
- Mix make-up on a disposable palette and use only one brush, applicator, etc. per actor.
- Clean hairbrushes and combs and reusable make-up brushes with appropriate disinfecting solutions.
- Possibly assign brush / combs to each actor so not to cross contaminate.
- Consider having the actor(s) show up having done their own make-up/hair.
- Avoid touch ups unless necessary.
- Avoid hair and make-up for secondary/back up actors.

LOCATION DEPARTMENT

- Sanitize locations thoroughly before and after use.
- Choose disinfectants carefully to avoid damage.
- Permit applications should go in as early as possible in case of new regulations.
- Consider permitting backup locations if a location pulls out or otherwise becomes unavailable.
- Provide alternative lodging to house occupants for the duration of the shoot, including pets.
- Increase space for social distancing during lunch.
- Provide sensor-activated soap dispensers, hand dryers, etc. to locations when available.
- Provide hand sanitizing stations when there is no access to running water.
- Have one individual put up and take down all location signs.
- Limit sets to essential personnel only, avoid additional visitors when possible.





MEDICAL PERSONNEL / SET MEDIC

- Medical personnel should take temperatures/check medical credentials/approvals.
- Medical personnel should patrol the set and proactively consult with personnel.
- Medical personnel should visually monitor cast & crew for those that look ill.

ON-SET COMMUNICATION

- Sanitized devices should be signed out the day before for quick distribution on the shoot day.
- Devices should be individually bagged and handed to the user in its bag.
- Do Not share devices.
- Replacement batteries should be disinfected in between uses, bagged, and handed to the crew as needed.

SOUND DEPARTMENT

- Disinfect equipment before and after each use.
- Label mics with the name of the user.
- Replace mounting components that cannot be thoroughly cleaned.
- PPE should be worn for the duration of person-to-person contact.
- Utilize boom-only audio when possible.
- Some multi-talent scripts under may require a second Boom Operator.

TALENT

- **ACTORS**
 - For intimate scenes, talent should have to test negative for the virus and show results.
 - Consider a temporary clear barrier between actors while establishing marks and positions and remove at the last moment.
- **EXTRAS**
 - Carefully consider the number of Extras required.
 - Have enough space and tables and chairs for Extras holding areas to practice social distancing.
 - Provide one pen for each Extra to execute paperwork and instruct them to not share.





- **MINORS**
 - Think about how to organize schooling if required.
 - Be sure to have PPE that fits the minors.

VIDEO VILLAGE SET UP

- Chairs should be disinfected before and after people sit down.
- Eliminate Directors chairs for plastic chairs as they are easier to disinfect.
- Video Village should be set up outside if possible.
- Additional monitors should be set up to allow for social distancing.
- Each person that needs to view the scene should be provided separate monitor distanced appropriately apart.

WARDROBE DEPARTMENT

- Wardrobe fittings should be conducted remotely via Facetime, Zoom, Skype, etc.
- Wardrobe planning should be done ahead of shopping and pulling from rental houses.
- Limit handling of wardrobe to wardrobe department, until it's decided what the actor will actually try on.
- Use gloves and mask when looking through garments in rental houses and retail stores.
- Book talent as early as possible and get sizes as early as possible.
- Costumes and outfits should be bagged up individually, per performer
- When possible, actors should arrive in their own wardrobe.
- Disinfect jewelry and glasses in between use.

NY DEPARTMENT OF HEALTH: <https://coronavirus.health.ny.gov/protect-yourself-and-your-family-coronavirus-covid-19?gclid=CjwKCAjwh472BRAGEiwAvHVfGr1PbV>

OSHA: <https://www.osha.gov/Publications/OSHA3990.pdf>

CDC: <https://www.cdc.gov/coronavirus/2019-nCoV/index.htmlhttps://www.cdc.gov/coronavirus/2019-ncov/community/reopen-guidance.html>



From: [Church, Alexandra](#)
To: [Kohl, David](#)
Cc: [Fillo, Ellen](#)
Subject: RE: 104 S Lander St
Date: Friday, August 27, 2021 2:54:20 PM

Thanks David,

I am adding the following final costs to Novus

	Days	% Month	
Sept 15- Sept 30	15	0.5	3050
Oct 1- Oct 31	31	1	6100
Nov 1- Nov 25	25	0.83	5083.333
Total	71	2.333333	14233.33
Utilities	600		
Rent	5500		
	6100		

From: Kohl, David
Sent: Thursday, August 26, 2021 3:25 PM
To: Church, Alexandra <achurch@cityofnewburgh-ny.gov>
Cc: Fillo, Ellen <EFillo@cityofnewburgh-ny.gov>
Subject: FW: 104 S Lander St

Ali –

Based on the floor plans for 104 S Lander and the square footage information provided by the assessor, I have estimated the rentable square footage – excluding the former police substation space - to be approximately 5,500sf. (The total square footage, including the police substation is approximately 6,500sf; the police substation area is approximately 1000sf.)

Using \$12 a square foot (an annualized rate) to calculate the potential rent, I would estimate the rent to be \$5,500 a month. ($5500sf \times 12 = \$66,000/12 = \$5,500$.) This rent can be prorated to adjust for periods of occupancy of less than one month.

For a utility estimate, I reviewed the April utility bills (from 2019 and 2020) - when the Ministry occupied the space. The 2019 bill was \$616.98; the 2020 bill was \$546.93. Therefore, I would estimate \$600 a month for utilities. (I have attached the spreadsheets for utility charges for the months of Ministry usage from 2018-2019 and 2019-2020.)

Let me know if you have any other questions.

David

David Kohl

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

From: Majewski, Joanne**Sent:** Thursday, August 26, 2021 2:01 PM**To:** Kohl, David <DKohl@cityofnewburgh-ny.gov>**Subject:** 104 S Lander St

David:

As you know, Jeremy inspected the building at 104 S. Lander Street in May 2021. At the time of inspection, exterior measurements of the building were obtained. We have amended our records to reflect the correct square footage of the building. After deducting the open space on the second floor, the total square footage of the building is 6,468 square feet (first floor 3,670 sf and second floor 2,798 sf).

Current rent is estimated between \$10 and \$20 per square foot for office rental space. Typical office space that is similar in size to 104 S. Lander Street is rented between \$12 and \$16 per square foot.

Please let me know if you need further information.

-Joanne

Joanne M. Majewski, IAO
City Assessor
83 Broadway, Newburgh, NY 12550
845-569-7333
jmajewski@cityofnewburgh-ny.gov

RESOLUTION NO.: 213 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LICENSE AGREEMENT WITH VINCENT CIANNI,
D/B/A VINCENT CIANNI PHOTOGRAPHY, TO ALLOW USE AND ACCESS TO
THE DELANO-HITCH RECREATION PARK
FOR A NEWBURGH COMMUNITY PHOTO PROJECT**

WHEREAS, the Newburgh Community Photo Project (the “NCPP”) plans to produce a public art project involving photographs and text revealing the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s as the first part of three-year project that will include in-depth investigations into Urban Renewal and its aftermath as well as more recent histories/narratives including Latinx and immigrant populations; and

WHEREAS, the photographs and text will be displayed in and around the Delano-Hitch Recreation Park where they can be vividly seen and can contribute to raising awareness of the history of Black life in the City of Newburgh; and

WHEREAS, the NCPP proposes the installations on the exterior fencing of the Delano-Hitch Recreation park along Robinson Avenue, Washington Street and South William Street and interior fencing in and around the Delano-Hitch Stadium; and

WHEREAS, the proposed art installation requires a license agreement, a copy of which is attached hereto and made a part of this resolution; and

WHEREAS, this Council has reviewed such license and has determined that entering into the same would be in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with Vincent Cianni, d/b/a Vincent Cianni Photography to allow access to City-owned property known as the Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4, Lot 1.22, for the purpose of installing and displaying an art exhibit for public viewing.

LICENSE AGREEMENT

This license agreement ("Agreement"), made this _____ day of _____, 2021 by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 ("LICENSOR") and VINCENT CIANNI, d/b/a VINCENT CIANNI PHOTOGRAPHY, a private business organization having an address at 10 Galloway Avenue, Newburgh, New York 12550 ("LICENSEE");

WITNESSETH:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises known as the Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4, Lot 1.22 on the tax map of the City of Newburgh ("Premises"), of Licensor on behalf of itself and its employees, agents and contractors; and

WHEREAS, Licensee desires to install photographs and text banners reflecting City of Newburgh history on the Premises in a manner that reveals the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s; and

WHEREAS, Licensee desires to install said photographs and banners on the fencing along the perimeter of the Premises and specific interior locations within the Premises; and

WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

Section 1. Grant of License:

- A. Licensor hereby gives to Licensee and Licensee's employees, agents and subcontractors, upon the conditions hereinafter stated, the license or privilege of entering upon the Premises, for the purpose of installing photographs and banners depicting and describing the history of Black life in the City of Newburgh up to and including the Urban Renewal period of the 1960s and 1970s on the Premises.
- B. Said photographs and banners shall be installed only on the fencing of the perimeter of the Premises along Robinson Avenue, South William Street, and Washington Street, from the southwest corner of Robinson Avenue and continuing west to the Delano-Hitch Stadium and in certain interior locations identified in Exhibit "A" to this Agreement and in no other areas of the Premises.

- C. Said photographs and banners shall be made of material which will withstand weather conditions and be water and UV resistant. Said photographs and banners shall be affixed to the fencing and other interior locations with grommets and other materials to facilitate hanging and removal.
- D. Licensee shall maintain the photographs and banners in a neat, publicly presentable, and artistic fashion for the period of time they are installed at the Premises.
- E. Prior to the conclusion of the License term as set forth in Section 7, below, Licensee shall restore the Premises to a clean and orderly state and in the same condition as existed prior to the granting of this License. This term includes, but is not limited to: the complete removal of any photographs and banners and the complete removal of any materials used to affix the photographs or banners to the fencing or other interior location.
- F. At its sole cost and expense, Licensee shall apply for, and receive, if required, a Sign Permit from the Department of Code Compliance consistent with Chapter 250 of the City Code of Ordinances prior to commencement of any work on the Premises.

Section 2. Access: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby. Licensee agrees to give Licensors no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

Section 3. License Fee: Licensee shall not be required to pay any fees pursuant to this Agreement.

Section 4. Insurance: Licensee shall neither commence work nor perform work nor operate machinery under this Agreement until it has obtained all insurances required under this Section 4 and such insurance has been approved by the City.

A. **Workers' Compensation Insurance** - The Licensee shall take and maintain during the life of this Agreement such Workers' Compensation Insurance for its employees or members to be assigned to the work hereunder as may be required by New York State Law.

B. **General Liability and Property Damage Insurance** - The Licensee shall take and maintain during the life of this Agreement such general liability and property damage insurance as shall protect it and the City which shall be named as additional insured on all such policies from claims for damages for personal injury including accidental death, as well as from claims for property damage which may arise from operations under this agreement. The amounts of such insurance shall be as follows:

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

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

Licensee shall furnish the above insurance to the City and shall also name the City as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this Agreement.

C. Licensee may retain certain employees, agents, subcontractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall provide and maintain insurances as required by this Section 4 and name Licensor as additional insured under insurance coverage concerning Licensee's performance of the work referenced herein.

Section 5. Damages: The relation of the Licensee to the City as to the work to be performed by it under this Agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances arising out of the negligent performance, other than those wholly caused by Acts of God. Licensee shall make good any damages that may occur in consequence of the performances or any part of it. Licensee shall assume all blame, loss and responsibility of any nature by reason of Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance or arising out of its activities licensed hereby.

Section 6. Defense and Indemnity: Licensee shall defend, indemnify and hold the City harmless against any and all claims, actions, proceedings, and lawsuits arising out of or relating to the access and use of the Premises under this Agreement, excepting gross negligence or misconduct by the City.

Section 7. Term of License: The License hereby given shall expire and terminate on September 30, 2026 ("Expiration Date") unless earlier terminated by either party as provided in Section 9 of this Agreement. The term of this Agreement may be extended by mutual agreement of the parties in writing subscribed by the parties to this Agreement. Prior to the Expiration Date, Licensee and its agents, employees and contractors, shall restore the Premises to a clean and orderly state and in the same condition as existed prior to the granting of this License and in accordance with Section 1, above, normal wear and tear excepted.

Section 8. Assignment of License; No Sub-Licensing: This Agreement may not be assigned or sub-let to any other party.

Section 9. Termination of License: Either party may terminate this license prior to the expiration of the term specified in paragraph 7, with or without cause, on at least thirty (30) days prior written notice to the other party. Upon termination by either party, Licensee shall not be entitled to reimbursement of any of its costs, and Licensee and its agents, employees and contractors will restore of the property to a clean and orderly state and in substantially the same condition as existed prior to the granting of this license. The City may terminate this license agreement by ten (10) days' written notice when and if in its sole judgment it deems such termination is necessary in the City's sole reasonable discretion.

Section 10. New York Law: This Agreement shall be construed under New York law and any and all proceedings brought by either party arising out of or related to this License shall be brought in the New York Supreme Court, Orange County.

Section 11. Modification of License Agreement: This Agreement may not be modified except by a writing subscribed by both parties to this Agreement.

Section 12. No Vested Rights: It is understood and agreed that no vested right in said Premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

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[Signature Page to Follow]

Signature Page

License Agreement, Delano-Hitch Recreation Park, 401 Washington Street, Section 34, Block 4,
Lot 1.22, City of Newburgh / Vincent Cianni, d/b/a Vincent Cianni Photography

IN WITNESS WHEREOF, Licensors and Licensee have executed this Agreement the day and year
herein mentioned.

CITY OF NEWBURGH
LICENSOR

By: _____
Todd Venning, City Manager
Per Resolution No.

VINCENT CIANNI
d/b/a VINCENT CIANNI PHOTOGRAPHY
LICENSEE

By: _____
Name: Vincent Cianni

Approved as to form:

MICHELLE KELSON
Corporation Counsel

JANICE GASTON
City Comptroller

Interior Locations



RESOLUTION NO.: 214 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR
AND ACCEPT IF AWARDED A DOWNTOWN REVITALIZATION INITIATIVE GRANT
IN AN AMOUNT NOT TO EXCEED \$20,000,000.00**

WHEREAS, New York State's Downtown Revitalization Initiative (DRI), a cornerstone of the State's economic development program, transforms downtown neighborhoods into vibrant centers that offer a high quality of life and are magnets for redevelopment, business, job creation, and economic and housing diversity reflecting compact, walkable downtowns that are a key ingredient to helping New York State rebuild its economy from the effects of the COVID-19 pandemic, as well as to achieving the State's bold climate goals by promoting the use of public transit and reducing dependence on private vehicles; and

WHEREAS, in its fifth year, the program will invest \$200 million in up to 20 additional downtowns statewide in which participating communities will be nominated by the state's ten Regional Economic Development Councils (REDCs) based on the downtown's potential for transformation and within each region, the REDC will nominate either two downtowns to receive \$10 million each or one downtown to receive an award of \$20 million to develop a downtown strategic investment plan and implement key catalytic projects that advance the community's vision for revitalization; and

WHEREAS, the City of Newburgh is a qualified applicant for the DRI program; and

WHEREAS, this Council finds that applying for and accepting funding from the DRI is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State grant in an amount not to exceed \$20,000,000.00; 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.

Newburgh DRI 2021

Vision for Downtown

NEWBURGH'S MOMENT IS NOW. A decade of incremental steps has positioned Newburgh to become the thriving economic engine it has the capacity to be. As people increasingly rediscover Newburgh beyond its Restaurant Row on the Hudson River Waterfront, the public and private investments along the Liberty Street and Broadway Corridors have strengthened tourism and recreation; encouraging clusters of new retail shops and small businesses to take root; and celebrate a vibrant arts community, fostering economic connectivity to greater opportunity and growth.

The City envisions building on its successes through the DRI to advance equitable development promoting development without displacement and harnessing the City's untapped potential by accelerating growth in its emergent tourism, film making, performing arts, food and beverage, hospitality and artisan manufacturing sectors. By actualize this vision through an integrated strategy that prioritizes investments in infrastructure, transportation, housing and commerce promoting the City's physical, social and economic connectivity, people of all races, ages, and income levels will move around the city easily and find what they need for health, employment, recreation and community-building. The strategy will directly address the negative legacy of urban renewal that physically, economically and socially disconnected the City's waterfront from its historic downtown and commercial corridors in order to finally unleash its full economic potential. DRI funding and technical assistance will be the impetus to translate a decade of visioning and planning exercises into actual implementation through tangible investments that reconnect, reframe, and reinvest in the City's Waterfront and Downtown core as a catalyst for growth and shared prosperity.

A VISION WITHIN REACH: Downtown Newburgh will be the hub of the City's civic, cultural and economic life, a constant buzz of activity leveraging its unique Waterfront Gateway, historic, and geographic assets to create a lively, ethnically diverse, mixed income and mixed-use community that benefits existing residents while diversifying and growing the City's fiscal base. Focused investments in transit-oriented development along the Downtown Corridor will stimulate the City's evolving hospitality, tourism, artisan manufacturing, and filmmaking industries. By transforming Broadway into a tree-lined, pedestrian-friendly boulevard with dedicated public transit and bicycling lanes, Downtown will attract waterfront visitors up the hill, creating a market-changing dynamic that enhances the City's vitality. A reconstructed Newburgh Landing will facilitate a reconnection to the region, enabling visitors and residents alike to more directly access waterfront transportation for commuting, tourism and recreation. Streetscape and green infrastructure improvements, including the restoration and preservation of significant public spaces such as Vaux Park, Clinton Square, and pedestrian paths to the waterfront further promote intermodal transportation and walkability, improving neighborhood health outcomes and quality of life. A compact, and well-structured cityscape features a variety of mixed income, mixed-use housing options, including live/work units, to attract new retail and commercial activity. And finally, a new, centrally-located municipal building in the heart of the Downtown Corridor will collocate city services to anchor civic life improving the quality and accessibility of municipal services.

Justification

NEWBURGH IS READY. In 2013, the City of Newburgh was identified as an Opportunity Area community and a distressed city targeted for Opportunity Agenda investment. Five years later, in 2018, the MHREDC recognized the significant progress made, crediting the City's concentrated revitalization strategy for the momentum generated by public and private investments in housing, small business, and infrastructure heralding the City's experience as a "renaissance" fueled by "seamless connectivity of downtown to waterfront access, a thriving arts and culture sector, and engaged community of residents."

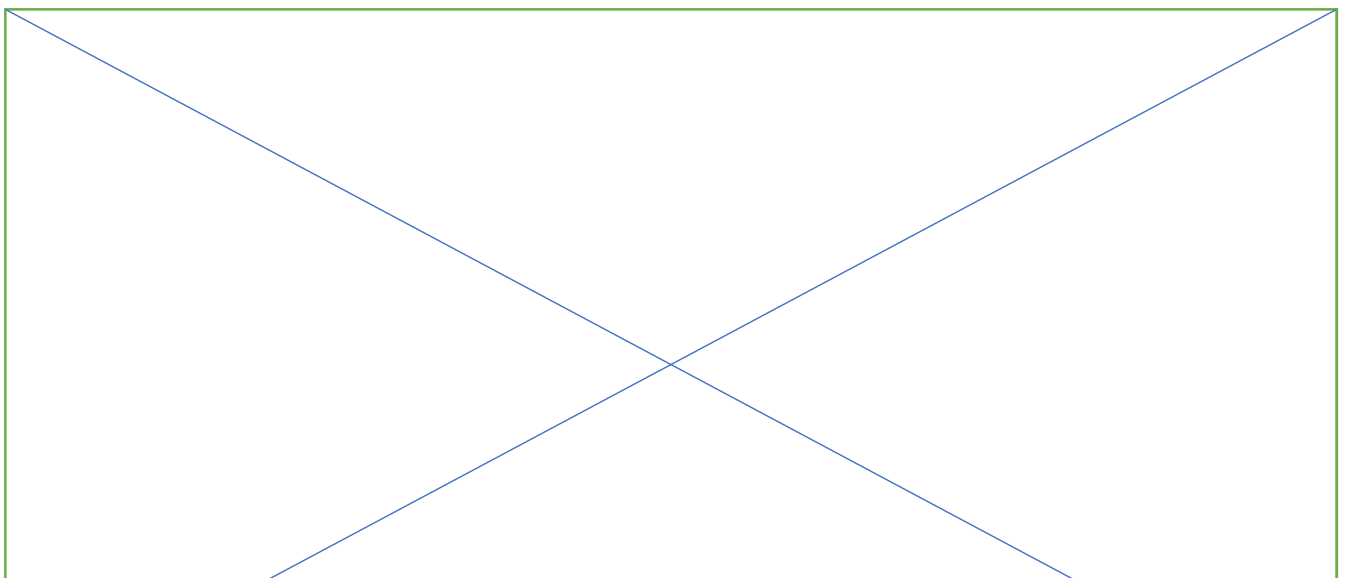
Newburgh DRI 2021

Newburgh has embraced its diversity and made equity the centerpiece of its economic development approach welcoming contributions from all sectors of the community and committing to development without displacement. Within its 3.8 square miles, the small city of 28,187 people has experienced a 24% increase in foreign-born residents since 2000, integrating an ethnic vibrancy and mingling of cultures from Mexico, South America, Haiti and Jamaica into Newburgh neighborhoods designed for another century. Recognizing a shift in demographics to 50% Hispanic or Latino, 25% Black or African American, and 21% White, Newburgh has demonstrated its commitment to economic inclusion and opportunity while honoring its historic past as evidenced by the recently adopted *Housing Policy Framework: Equity, Vitality, Livability*, which provided the first comprehensive evaluation on Newburgh's housing needs providing a framework for future policy and planning; the Cities Rise Innovation Grant to implement a strategic plan for equitable and effective code enforcement to address the housing needs of the most vulnerable residents; and its work as part of the New York State Anti-Displacement Learning Network, which aligned the City of Newburgh with other cities across NYS to develop policies and projects that prevent displacement of residents while encouraging development. To consciously engage all residents in Newburgh's growth story is part of its continuing success.

FISCALLY FOCUSED. It should be noted that the City of Newburgh ended a very challenging 2020 year with a financial surplus demonstrating a commitment to fiscal responsibility, its focus on aligning city services and growing the revenue needed to not only provide, and improve public services for all residents, but also partnering with nonprofit groups and civic committees to expand capacity. With the goal of reducing the tax burden for homeowners and small business, Newburgh is committed to ensuring the City's long-term fiscal health, and more importantly, has made great strides to get there. In addition, the City has elevated the CFO role from Comptroller, transferring those duties to the City Manager for a combined City Manager/CFO role and lowered the tax rate for the past three consecutive years indicating not only a trend in its fiscal focus, but also its commitment to listening and responding to its constituents' needs.

Downtown Identification

BOUNDARIES OF THE PROPOSED DRI AREA: The "T" shaped target area encompasses the Waterfront Gateway at the top of the "T" with the Hillside and the base of Broadway at the intersection stretching into the Liberty Street Corridor to Renwick to the south and South Street to the north. The "T" stem follows the length of Broadway west from the Hudson ending at West Street concurrent with the western Opportunity Zone boundary to emphasize attention to the opportunity for intermodal transportation access to the region. The DRI target area overlays the federal designated "Opportunity Zone" and the East End Historic District, allowing investors to take advantage of historic preservation tax credits, other tax incentives to support economic development, and the form-based zoning code adopted in 2015 which encourages mixed use and mixed income neighborhoods combining residential, commercial, retail, hospitality and tourism for an unparalleled walkable, livable urban experience.



RESOLUTION NO.: ____~~215~~-2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION DESIGNATING THE SECOND MONDAY IN OCTOBER
AS INDIGENOUS PEOPLES' DAY IN THE CITY OF NEWBURGH**

WHEREAS, Newburgh is located on the west shore of the Hudson River on the lands of the Waoranek peoples, who were described by the Europeans who first encountered them as a close-knit, loving and peaceable group; and

WHEREAS, the Waoranek were part of the Lenape tribe of the Algonquin nation and around them in the bay were other related bands also part of the greater Lenape-Algonquin peoples; and

WHEREAS, when the first white people came ashore to settle, it was the Waoranek who shared and sustained and taught them about this new world and who gave settlers the very land they lived on - the concept of land ownership being utterly foreign to them; and

WHEREAS, the Waoranek moved on to the west and north as Europeans began to build on and cultivate the acres from the Quassaick Creek to Balmville; and

WHEREAS, the City of Newburgh recognizes that it is built upon the homelands of the Waoranek without whom the European and white settlers would not have survived to build what has now become the City of Newburgh; and

WHEREAS, the City of Newburgh opposes systemic racism towards any and all racial and ethnic minorities in the United States, including the Waoranek and all Indigenous Peoples in the United States, which perpetuates high rates of poverty and income inequality, exacerbating health, education, and social inequities; and

WHEREAS, the City of Newburgh promotes policies, programs, and practices that reduce poverty, income inequality, and other health, education, and social gaps to ensure greater access and opportunities for the Indigenous Peoples; and

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

WHEREAS, by Resolution No. 71-2017 of March 13, 2017, the City Council of the City of Newburgh declared itself a fair and welcoming city, celebrating its ethnic, racial, linguistic, and

socio-economic diversity and support of anti-discrimination policies to protect vulnerable communities; and

WHEREAS, the City of Newburgh joins the International community and other state and local governments across the United States to recognize the and honor the historic, cultural, and contemporary significance of Indigenous Peoples and their ancestral lands and celebrate their contributions to communities all across the Americas;

NOW, THEREFORE, BE IT RESOLVED, that City Council of the City of Newburgh does hereby join the International community and our colleagues in state and local governments in designating the second Monday in October each year as Indigenous Peoples Day in the City of Newburgh, in recognition of the rich, cultural, and economic contributions made by the Indigenous people of Newburgh and North America; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newburgh to promote Indigenous Peoples' Day celebrations and activities; encourage schools to include the teaching of Indigenous Peoples' History; and encourage other businesses, organizations and public institutions to recognize Indigenous Peoples' Day.

Newburgh City Democratic Committee

Indigenous Peoples Day Resolution

February 2, 2021

Constituted on the ancestral, traditional, and contemporary lands of the Lenape-Haki-nk land, The City of Newburgh Democratic Committee hereby makes this Resolution in support for the designation of the second Monday in October as “Indigenous Peoples’ Day” to celebrate and honor Indigenous Peoples and their shared history and culture.

Whereas, the City of Newburgh recognizes and honors the Waoranek people whom were part of the Lenape tribe of the Algonquin nation; and

Whereas, the City of Newburgh recognizes the fact that the City is built upon the homelands and villages of the Waoranek people; and

Whereas, the European colonization led to the suppression, forced assimilation, and genocide of Indigenous peoples and their cultures; and

Whereas, the City of Newburgh recognizes and values the many contributions made to the community through Indigenous peoples’ knowledge, labor, science, technology, philosophy, arts, and culture; and

Whereas it is the responsibility of the Newburgh City Democratic Committee to foster inclusivity, racial equity, and justice for all people and oppose systemic practices that perpetuate oppression;

Being so stated, now therefore, in alignment with the City of Newburgh Resolution of March 2017, designating the City of Newburgh a ‘fair and welcoming’ city, the City of Newburgh Democratic Committee calls on the City of Newburgh City Council to support the second Monday in October as being designated “Indigenous Peoples’ Day”.

Respectfully Submitted,

Jules Ridgeway, Esq. – Chair

Deborah Danzy – Vice Chair

Giselle Martinez – Secretary

Councilmember Bob Sklarz – Treasurer

Tammie Hollins – Sergeant at Arms

RESOLUTION NO. _____

WHEREAS, October 12, 1492 marks one of the most significant dates to all indigenous people of the Americas – the beginning of the colonization of indigenous people that forever changed their identity, cultures and achievements; and

WHEREAS, numerous cities and state governments within the United States now recognize Columbus Day also as Indigenous Peoples' Day in an effort to create a path of healing and reconciliation; and

WHEREAS, the area around present-day Austin is one of the longest continually inhabited sites in North America and was home to many different groups, bands, and tribes of Indigenous Peoples for at least 13,000 years; and

WHEREAS, the City of Austin has a responsibility to oppose the systematic racism towards Indigenous People in the United States, which perpetuates high rates of poverty and income inequality, exacerbating disproportionate health, education, and social crises; and

WHEREAS, the City of Austin promotes the closing of the equity gap for Indigenous Peoples through policies and practices that reflect the experiences of Indigenous Peoples, ensure greater access and opportunity, and honor our nation's indigenous roots, history, and contributions; and

WHEREAS, Indigenous Peoples' Day was first proposed in 1977 by a delegation of Native Nations to the United Nations sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and

WHEREAS, honoring the role of Columbus as a historical figure promotes values of intolerance and violence that are still common in today's world and opposed to the values of the citizens of Austin; **NOW, THEREFORE**,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Austin City Council hereby recognizes the second Monday in October also as Indigenous Peoples' Day and Columbus Day in the City of Austin.

BE IT FURTHER RESOLVED:

The City of Austin affirms its willingness to participate in annual Indigenous Peoples' Day celebrations and activities.

BE IT FURTHER RESOLVED:

The City of Austin strongly encourages Austin Public Schools to include the teaching of Indigenous Peoples' history.

BE IT FURTHER RESOLVED:

The City of Austin encourages other businesses, organizations, and public institutions to also recognize Indigenous Peoples' Day.

BE IT FURTHER RESOLVED:

The City of Austin firmly commits to continue its efforts to promote the wellbeing and growth of Austin's American Indian and Indigenous community.

ADOPTED: _____, 2017

ATTEST: _____
Jannette S. Goodall
City Clerk

RESOLUTION NO. 1190

A RESOLUTION DECLARING THE SECOND MONDAY OF OCTOBER OF EACH YEAR TO BE INDIGENOUS PEOPLES' DAY

WHEREAS, Indigenous People in Boulder respect the interdependence of all humanity and living things and celebrate a vast and rich living tradition through ancestral recognition and diversity of knowledge and perspectives, including sustainable practices; and

WHEREAS, Indigenous People in Boulder have, as in all parts of Americas, endured centuries of cruelty, exploitation and genocide; and

WHEREAS, the Boulder area encompasses ancestral homelands of Indigenous Peoples' Nations; and

WHEREAS, facing and acknowledging our past, good as well as bad, makes our community stronger and more resilient; and

WHEREAS, Southern Arapaho Chief Left Hand notified a party of Nebraska gold seekers that they could not remain on Indian land at what is now known as Settlers Park, but the gold seekers planned to go into the mountains in the spring in search for goldⁱ; and

WHEREAS, after gold was discovered at Gold Run in January of 1859, Boulder City Town Company was founded by settlers on February 10 of 1859, thereby going against the agreement of the 1851 Treaty of Fort Laramie (also known as the Horse Creek Treaty)^{ii iii}; and

WHEREAS, in August of 1864, nearly 100 Boulder County residents mobilized into Company D of the Third Colorado Cavalry of U.S. Volunteers at Fort Chambers (near 63rd and Valmont Streets), to become 'Indian Fighters'^{iv v vi}; and

WHEREAS, under the command of Colonel John Chivington, on November 29 of 1864 an estimated 230 peaceful Arapaho and Cheyenne people were killed along the Big Sandy Creek in southeastern Colorado by the First and Third Colorado Cavalry of U.S. Volunteers^{vii}; and

WHEREAS, Captain David Nichols, a former Boulder County Sheriff, led the Company D volunteers, including 46 Boulder residents, in what is now known as the Sand Creek Massacre from which the Boulder troops enjoyed a heroes welcome upon their return^{viii ix x}; and

WHEREAS, Boulder has benefited directly from Indian removal policies that violated human rights, broke government treaties and forced Arapaho People from their homeland; and

WHEREAS, Boulder is honored to be home of several prominent Native organizations including the Native American Rights Fund founded in 1970, which is the largest nonprofit law firm dedicated to asserting and defending the rights of Indian tribes, organizations and individuals nationwide.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BOULDER:

Section 1. That those now living on these ancestral lands recognize that harm was done and acknowledge that we have a shared responsibility to forge a path forward to address the past and continuing harm to the Indigenous People and the land.

Section 2. That in the pursuit of shared responsibility and of promoting knowledge about Indigenous Peoples, unifying communities, combating prejudice and eliminating discrimination against Indigenous Peoples, the City of Boulder does hereby resolve the second Monday in October of each year to be Indigenous Peoples' Day.

Section 3. That on the second Monday in October of each year the City of Boulder will support events that encourage understanding and appreciation of Indigenous Peoples, their traditions, culture and our shared history in these ancestral lands known as the Boulder Valley.

Section 4. That City Council directs its City Manager to work with City departments, Native Americans and historians to correct omissions of the Native American presence in public places, resources and cultural programming.

Section 5. That as a first step, in recognition of a Memorandum of Understanding that the city entered into with Indigenous tribes concerning open space lands, the city requests input from representatives of those tribes and other interested parties regarding a name that commemorates the Indigenous presence on the park land known as Settlers Park and second, the city manager considers any application submitted to rename the park land based on the input of the Indigenous tribes and interested parties.

Section 6. That the City of Boulder, will work together in partnership with Native Americans to encourage all educational institutions in the city to implement accurate curricula relevant to the traditions, history and current issues of Indigenous People inclusive of and as part of our shared history.

APPROVED this 2ND day of AUGUST, 2016

CITY OF BOULDER, COLORADO


Mayor

ATTEST:


City Clerk

THE OFFICE OF

GOVERNOR GRETCHEN WHITMER

WHITMER / NEWS / PROCLAMATIONS

October 14, 2019: Indigenous Peoples Day

WHEREAS, the idea of Indigenous Peoples Day was first proposed in 1977 by a delegation of Native Nations to the United Nations-sponsored International Conference on Discrimination Against Indigenous Populations in the Americas; and,

WHEREAS, in 1990, representatives from 120 Indigenous Nations at the First Continental Conference on 500 Years of Indian Resistance unanimously passed a resolution to transform Columbus Day into an opportunity to reveal historical truths about pre-existing indigenous cultures that have survived an often violent colonization process and continue to exist and thrive in present day America; and,

WHEREAS, the United States endorsed the United Declaration on the Rights of Indigenous Peoples on December 16, 2010, and Article 15 of that declaration states:

- Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories, and aspirations, which shall be appropriately reflected in education and public information.
- States should take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding, and good relations among Indigenous peoples and all other segments of society; and,

WHEREAS, the state of Michigan recognizes the presence of the three major groups in our state today, the Chippewa (Ojibwe), Ottawa (Odawa), and Potawatomi (Bodéwadmik), who have lived upon this land since time immemorial, and values the progress our society has accomplished through Native American thought and culture; and,

WHEREAS, the Tribal Council of the Grand Traverse Band of Ottawa and Chippewa Indians has passed a resolution to officially recognize Indigenous Peoples Day on the second Monday in October; and,

WHEREAS, the resolution states that Indigenous Peoples Day shall be used to reflect upon the ongoing struggles of Indigenous peoples on this land, and to celebrate the thriving cultures and values that the Odawa, Ojibwe, Potawatomi, and other indigenous peoples contribute to society; and,

WHEREAS, on this second Monday of October, we should honor the historic, cultural, and contemporary significance of Indigenous peoples and their ancestral lands that also became known as the Americas and celebrate their contributions to communities throughout Michigan,

ORDINANCE NO.: 5 - 2021

OF

SEPTEMBER 13, 2021

AN ORDINANCE AMENDING CHAPTER 110 ENTITLED "MASS GATHERINGS AND PUBLIC EVENTS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH TO ADD SUBSECTION 110-9(C) ENTITLED "REVOCATION"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 110 entitled "Mass Gatherings and Public Events" of the Code of the City of Newburgh is hereby amended as follows:

SECTION 1. Amendment

§ 110-9. Denial of application for permit; revocation.

- A. Denial. The City shall deny applications for permits to hold events for any one or more of the following reasons:
1. The applicant has failed to complete and/or satisfy any of the requirements of the application procedure or has failed to properly complete and/or submit the application form.
 2. The applicant has failed to pay the required fees and/or provide the required insurance coverage or security or escrow account or deposit.
 3. The applicant has a prior history of failing to comply with the terms, conditions and requirements of applicable laws, codes, rules and regulations in the holding of previous events or procedures applicable thereto.
 4. The applicant has applied for permission to hold the event at such time and/or place which is not available for any of the following reasons and no other equivalent, suitable or sufficient place and/or time is available to hold the proposed event:
 - a. The time and place has been granted to another applicant who has filed a proper application prior to the subject application.
 - b. The safe and proper conduct and holding of the proposed event will require the dedication and/or use of City personnel, property, facilities or equipment at such time as same are not available by reason of force majeure, including but not limited to extreme weather conditions, fire, flood, public emergency, riot, labor unrest or other matters or causes beyond the City's control.
 - c. The applicant has applied to hold the proposed event at a location which is not a traditional public forum and it is not dedicated or suitable for the

Underlining denotes additions

~~Strikethrough~~ denote deletions

proposed use or for events involving the exercise of free speech or expression or other activities protected by the First Amendment and/or for any of the reasons set forth in §110-4B hereinabove.

- d. The granting of the application to hold or conduct the event at the time, place and/or manner described in the application and the holding or conduct of same as so described would result in a violation of one or more laws, code provisions, rules or regulations or the civil rights of any individual under federal or state law, including but not limited to those relating to buildings, electricity and other forms of energy, fire prevention, sanitation, food and beverages, toilet facilities, access to medical care, protection of property rights, protection of fair business practices and economic competition, public nuisances, noise, parking, intellectual property rights, occupancy, disorderly conduct, emergency response, and those applicable to the use of public parks and recreational facilities.
- B. In any case where a permit is denied under this section, the City shall provide the applicant with a written denial as set forth in §110-4C hereinabove, and the applicant shall be entitled to submit an amended application, in compliance with the time frame set forth in this chapter, or a new application.
- C. Revocation.
 1. The City Manager or designee may revoke a permit if the permit holder fails to abide by the terms and conditions of the permit or upon a finding of any violation of any applicable rule, ordinance, local law upon notice to the permit holder as set forth herein.
 2. Any permit for a public gathering or assemblage, parade or motorcade, or special event issued pursuant to this chapter may be summarily revoked by the City Manager or designee at any time when, by reason of disaster, public calamity, riot or other emergency, the City Manager or designee determines that the safety of the public or property requires such revocation.
 3. Notice of any action revoking a permit shall be delivered by electronic mail and, as immediately practicable thereafter, by certified mail to the e-mail address(es) and mailing address(es) listed on the permit application.

SECTION 2. Severability.

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

Underlining denotes additions

~~Strikethrough~~ denote deletions

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. Effective Date.

This ordinance shall take effect immediately.

Underlining denotes additions

~~Strikethrough~~ denote deletions

Chapter 110

MASS GATHERINGS AND PUBLIC EVENTS

GENERAL REFERENCES

Penalties for offenses — See Ch. 1, § 1-12.

Noise — See Ch. 212.

Amusements — See Ch. 108.

Parks and recreation areas — See Ch. 220.

Fire prevention — See Ch. 172.

§ 110-1. Findings and purpose.

The City Council finds and determines that public events held at various times throughout the year and at various venues within the City of Newburgh enrich the quality of life and enhance the recognition and celebration of our diverse cultural, historic, spiritual and artistic heritage. The City Council further finds that providing public spaces as an appropriate forum for the exercise of free expression is an affirmative obligation of government under the First Amendment of the Constitution of the United States and under the Constitution of the State of New York. The City Council further finds and determines that a system of organization and review is a necessary and appropriate method of preserving and protecting public health and safety, protecting property and facilities, coordinating emergency services and response, ensuring the flow of communications and transportation, maintaining compliance with applicable regulations and codes, and preserving public order while affording opportunity and access to public facilities in the best interest of the City of Newburgh and its citizens. To that end, this chapter has as its purpose the lawful, necessary and appropriate regulation of the time, place and manner of mass gatherings and public events.

§ 110-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT or SPONSOR — Any person(s) or entity(ies) seeking to hold a mass gathering or public event which is regulated hereunder and/or is subject to any provision of law, rule and regulation, or any part thereof, which is so subject, and which is subject to the review, inspection, regulation or enforcement of or by the City or other lawful authority.

CITY — Unless otherwise designated, the City of Newburgh and its authorized officials, officers and employees.

MASS GATHERING AND/OR PUBLIC EVENT — A gathering of 10 or more persons in such manner as shall have been planned in advance around a central theme or purpose which uses or occupies space on public premises, including but not limited to public streets and sidewalks, public parkland,

City-owned or -controlled buildings, public waterways, public airspace, public highways and thoroughfares, docks, walkways, bridges, mains or transmission lines, berms, shoulders or lands auxiliary or adjacent thereto, in such manner as would interfere with, obstruct, preclude or otherwise impact the normal and ordinary use thereof by the general public, and all such uses as the City may regulate or control as to time, place and manner under the provisions of any and all applicable laws, rules and regulations. Such events shall include but are not limited to festivals, parades, rallies, fairs, celebrations, ceremonies, marches, demonstrations, exhibitions, performances, arts and cultural events, and any other occurrence involving public gathering and/or attendance which is not otherwise considered a matter of right under prevailing law such as to be exempt from governmental regulation.

NONPROFIT or NOT-FOR-PROFIT or CHARITABLE — A corporation or business organization defined and qualifying as such under the laws, rules and/or regulations of the federal government or of any state.

VEHICLE — Any and all types and means, other than human beings of carrying, transporting, displaying, offering, providing, selling or otherwise using for commercial purposes wares, goods, merchandise, products, foods, beverages, crafts, materials, clothing, or other items for sale or distribution, including but not limited to wagons, carts, pushcarts, automobiles, trucks, trailers, tables, platforms, benches, surfaces, or other such means of display and/or sales.

§ 110-3. Permit required; application contents and procedures; insurance, fees and security.

- A. Any person or entity wishing to hold a mass gathering and/or public event as defined herein on any public property or portion thereof owned and/or controlled by the City of Newburgh is hereby required to file a permit application and receive City approval thereof no fewer than 28 days prior to the holding of same. Such approval shall be given only upon satisfaction of all City requirements imposed as conditions thereof and as required hereunder.
- B. Application for such permit shall be made upon forms prescribed therefor by the City. Application forms shall require, at minimum, the following information:
 - (1) The correct name and address and telephone number of the person and/or organization sponsoring or organizing the mass gathering or public event.
 - (2) If the applicant is a corporation, organization, or association, the title of the individual completing the application, as so authorized by said entity, and acting as the authorized representative of same.
 - (3) The name of the person or persons in charge of organizing and conducting the event, and the name, title, address and telephone number, including cellular telephone number, and other contact

information of the person who shall be present at and with operational responsibility and authority for the event.

- (4) If the applicant is a corporation, organization or association, the names, titles, telephone numbers and other current contact information of the chief executive officer(s) and other responsible persons in authority over same.
 - (5) The total number of people invited and/or expected to participate and to be present as attendees of the event.
 - (6) All locations requested to be used, and the dates and hours requested for each such use.
 - (7) The sanitary facilities, if required under this chapter, in addition to any already existing and present at the proposed location, which will be provided by the applicant.
 - (8) Whether live or recorded music shall be utilized at the event, and if so, a description thereof including any means of broadcast and/or amplification.
 - (9) Whether the applicant(s) has previously sought permits for mass gatherings, events or assemblies in public places and, if so, when and where.
 - (10) Whether any fees for participation and/or admission to the event are to be charged, and if so, the amounts and schedule of same.
 - (11) A description of the nature of the event and the reason why public property is to be utilized.
 - (12) Any provisions to be made or as may be required by any law, rule or regulation to accommodate persons with disabilities.
- C. Except in the case of a spontaneous or similar event or exercise of free speech such as those in response to a contemporaneous occurrence, permit applications shall be filed no later than 28 days prior to the date(s) of any event and in any event not later than the time required for City to review same and to determine that all arrangements are satisfactory and sufficient to protect public health, safety and property. The City shall waive such requirement and accept the filing of an application after the deadline for same if the City determines that such late filing shall not have impaired the City's ability to adequately review the application and all arrangements necessary to hold the event as intended so as to safeguard the protection of public health, safety and property by evaluating same according to the criteria set forth herein; however, the City shall have the right to deny any such permit and prohibit such event due to the late filing of an application or other material failure to comply with City requirements as defined hereunder, including if such late filing shall have precluded or significantly

impaired the City's ability and opportunity to evaluate said application as provided under this chapter.

D. Certificate of liability insurance.

- (1) Except as otherwise provided, the applicant shall furnish a certificate of liability insurance covering the event to be held and naming the City of Newburgh as an additional insured with limits of liability of at least \$1,000,000 for each occurrence and \$2,000,000 aggregate for bodily injury and \$50,000 for each occurrence and \$100,000 aggregate for property damage. All such policies must be written in the broadest form available by a company authorized to do business in New York State and of recognized financial standing which has been fully informed about the proposed event.
- (2) The insurance coverage described hereinabove shall be increased by the City Manager for good cause. As used herein, the term "good cause" shall mean that the circumstances of the proposed event shall include one or more of the following: the number of attendees and/or participants shall be 150 or more persons; the inclusion of any animals other than domesticated cats and dogs; the inclusion of ride-on attractions such as roller-coasters, carousels, Ferris wheels or other such devices; the inclusion of equipment or devices requiring connection to electricity or other independently generated energy sources or utilities, including but not limited to water and/or sewerage treatment systems; the presence and/or use of fireworks, explosive devices, firearms, weapons, fire, chemicals or other inherently hazardous or dangerous devices or materials or activities. The amount by which the City Manager shall require an increase in such insurance coverage shall be no less than two times the amounts in U.S. dollars set forth in the preceding subsection. In the event no such insurance coverage is available, the City Manager may prohibit such activity or circumstance from inclusion in the event.

E. Waiver or reduction of fees, insurance and/or security deposit requirements.

- (1) Notwithstanding the requirements to pay fees and/or provide insurance coverage and/or a security deposit or escrow account as set forth in this chapter, the City Manager shall have the authority to and shall reduce and/or waive such requirements for all applicants who qualify for such reduction and/or waiver according to the following schedule and criteria:
 - (a) If the applicant provides documentation showing that it is a not-for-profit and/or charitable organization organized and registered as such under the laws of the United States, the State of New York or any other state, or if the applicant sponsor or cosponsor of the event is a municipality, municipal corporation or agency or a department or subdivision thereof,

no fees shall be charged, and no security deposit or escrow shall be required. Insurance coverage requirements as provided in Subsection D shall remain in effect, unless reduced or waived as provided therein or below, except that no separate policy of insurance shall be required of the municipal entities mentioned herein.

- (b) If the applicant is indigent, no fees shall be charged, and no security deposit or escrow deposit shall be required. Indigent applicants shall not be required to provide insurance coverage as required hereinabove. As used herein, the term "indigent" shall mean an individual with a gross annual income of less than \$12,000; or if the applicant is an organization, "indigent" shall mean having a gross annual income for the current or most recent fiscal year or organizational assets or a combined total of each of \$20,000 or less.
 - (c) Should the applicant show good cause why it cannot comply with the requirements to provide insurance coverage as provide herein, the City Manager shall require applicants other than indigent applicants to provide a security deposit in the form of a bond or cash escrow account to be held by and in the name of the City of Newburgh in the amount of \$10,000. As used herein, the term "good cause" shall mean the unwillingness or inability of qualified insurers to provide the required policies for reasons unrelated to any wrongful or negligent acts or omissions of the applicant.
- (2) Applications for permits to hold events other than spontaneous or similar events or exercises of free speech such as those in response to a contemporaneous occurrence shall be accompanied by an application fee as set forth in Chapter 163, Fees, of this Code representing the administrative costs to the City for processing same. **[Amended 6-14-2010 by Ord. No. 10-2010]**

§ 110-4. Location.

- A. The City shall have the authority to determine the location where all public events shall be held based upon the criteria hereinafter set forth. Such locations may be on the grounds of certain discreet public lands and facilities, including but not limited to Delano-Hitch Recreation Park and facilities, Downing Park and facilities, other City parks, parklands or open space, activity centers, Ann Street parking lot, ferry parking lot, other City parking lots, Unico Park, Newburgh Landing, other City waterfront properties and facilities; or such City streets and thoroughfares as the City shall approve of, determine and allow under the criteria set forth herein and as shall be authorized and required hereunder.
- B. The City shall authorize and permit the event to take place at the place and time requested by the applicant; provided, however, that the City

shall have the right to provide a location and time as nearly equivalent to the requested location and time as possible if the City determines that holding the event as requested could reasonably be expected to create or result in circumstances which would pose a danger to public health and safety or a risk of damage or loss to public or private property or to the use thereof during or subsequent to the event. In evaluating such danger or risk, the City will consider the following criteria:

- (1) The number of persons invited to and/or reasonably expected to participate in or attend the event, and the capacity and current condition of the site(s) and/or location(s) requested by the applicant.
- (2) The anticipated duration of the event.
- (3) The actual time of day or night during which the event is expected to or will occur.
- (4) The extent and dimensions of the area to be used for and occupied by the event.
- (5) The specific facilities, sites and locations requested by the applicant to be used for the event, including such characteristics as their durability; cost of maintenance and repairs beyond that required by normal use, wear and tear; surface composition; design and normal and regular intended use; capacity; the presence of components of utility systems and infrastructure or sensitive ecological, environmental, historical or cultural assets; and/or the inclusion in the event of the use of explosives or other inherently dangerous, damaging or destructive instrumentalities.
- (6) The reasonably likely impacts and effects which the event will have upon persons or functions which will be displaced or precluded at the time or within a reasonably short time following the holding of the subject event if the subject event is held at the places and times requested by the applicant.
- (7) The apparent and inherent incompatibility of and between the times and places requested by the applicant and the types of activities reasonably anticipated to take place during the event. For example and not by way of limitation, events shall be considered apparently and inherently incompatible if the event will generate significant noise near or in a hospital or other quiet zone; include lights or signs or visual obstructions such as can reasonably be anticipated to interfere with nearby vehicular traffic; if the proximity of a site of ongoing construction could reasonably be considered to pose a danger to attendees; or if holding the event at the time and place requested by the applicant can be reasonably considered to cause or create a public nuisance.

- C. In the event the City denies permission to hold the event at the time(s) and place(s) requested, the City shall promptly provide the applicant with written notice of such denial and shall include in such written notice the reason(s) for such denial, and where appropriate, the City shall further notify the applicant of such other time(s) and/or place(s) when and where the subject event may be held which shall be as nearly equivalent to the requested time and place as shall be reasonably possible.

§ 110-5. Security deposit and escrow account.

- A. In addition to any insurance coverage required hereunder, the City shall require of any and all applicants and/or sponsors a security deposit and/or escrow account for each such public event as defined herein and/or regulated hereunder according to the criteria set forth herein.
- B. The City Manager shall reasonably determine the amount of such security deposit and/or escrow account, taking into account the following, which shall be considered in making such determination:
- (1) The number of persons projected to attend the event.
 - (2) The number of vendors, peddlers, booths, exhibits, rides, attractions, features, entertainments and other aspects of the event.
 - (3) The requirement of and the contents and provisions of any safety plan required for such event and/or requirements reasonably imposed by the City Code Enforcement Officer; and/or the City Engineer; and/or the Fire Chief; and/or the Police Chief; and/or the Corporation Counsel; and/or the City Manager related to established safety, security, engineering and/or legal considerations.
 - (4) The size, dimensions and extent of the public properties, facilities and space projected to be used and occupied by the event.
 - (5) The number of City staff and the number and time of hours of work required of the City to provide supervision and direct services in support of the event and all persons in attendance thereof.
 - (6) The history, background, and nature of the applicant and/or sponsor of the event, specifically with respect to its longevity, budget, staff, history of compliance with City codes and regulations, local presence and contacts with the City community, and other factors relevant to the responsibility and accountability of same, but not with respect to any political platform, opinion or posture of same or with respect to any status or characteristic which is protected by or under the federal or state constitutions or any civil rights laws or case law determined thereunder, and not in such manner as may be discriminatory or subjective or arbitrary as may be prohibited by law.

- (7) The extent to which the applicant and/or sponsor will require special arrangements for such event with respect to utilities, energy, lighting, vehicles, parking, connections, wiring, stages, platforms, scaffolding, control boards and panels, sound and amplification equipment, costumes, stage properties, private event staff and other materials, equipment and/or personnel.
 - (8) Whether or not any animals will be involved in any aspect of the event and, if so, the number, kind and characteristics of same and their role in the event and the number, qualifications and experience of those charged with the control and supervision of same.
 - (9) The number, kind and value of any and all City equipment, materials, vehicles and other properties owned or controlled by the City and used by the City in the supervision and control over said event, and the loss, damage, depreciation and/or wear and tear reasonably likely to be sustained by same.
 - (10) Any characteristic, component, portion or element of the event which may be reasonably considered to be inherently dangerous.
- C. The City shall receive such security deposit, whether in money or property or both, as the City may determine and keep and retain same in a protected and segregated manner. If the security deposit shall take the form of cash, monies or funds, the City shall deposit same in an escrow account. After the event has concluded, the City shall return such security deposit and/or Escrow Account to applicant and/or sponsor in the exact kind or amount deposited without interest, except for such monies or property of such value as shall fairly and accurately represent the cost to City incurred as a result of the event, which shall be calculated and based upon such factors directly related thereto, including but not limited to those considerations as are listed or mentioned in Subsection B hereinabove. The City shall provide the applicant/sponsor with an itemized statement indicating all such costs and expenses and showing proper deductions therefor, and the balance to be returned by the City to the applicant/sponsor after making all such deductions therefrom.

§ 110-6. Safety plan.

Before issuing any permit as required hereunder, for events reasonably anticipated to involve more than 100 persons and/or to include activities defined elsewhere herein as inherently dangerous, the City may reasonably require the applicant/sponsor to provide a safety plan designed to protect public health, safety and property before, during and after said event. Such public safety plan shall be subject to the prior review and approval of the Chief of Police, the Fire Chief, the Code Compliance Supervisor, the City's Consulting Engineer and the City Manager and shall comply with the requirements of any and all such City and public safety officials acting in their official capacities and employing their professional judgment on the

basis of their knowledge and experience, and with the provisions of any and all applicable laws, codes, rules and regulations. Such safety plan shall include provisions for adequate and sufficient toilet and sanitation facilities, emergency medical response, communications and command control, safety and security, and other provisions applicable to events of such size and nature.

§ 110-7. Scheduling.

The City shall have the right to determine the times, hours, dates, durations and locations for all such events held on City or public property, which shall be done in consideration of the factors enumerated in § 110-5B hereinabove. The City shall be under no obligation to permit, allow or oversee any event if other events or activities are or will be anticipated to occur on the same day or times within the City and such other events or activities will make demands upon City personnel, properties, equipment or facilities such as to raise the reasonable possibility that the demand upon same may be such as to preclude the City from accommodating multiple events in a lawful, responsible, safe and organized manner. The City shall grant applications for the use of City locations, facilities and sites on a "first-come, first-served" basis and as described hereinabove.

§ 110-8. Other permits and approvals.

- A. In addition to satisfying all requirements of City as provided herein, all applicants/sponsors shall fully comply with all other applicable laws, rules, codes, regulations and permit conditions as may be applicable and as may be overseen and enforced by any and all other governmental, municipal or legal agencies as may have jurisdiction thereover. City shall be under no obligation to grant a permit and/or allow an event to be held in the circumstance that City has reasonably reliable knowledge indicating that any applicant/sponsor is not in compliance with any law, code, rule or regulation administered or enforced by any government agency applicable to the applicant/sponsor and/or the subject event. City shall have the right to require the applicant to provide proof of compliance with all such requirements, and should the applicant fail to provide same, City may deny the applicant permission to hold such event on City premises.
- B. Other requirements. Based upon the factors and considerations mentioned and listed in § 110-4B and other sections hereof, City shall have the right to require any applicant/sponsor at its own cost and expense to provide such personnel and/or equipment as City may reasonably deem to be appropriate and necessary to ensure the safety and security of the public and/or public property before, during and after such event, including but not limited to security personnel, communications equipment, medical and emergency response plans, services and vehicles, generators, lighting, sanitation facilities including toilets, garbage and trash collection and disposal facilities and services, parking and traffic control, and others, all of which shall

be and remain subject to the oversight, supervision and control of City officials, officers and staff with supervisory responsibility for such event and for City property. City may impose and/or mandate compliance with such standards and requirements as same shall be reasonably related to the public policies to be supported by this chapter.

- C. Prior to and during any event, City shall have the right to prohibit any and all activity related to any event from taking place upon or impacting any City property, facility, equipment, personnel, street, sidewalk or other public property owned or controlled by City, as same shall be consistent with City's lawful rights, powers and duties as custodian, trustee and proprietor of the public properties and facilities owned, controlled and/or regulated by City under law, as same may be reasonable necessary and appropriate to protect and safeguard personal health and safety and prevent damage or loss to public or adjacent private property.

§ 110-9. Denial of application for permit.

- A. The City shall deny applications for permits to hold events for any one or more of the following reasons:
- (1) The applicant has failed to complete and/or satisfy any of the requirements of the application procedure or has failed to properly complete and/or submit the application form.
 - (2) The applicant has failed to pay the required fees and/or provide the required insurance coverage or security or escrow account or deposit.
 - (3) The applicant has a prior history of failing to comply with the terms, conditions and requirements of applicable laws, codes, rules and regulations in the holding of previous events or procedures applicable thereto.
 - (4) The applicant has applied for permission to hold the event at such time and/or place which is not available for any of the following reasons and no other equivalent, suitable or sufficient place and/or time is available to hold the proposed event:
 - (a) The time and place applied for has been granted to another applicant who has filed a proper application prior to the subject application.
 - (b) The safe and proper conduct and holding of the proposed event will require the dedication and/or use of City personnel, property, facilities or equipment at such time as same are not available by reason of force majeure, including but not limited to extreme weather conditions, fire, flood, public emergency, riot, labor unrest or other matters or causes beyond the City's control.

- (c) The applicant has applied to hold the proposed event at a location which is not a traditional public forum and it is not dedicated or suitable for the proposed use or for events involving the exercise of free speech or expression or other activities protected by the First Amendment and/or for any of the reasons set forth in § 110-4B hereinabove.
 - (d) The granting of the application to hold or conduct the event in the time, place and/or manner described in the application and the holding or conduct of same as so described would result in a violation of one or more laws, code provisions, rules or regulations or the civil rights of any individual under federal or state law, including but not limited to those relating to buildings, electricity and other forms of energy, fire prevention, sanitation, food and beverages, toilet facilities, access to medical care, protection of property rights, protection of fair business practices and economic competition, public nuisances, noise, parking, intellectual property rights, occupancy, disorderly conduct, emergency response, and those applicable to the use of public parks and recreational facilities.
- B. In any case where a permit is denied under this section, the City shall provide the applicant with a written denial as set forth in § 110-4C hereinabove, and the applicant shall be entitled to submit an amended application, in compliance with the time frame set forth in this chapter, or a new application.

§ 110-10. Release of City from liability.

The filing of an application and/or the use of City- or publicly owned property or facilities for an assembly, mass gathering or event shall be and operate as a release of the City of Newburgh and its officers, employees and agents from and against any and all claims, actions, losses, liability or damages of any kind arising out of or resulting from or caused by the occupancy or use of such property or facilities by any and all persons or groups participating or involved in said event, and the agreement of the applicant, sponsor, cosponsor and organizer, jointly and severally, to indemnify defend and hold harmless the City of Newburgh and its employees and agents from same.

§ 110-11. No endorsement by City.

The granting of permission by the City and/or the use of City- or publicly owned property or facilities by any person or group or organization shall in no way be considered an endorsement or any expression of support, of disagreement or of any position or opinion of the City whatsoever with respect to the activities, policies, opinions, positions, precepts or other aspects of the persons or groups organizing, sponsoring, holding or participating in such event or use, and no person associated in any way

with said event is authorized to or shall make any public statements or representations concerning the City of Newburgh concerning same.

§ 110-12. Severability.

If any part, portion or provision of this chapter shall be invalidated by reason of any law or decision of any court or other agency with authority or jurisdiction thereover, the remainder shall remain in full force and effect as the sense thereof may allow.

§ 110-13. When effective.

This chapter shall take effect immediately, as provided by the Municipal Home Rule Law and other laws of the State of New York.

RESOLUTION NO.: ~~216~~ - 2021

OF

SEPTEMBER 13, 2021

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 27, 2021
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
CHAPTER 276 ENTITLED “TOBACCO” OF THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH TO CHANGE THE CHAPTER TITLE
TO “TOBACCO AND MARIHUANA”, AND
TO AMEND ARTICLE II ENTITLED “OUTDOOR SMOKING”

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning “A Local Law amending Chapter 276 entitled ‘Tobacco’ of the Code of Ordinance of the City of Newburgh to change the chapter title to “Tobacco and Marihuana”, and to amend Article II entitled ‘Outdoor Smoking’”; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 27th day of September, 2021, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

LOCAL LAW NO.: _____ - 2021

OF

_____, 2021

**A LOCAL LAW AMENDING CHAPTER 276 ENTITLED “TOBACCO”
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO AMEND THE CHAPTER TITLE AS “TOBACCO AND MARIHUANA”,
AND TO AMEND ARTICLE II ENTITLED “OUTDOOR SMOKING”**

BE IT ENACTED, by the Council of the City of Newburgh, New York that Chapter 276 “Tobacco” be and is hereby amended to amend the chapter title as “Tobacco and Marihuana” and to amend Article II entitled “Outdoor Smoking” as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law amending Chapter 276 entitled ‘Tobacco’ of the Code of Ordinances of the City of Newburgh to amend the chapter title to ‘Tobacco and Marihuana’ and to amend Article II entitled ‘Outdoor Smoking’”.

SECTION 2 - PURPOSE AND INTENT

On March 31, 2021, Governor Cuomo signed into law Chapter 92 of the Laws of 2021, known as “The Marihuana Regulation and Taxation Act” (MRTA). Nothing in the MRTA is intended to limit the authority of local government to allow smoking cannabis/marihuana in any location where smoking tobacco is prohibited. The primary purpose of this local law is to amend Article II of Chapter 276 to add cannabis/marihuana to the prohibition of smoking and vaping in outdoor and other public spaces to reduce exposure to second-hand smoke to the general public and youth in locations where they are likely to be present.

SECTION 3 - AMENDMENT

Chapter 276 of the Code of Ordinances of the City of Newburgh is hereby amended to amend the chapter title to “Tobacco and Marihuana” and to amend Article II entitled “Outdoor Smoking” to read as follows:

CHAPTER 276 TOBACCO AND MARIHUANA

ARTICLE II. Outdoor Smoking

§ 276-11. Legislative authority.

- A. Pursuant to the New York State Constitution, the City Council of the City of Newburgh may adopt and amend laws pertaining to the protection, conduct, safety, health and well-being of the persons and property in the City.
- B. The Clean Indoor Air Act, adopted by the New York State Legislature as Public Health Law, Article 13-E, §1399-n et seq., addresses indoor smoking only and specifically provides that “nothing herein shall be construed to restrict the right of any county, city, town, or village to adopt and enforce additional local law, ordinances or regulations which comply with at least the minimum applicable standards set forth in this article.”
- C. The Marihuana Regulation and Taxation Act (“MRTA”), adopted by the New York State Legislature as Cannabis Law, Chapter 7-A, provides that nothing in the MRTA is intended to limit the authority of any government agency to allow smoking cannabis in any location where smoking tobacco is prohibited.

§ 276-12. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

CANNABIS PRODUCT or CANNABIS-RELATED PRODUCT means any product containing cannabis or hemp, as those terms are defined in the MRTA, that are used or intended for the purpose of smoking or inhaling. “Cannabis Product” or “Cannabis-Related Product” does not include any product that has been excluded from the definition of cannabis or hemp by the MRTA or approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a drug product or for other medical purposes and is being marketed and sold solely for that approved purpose.

CHILDREN means persons under the age of 18 years.

CITY-OWNED BUILDING means any structure owned by the City of Newburgh, except for any vacant structure not used for municipal purposes and any such structure that is subject to a written lease to another party, provided such lease was entered into prior to the effective date of this chapter and provided such lease does not give the City the authority to regulate outdoor smoking on the leased premises.

E-CIGARETTE means any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine, cannabis product, or cannabis-related product, and/or other substances mixed with propylene glycol to the user as he or she simulates smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

ENTRANCE means the location by which persons may enter a building, typically consisting of a door or doorway, which may be associated with a stoop or steps and/or a ramp and for the purposes of this chapter, "entrance" includes the stoop, steps or ramp leading from the sidewalk or pavement to such a door or doorway.

Underlining denotes additions
~~Strikethrough~~ denote deletions

EXIT means the location by which persons may leave a building, typically consisting of a door or doorway, which may be associated with a stoop or steps and/or a ramp and for the purposes of this chapter, "exit" includes the stoop, steps or ramp leading from the sidewalk or pavement to such a door or doorway.

FACILITY means the structures and activity areas, which may be partially enclosed or unenclosed, associated with an operation (which operation may be governmental, recreational, educational, commercial or of another type).

MASS TRANSIT SHELTER means a structure that has a roof and intended for use by persons waiting for a bus or other mass transit vehicle.

MOBILE VENDING means an activity consisting of the offering of goods and/or services for sale from a nonpermanent base of operations, including but not necessarily limited to a cart, kiosk, table or vehicle.

OUTDOOR DINING means an activity consisting of the provision of facilities that are available to members of the public (with or without payment) for eating and/or drinking in an area that is not fully enclosed by a permanent structure (walls, roof, etc.).

OUTDOOR RECREATION AREA means an area that is not fully enclosed and that is designated for recreational purposes or activities.

PAVILION means a structure that is at least partially unenclosed (for example, with open sides) and that is intended for public use.

PERMIT means written permission for an activity proposed to be conducted on property of the City of Newburgh, including any conditions placed upon such permission, issued and signed by the appropriate regulatory authority of the City.

PLAYGROUND means an outdoor recreation area that is designed and intended for use by children and for the purposes of this chapter, a playground that is fenced or otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation; a playground that is not fenced or otherwise demarcated shall be deemed to include all open space that is associated with or adjacent to it.

PLAYING FIELD means that portion of an outdoor recreation area that is set up and marked in some way for the playing of one or more specific games (such as baseball, football or soccer) and for the purposes of this chapter, a playing field that is fenced or the outside perimeter of which is otherwise physically demarcated shall be deemed to include all of the area inside such fence or demarcation, together with any bleachers or other, designated viewing area; a playing field that is not fenced or otherwise demarcated (as to its outside perimeter) shall be deemed to include all of

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~~Strikethrough~~ denote deletions

the area customarily required for playing the game for which it is being used, together with any bleachers or other designated viewing area.

SMOKE means the emission produced by the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product, or the heating of an e-cigarette which creates a vapor.

SMOKING means the burning of a tobacco product or tobacco-related product, cannabis product or cannabis-related product, or the heating or ignition of an e-cigarette which creates a vapor.

TOBACCO PRODUCT or TOBACCO-RELATED PRODUCT means any manufactured product containing tobacco or nicotine, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, dipping tobacco, bidis, snus, shisha, powdered and/or dissolvable tobacco products, liquid nicotine and electronic cigarette cartridges, whether packaged or not; any packaging that indicates it might contain any substance containing tobacco or nicotine; or any object utilized for the purpose of smoking or inhaling tobacco or nicotine products. ~~However,~~ “Tobacco Product” or “Tobacco-Related Product” does not include any product that has been approved by the U.S. Food and Drug Administration, pursuant to its authority over drugs and devices, for sale as a tobacco use cessation product or for other medical purposes and is being marketed and sold solely for that approved purpose.

§ 276-13. Outdoor smoking prohibited in certain public places.

Smoking shall not be permitted and no person shall smoke in the following outdoor areas:

A. Smoking shall be prohibited in the following City parks:

Downing Park (the area between and bounded on the north by South Street; on the east by Dubois Street; on the south by Third Street and on the west by Robinson Avenue; as shown on the Tax Map of the City of Newburgh as Section 17, Block 9, Lot 1 and Section 17, Block 10, Lot 1)

Delano-Hitch Recreation Park, including the Activity Center, Stadium, Skateboard Park, Aquatic Center and Athletic Fields, (the area between and bounded on the north by Washington Street; on the east by Robinson Avenue; on the south by South William Street and on the west by Lake Street; as shown on the Tax Map of the City of Newburgh as Section 34, Block 4, Lot 1.22)

Newburgh Landing Park (the area between and bounded on the north by Fourth Street, on the west by Front Street, on the east by the Hudson River and on the south by Third Street)

Underlining denotes additions

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Clinton Square Park (the area between and bounded on the south by Third Street, on the east by Bush Avenue, on the north by Bush Avenue and on the west by Fullerton Avenue)

Ward Brothers Memorial Rowing Park (the area beginning at the intersection of Renwick Street and River Street, along the former line of the Newburgh-New Windsor Turnpike, along the westerly boundary of the Wastewater Treatment Plant property, as shown on the Tax Map of the City of Newburgh as Section 49, Block 1, Lot 5.1)

Hasbrouck Street Park (10-14 Hasbrouck Street, as shown on the Tax Map of the City of Newburgh as Section 38, Block 3, Lot 35.1)

Tyrone H. Crabb Memorial Park (Grand Street and South Street, as shown on the Tax Map of the City of Newburgh as Section 12, Block 2, Lot 6)

Audrey L. Carey Family Park (Liberty Street, as shown on the Tax Map of the City of Newburgh as Section 18, Block 8, Lot 1.2)

B. Smoking shall be prohibited in the following outdoor recreation areas:

Lily Street Tennis Courts (Lily Street, as shown on the Tax Map of the City of Newburgh as Section 16, Block 2, Lot 1)

Gidney Avenue Basketball Court (Gidney Avenue, as shown on the Tax Map of the City of Newburgh as Section 11, Block 4, Lot 34.1)

Washington Street Boat Launching Ramp (foot of Washington Street)

Frank Masterson Recreation Area

C. Smoking shall be prohibited in other areas or at events where persons cannot readily escape nearby second-hand smoke, as follows:

1. Within any outdoor dining area, whether covered or not, located on City-owned property as follows:
 - a. Within any seating area for outdoor dining and/or drinking associated with a bar or restaurant that is on City property and subject to a City license and that is in use for that purpose; and
 - b. Within any seating area for outdoor dining and/or drinking, established or maintained by the City or its agent, that is in use for that purpose.

2. On any public property that is within 25 feet of the area occupied by a mobile vending cart or other mobile vendor operating on City-owned or City-leased property.
3. At outdoor events on City-owned property, as follows:
 - a. Within the outdoor seating and viewing areas for open-air concerts, dances, parades, other performances, lectures, motion-picture or video presentations or similar open-air presentations for which a permit from the City is required and when in use for that purpose.
 - b. Within the outdoor seating and viewing areas associated with unenclosed or partially enclosed sports areas or similar open-air recreational facilities.
 - c. During outdoor festivals, block parties and similar events on public property, for which a permit from the City is required, that will involve the concentration of persons in small or constrained spaces. For such an event, smoking is prohibited within the area covered by the City permit, except within a designated smoking area as described in subsection C(3)(d), below.
 - d. If the sponsor of an outdoor event (per subsection C(3)(a), (b) or (c) above) wishes to allow smoking at the event, the sponsor must propose and request from the City a designated smoking area associated with the event, which must be so marked, may not be in a permanently smoke-free area and would result in little or no direct exposure of nonsmokers to second-hand smoke; if no such exception is requested and granted, the event must be entirely smoke free.
4. Any licensee or permit holder for an outdoor dining area, vending or outdoor event on City-owned property shall be required to inform members of the public of applicable restrictions on outdoor smoking (for example, through signs posted on a mobile vending cart, at the perimeter of an outdoor dining area or outdoor event and/or in the publicity for an event).

D. Smoking shall be prohibited in certain other areas, as follows:

1. Outside City-owned buildings, as follows: at all times, on any public property within 25 feet of any entrance or exit or window or ventilation intake for any building owned by the City of Newburgh.
2. Inside, or on any public property within 25 feet of, any mass transit shelter.
3. At facilities leased or licensed to others, as follows:
 - a. Whenever the City is negotiating a new or renewed lease or license for use of City land or buildings, the City shall include in such lease or license a provision that will apply outdoor smoking rules comparable to those for other, comparable City property (as set forth herein)
 - b. As for existing leases, where this chapter would not apply automatically, the City shall ask such lessees to agree (voluntarily) to operate the outdoor areas of the leased premises in a manner that is consistent with City regulation of smoking in comparable outdoor areas.

Underlining denotes additions

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§ 276-14. Penalties for offenses.

Any person found to be in violation of any provision of this Article by smoking in an area where outdoor smoking is hereby prohibited shall be guilty, upon conviction, of an offense punishable by a fine of not less than \$50.00 for the first violation; not more than \$100.00 for a second violation; and not more than \$250.00 for the third and each subsequent violation. Each day on which a violation occurs shall be considered a separate and distinct violation.

§ 276-15. Severability.

The provisions of this Local Law are declared to be severable, and if any section or subsection of this Article is held to be invalid, such invalidity shall not affect the other provisions of this Article that can be given effect without the invalidated provision.

SECTION 4 - SEVERABILITY

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

SECTION 5 - CODIFICATION

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the 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 6 - VALIDITY

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

SECTION 7 - EFFECTIVE DATE

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

Underlining denotes additions

~~Strikethrough~~ denote deletions



New York's Marihuana Regulation and Taxation Act: The Legalization of Adult-Use Cannabis in New York

By Wade Beltramo, NYCOM General Counsel

Overview

On March 31, 2021, Governor Cuomo signed into law Chapter 92 of the Laws of 2021. Known as “the marihuana regulation and taxation act” (MRTA), this legislation was enacted with the stated purpose of creating a regulated and taxed cannabis industry in New York and to provide for social and economic justice related to the sale and use of cannabis. While the MRTA legalizes the possession and use of cannabis immediately, the actual sale of adult-use cannabis is not expected to begin until late 2022 or early 2023.

The MRTA enacts an entirely new chapter of the New York State Laws (Chapter 7-A, Cannabis Law) and substantially amends numerous other provisions of State law to provide for the implementation of adult-use cannabis. In addition, the MRTA establishes two new State agencies called the New York State Cannabis Control Board and the Office of Cannabis Management, which will administer the State’s adult-use and medical use programs, promulgating rules, issuing licenses, and investigating and enforcing infractions of the law. The regulatory framework created by the MRTA is in many ways similar to how the State currently regulates alcohol via the Alcoholic Beverage Control Law and the New York State Liquor Authority.

The MRTA creates a heavily regulated market requiring individuals and organizations to obtain a license before engaging in any of the myriad types of authorized cannabis businesses, including cultivating, processing, distributing, delivering, dispensing cannabis, or operating a cooperative, microbusiness, nursery, or on-site consumption establishment.

Legalization of Cannabis Use

The MRTA amends the NYS Penal Law, adding Article 222 Cannabis, which sets forth both legal and illegal activities regarding adult-use cannabis. Penal Law § 222.05 expressly states that any individual 21 or older may:

- (a) possess, display, purchase, obtain, or transport up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis
- (b) transfer, without compensation, to another person 21 or older, up to 3 ounces of cannabis and up to 24 grams of concentrated cannabis;

- (c) use, smoke, ingest, or consume cannabis or concentrated cannabis unless otherwise prohibited by state law;
- (d) possess, use, display, purchase, obtain, manufacture, transport or give to any person 21 or older cannabis paraphernalia or concentrated cannabis paraphernalia;
- (e) plant, cultivate, harvest, dry, process or possess cultivated cannabis in accordance with Penal Law § 222.15; and
- (f) (i) assist another person who is 21 or older or (ii) allow property to be used in any of the acts described in the preceding paragraphs.

In addition, cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any lawful conduct under Penal Law § 222.05 are not contraband nor subject to seizure or forfeiture of assets. Moreover, conduct deemed lawful by Penal Law §222.05 may not be the basis for law enforcement approaching, searching, seizing, arresting or detaining an individual. These provisions of law took effect March 31, 2021.

Local Opt-Out of Retail Sales

General Provisions

Cities, villages, and towns may opt out of allowing retail dispensaries and/or on-site consumption establishments from locating and operating within their boundaries. To effectuate the opt-out, such local governments must adopt a local law subject to a permissive referendum on or before December 31, 2021. A town opt-out only applies to the area of the town outside of any village(s) located therein. No city, village, or town may opt out after December 31, 2021. However, a local government that, in 2021, opts out of allowing retail dispensaries and/or on-site consumption establishments from locating within their boundaries may repeal such opt-out at any time. The local government opt-out does not apply to other types of licensed activities under the Cannabis Law.

Conducting the Permissive Referendum in Cities

The Municipal Home Rule Law sets forth the process and procedures required to conduct mandatory and permissive referenda in cities. Failure to follow the procedure required by law for conducting a referendum may result in the city council's action being invalidated.¹

Any local law adopted by a city that is subject to permissive referendum will not take effect until:

1. 45 days after its adoption have passed; and
2. It is approved by the electors of the city, if a petition is filed requiring the law be approved by a majority vote of the electorate.²

Petitions must be made on separate sheets of paper and the signatures on each sheet must be signed and authenticated in the manner provided by the Election Law for the signing and authorizing of nominating petitions.³ These sheets, when fastened together and offered for filing, are deemed to constitute one petition.

Petitions must be filed in the city clerk's office within 45 days of the adoption of the local law. Petitions must be signed by a number of electors equal to 10% of the total number of votes cast in the city for governor at the last gubernatorial election.⁴ All signers of the petition must be qualified voters.⁵ A qualified voter is an individual who is currently registered to vote and was also registered during the previous general election.⁶

If a petition is filed, a proposition on the local law must be submitted to the voters at the next election of State or local government, not less than 60 days after the filing of the petition. The petition may also request that the city council direct a special election be held.⁷

Once the petition has been filed with the city clerk, he or she must examine it not later than 30 days after the date of filing, or 45 days before the date of the election where the referendum would appear on the ballot, whichever is earlier. The clerk then transmits a certificate to the city council attesting that he or she has examined the petition and stating whether the petition complies with the law's requirements.⁸

If within five days after the last day to file a certificate to the legislative body, a written objection to the clerk's certification is filed in the State Supreme Court in the county in which the city is located, the court must determine any question arising from the petition and issue an order. This proceeding must be heard and determined in the manner prescribed in Election Law § 16-116.

Conducting the Permissive Referendum in Villages

A local law adopted by a village that is subject to a permissive referendum under Municipal Home Rule Law § 24, or any other State statute, will be conducted pursuant to **Article 9 of the Village Law**.⁹ Under Article 9, a village board of trustees may bypass the petition process by submitting a permissive referendum to voters upon its own motion.¹⁰ Compliance with Article 9 is therefore consistent with the terms of the Municipal Home Rule Law. Additionally, Village Law § 9-900(1) states that whenever the Village Law provides that an act or resolution of the board of trustees is subject to a permissive referendum, the permissive referendum must be conducted as provided in Article 9.

Many referenda may be timed so that they are held during a regularly scheduled village election. The criteria for determining when a referendum is to be held is set forth in Village Law § 9-902. If the petition for a permissive referendum is filed after the first day of the month in which a general village election is to be held and before the first day of the month two months prior to the next general village election, the referendum must be held at a special election of the village to be held not less than 10, nor more than 60, days after the filing of the petition.¹¹

Within 10 days after the board of trustees adopts any local law or resolution that is subject to a permissive referendum, the village clerk must post and publish, in the same manner as provided for the notice of a general village election, a notice setting forth the date that the local law or resolution was adopted.¹² The notice must also contain an abstract of the local law or resolution stating its purpose and indicating that the local law or resolution is subject to a permissive referendum. If more than one referendum is to be voted upon, each must be separately and consecutively numbered.¹³

The purpose of this notice is to afford the electorate the opportunity to circulate a petition on the question. If the local law or resolution is subject to a mandatory referendum, this notice is not required.

For a vote to be held on a local law or resolution that is subject to a permissive referendum, a valid petition must be filed in the office of the village clerk within 30 days of the passage of the legislative act. If no petition is filed within the 30 days, the local law or resolution goes into effect by operation of law.¹⁴

The petition must be signed by a number of village electors equal to at least 20% of the electors of the village, as shown on the register of electors for the previous general village election.¹⁵ It must be noted that the percentage requirement is 20% of residents registered to vote, and not 20% of residents who actually voted.

If an act is subject to a permissive referendum, the board of trustees may, upon its own motion, submit the act to a referendum, eliminating the need for a petition.¹⁶ This is an alternative to the citizen-initiated petition process and expedites the vote by eliminating the petition's "waiting period." The remainder of the process would be the same as if a petition had been filed on the date that the board submits the act to the referendum.¹⁷

For information on the process and procedure of conducting permissive referenda, see NYCOM's publication [Enacting Local Legislation and Conducting Referenda](#), available for download from the member's section at www.nycom.org. A sample local law opting out of hosting retain cannabis dispensaries and/or on-site cannabis consumption establishments can be found at the end of this document.

State Preemption & Local Time, Place, and Manner Restrictions

Counties, cities, villages, and towns are preempted from adopting any law, rule, ordinance, regulation or prohibition pertaining to the operation or licensure of registered organizations, adult-use cannabis licenses or cannabinoid hemp licenses. Cities, villages, and towns may nonetheless pass local laws and regulations governing the time, place and manner of the operation of licensed adult-use cannabis retail dispensaries and/or on-site consumption site, provided such laws or regulations do not make the operation of such licensed retail dispensaries or on-site consumption sites unreasonably impracticable as determined by the Cannabis Board. All adult-use licensees must comply with local zoning regulations.

Notwithstanding any local regulations, retail dispensary signage is prohibited except as authorized by the Cannabis Control Board. In addition, neither retail dispensaries nor on-site consumption establishments may be located within 500 feet of school grounds as such term is defined in the NYS Education Law or within 200 feet of a house of worship.

Notification to Location Governments of License Applications

Pursuant to Cannabis Law § 76, cultivators, processors, distributors, retail dispensaries, and on-site consumption license applicants must notify the municipality in which the applicant's premises is located of their intent to file an application for that location. The notice must be filed with the municipal clerk not less than 30 days nor more than 270 days before filing the license application with the State. The notification must be made in the form prescribed by Cannabis Control Board. If a local government expresses an opinion for or against the granting of the registration, license or permit application, that opinion will be deemed part of the record upon which the Office of Cannabis Management makes its licensure recommendation to the Cannabis Control Board to grant or deny the application. The Cannabis Control Board must respond in writing to the municipality with an explanation of how such opinion was considered in granting or denying the application.

License applicants must notify the municipality by: (a) certified mail, return receipt requested; (b) overnight delivery service with proof of mailing; or (c) personal service upon the offices of the clerk or community board.

The form of the notification will include

- a) the trade name or "doing business as" name, if any, of the establishment;
- b) the full name of the applicant;
- c) the street address of the establishment, including the floor location or room number, if applicable;
- d) the mailing address of the establishment, if different than the street address;
- e) the name, address and telephone number of the attorney or representative of the applicant, if any;
- f) a statement indicating whether the application is for:
 - i. a new establishment;

- ii. a transfer of an existing licensed business;
- iii. a renewal of an existing license; or
- iv. an alteration of an existing licensed premises;
- g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's registration or license number;
- h) in the case of a renewal or alteration application, the registration or license number of the applicant; and
- i) the type of license being applied for.

Police Right to Inspect Licensed Operations

Pursuant to Cannabis Law § 79, peace and police officers will be able to inspect all licensed or permitted premises and all records of licensed operators. Such inspections may only be done in a manner so as not to interrupt ordinary business and not to compromise the licensees' safety and security procedures. Such inspections may include, but are not limited to, ensuring the licensee or permittee is complying with the NYS Cannabis Law, the regulations promulgated pursuant thereto, and other applicable State and local building codes, fire, health, safety, and other applicable regulations.

Local Revenues from Cannabis Sales

The MRTA adds a new Article 20-C to the New York State Tax Law, entitled Tax on Adult-Use Cannabis Products. Article 20-C imposes multiple State taxes on both the distribution and the retail sale of adult-use cannabis. In addition, Tax Law § 493(c) imposes a 4% local tax on the retail sale of adult-use cannabis which will be distributed to the county and the city, village, or town in which the sale occurs. Thus, if a city, village, or town has opted out of allowing retail cannabis dispensaries and on-site cannabis consumption establishments to locate within their boundaries, that municipality will not receive any revenue from the local cannabis sales tax.

The New York State Comptroller will distribute taxes collected pursuant to Tax Law § 493(c) to counties in which adult-use cannabis retail sales occur. The counties are entitled to retain 25% of the monies distributed by the Comptroller. The counties must distribute the remaining 75% of the monies to the cities, villages, and towns within the county in proportion to the sales of adult-use cannabis products by the retail dispensaries in such cities, villages, and towns.

If a retail dispensary is located in a village within a town that also permits cannabis retail sales, then the county must distribute the monies attributable to such retail dispensary to the town and village as agreed upon by the governing bodies of those local governments. In the absence of such an agreement, the county must evenly divide the monies between the town and village. The moneys will be distributed on a quarterly basis.

There are no restrictions placed on how the local governments may use these local revenues.

Programs Financed by the State

The MRTA establishes several funds consisting of revenues collected by the State pursuant to Article 20-C of the NYS Tax Law to finance myriad programs related to the legalization of cannabis. The New York State Cannabis Revenue Fund (Tax Law § 99-ii) will be used for Office of Cannabis Management and Cannabis Control Board operations, funding cannabis equity programs, researching the impacts of cannabis legalization, funding State Police and the Department of Motor Vehicles implementation of the MRTA (including expanding and enhancing the drug recognition expert training program and technologies utilized in the process of maintaining road safety), schools, and drug treatment and public education programs. The New York State

Drug Treatment and Public Education Fund (Tax Law § 99-jj) will be used by the Office of Addiction Services and Supports to develop and implement a youth-focused public health education and prevention campaign and a statewide public health campaign focused on the health effects of cannabis and legal use, and to provide substance use disorder treatment programs for youth and adults. The New York State Community Grants Reinvestment Fund (Tax Law § 99-kk) will be used to fund the awards by the State Cannabis Advisory Board to reinvest in communities disproportionately affected by past federal and State drug policies. The grants must be used to support job placement, job skills services, adult education, mental health treatment, substance use disorder treatment, housing, financial literacy, community banking, nutrition services, services to address adverse childhood experiences, afterschool and child care services, system navigation services, and legal services to address barriers to reentry.

Personal Cultivation of Cannabis

Pursuant to Penal Law § 222.15, individuals 21 or older may plant, cultivate, harvest, dry, process and possess up to three mature cannabis plants and three immature cannabis plants at their private residence at any one time. Cannabis must be securely stored by reasonable steps designed so that the plants are not accessible to any person under 21. No more than six mature and six immature cannabis plants may be cultivated within any private residence, regardless of the number of individuals 21 or older who reside there. Individuals may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of their private residence, so long as they take reasonable steps designed to ensure that the cannabis is in a secured place not accessible to any person under 21. A violation of Penal Law § 222.15 is subject to a civil penalty of up to \$125 per violation.

Cities, villages, towns, and counties may enact reasonable regulations of personal cultivation and home possession. Violations of such regulations may constitute an infraction subject to a civil penalty of no more than \$200. Local governments may not adopt regulations that prohibit personal cultivation or possession as authorized under Penal Law § 222.15.

Personal cultivation of cannabis pursuant to Penal Law § 222.15 is not allowed until the Office of Cannabis Management issues regulations for home cultivation and storage. The Office must issue such regulations for home cultivation by certified cannabis patients no later than September 30, 2021. Regulations for personal cultivation by adult-use cannabis consumers must be promulgated no later than 18 months following the first authorized retail sale of adult-use cannabis products to a cannabis consumer. Consequently, legal home cultivation for recreational use is not likely to be allowed under the MRTA until 2024 or beyond.

Protections for Cannabis Users

In addition to the legal use of cannabis authorized under Penal Law §§ 222.05 and 222.15, Cannabis Law § 127 prohibits individuals from being discriminated against for engaging in conduct permitted under the Cannabis Law. Landlords are expressly prohibited from refusing to lease to and may not otherwise penalize an individual solely for conduct authorized by the Cannabis Law, except (a) if failing to do so would cause the landlord to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the property has in place a smoke-free policy, it is not required to permit the smoking of cannabis products on its premises, provided no such restriction may be construed to limit the certified medical use of cannabis.

Schools, colleges, and universities may not refuse to enroll and may not otherwise penalize individuals solely for conduct allowed by the Cannabis Law, except (a) if failing to do so would cause the school, college or university to lose a monetary or licensing-related benefit under federal law or regulations; or (b) if the school, college or university has adopted a code of conduct prohibiting cannabis use on the basis of a sincere religious belief of the school, college or university.

Sale of Cannabis

Cannabis may not be sold to anyone who is under the age of 21 or who is visibly intoxicated. Cannabis retailers may not sell cannabis products knowing or reasonably believing that the person to whom the cannabis products are being sold is acquiring the cannabis for the purpose of selling or giving it away in violation of State law or regulations.

Cannabis purchasers must provide written evidence of their age, which may consist of:

- a) a valid driver's license or non-driver identification card issued by the NYS Department of Motor Vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or
- b) a valid passport issued by the United States government or any other country, or
- c) an identification card issued by the United States armed forces.

Special Rules for Licensing of On-Site Consumption Establishments

In approving on-site consumption licenses, the Cannabis Control Board may consider various factors, including but not limited to:

- (a) the number, classes, and character of other licenses in proximity to the location and in the particular municipality;
- (b) whether there is a demonstrated need for spaces to consume cannabis;
- (c) any effect on pedestrian or vehicular traffic, and parking;
- (d) potential noise impact generated by the proposed premises; and
- (e) any other factors specified by law or regulation that are relevant to determine that granting a license would promote public convenience and advantage and the public interest of the community.

In addition to sales being restricted to individuals 21 years of age and older, no one under 21 years of age may be permitted on the premises of a cannabis on-site consumption facility.

Social Equity Program

One of the primary objectives of the MRTA is to promote social equity and justices. To that end, the Cannabis Law establishes programs to foster social equity and assist minority and women-owned businesses, distressed farmers, and service-disabled veterans. The Cannabis Law requires the State to develop a social and economic equity plan and an incubator program designed to promote racial, ethnic, and gender diversity when issuing licenses, with a goal of awarding 50% of adult-use cannabis licenses to social and economic equity applicants and to help communities disproportionately impacted by the enforcement of cannabis prohibition.

Law Enforcement Practices

In any criminal proceeding, no finding or determination of reasonable cause to believe a crime has been committed may be based solely on evidence of the following facts and circumstances, either individually or in combination with each other:

- (a) the odor of cannabis;
- (b) the odor of burnt cannabis;
- (c) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (d) the possession of multiple containers of cannabis without evidence of concentrated cannabis in the amounts authorized in Penal Law Article 222;
- (e) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or

- (f) the planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with Penal Law § 222.15.

The prohibition in Penal Law § 222.05(3)(b) with respect to the odor of burnt cannabis does not apply when a law enforcement officer is investigating whether a person is operating a motor vehicle, vessel or snowmobile while impaired by drugs. However, during such investigations, the odor of burnt cannabis does not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition.

Public Consumption of Cannabis

With respect to smoking and vaping, cannabis is treated the same as smoking or vaping tobacco products. Consequently, pursuant to Public Health Law Article 13-E, cannabis may not be smoked or vaped in the following indoor areas:

- (a) places of employment;
- (b) bars;
- (c) food service establishments, except as provided in Public Health Law § 1399-q;
- (d) enclosed indoor areas open to the public containing a swimming pool;
- (e) public means of mass transportation, including subways, underground subway stations, and when occupied by passengers, buses, vans, taxicabs and limousines;
- (f) ticketing, boarding and waiting areas in public transportation terminals;
- (g) youth detention centers and facilities;
- (h) any facility that provides child care services;
- (i) child day care centers;
- (j) group homes for children;
- (k) public institutions for children;
- (l) residential treatment facilities for children and youth;
- (m) all public and private colleges, universities and other educational and vocational institutions, including dormitories, residence halls, and other group residential facilities that are owned or operated by such colleges, universities and other educational and vocational institutions, except that these restrictions do not apply in any off-campus residential unit occupied by a person who is not enrolled as an undergraduate student in such college, university or other educational or vocational institution;
- (n) general hospitals and residential health care facilities;
- (o) commercial establishments used for the purpose of carrying on or exercising any trade, profession, vocation or charitable activity;
- (p) indoor arenas;
- (q) zoos; and
- (r) bingo facilities.

In addition, smoking or vaping of cannabis is not permitted in the following outdoor areas:

- (a) ticketing, boarding or platform areas of railroad stations operated by the MTA;
- (b) on the grounds of hospitals and residential health care facilities or within 15 feet of a building entrance or exit.

Pursuant to Penal Law § 222.10 and Public Health Law Article 13-E, individuals may not smoke or vape cannabis on school grounds (as defined by Education Law 1125(10)), within 100 feet of entrance, exit or outdoor areas of an elementary or secondary school or of a public library (except this does not apply to smoking or vaping in a residence or within the real property boundary lines of residential real property), or in or on a school bus.

New York Courts have ruled that local governments are not preempted from imposing their own local smoking and vaping restrictions that are more stringent than what is mandated under Public Health Law Article 13-E (the “Clean Air Act”). Additionally, NYS Public Health Law § 1399-r provides in relevant part that “Nothing herein shall be construed to restrict the power of any county, city, town, or village to adopt and enforce additional local law, ordinances, or regulations which comply with at least the minimum applicable standards set forth in this article.”

Moreover, local governments may impose their own smoking and vaping restrictions for property owned or controlled by the municipality, including parks and playgrounds.

Local Officials’ Interest in Cannabis Operations

Cannabis Law § 137 prohibits any chief of police, police officer or subordinate of any police department in New York from having an interest, either directly or indirectly, in the cultivation, processing, distribution, or sale of cannabis products, or from offering for sale or recommending to any registered organization or licensee any cannabis products. This prohibition does not apply to the spouse or domestic partner of such an official. Elected village officials are not subject to these limitations unless they are assigned duties directly relating to the operation or management of the police department. This restriction is similar to NYS Alcoholic Beverage Control Law § 128, which prohibits police officers and village officials who manage the police department from having an interest in the manufacture or sale of alcoholic beverages.

Employer Concerns

The MRTA bars employers from discriminating against individuals for cannabis use (See Labor Law § 201-d). However, the MRTA amends Labor Law § 201-d to provide that notwithstanding its prohibitions against discrimination, employers are not be barred from discharging or disciplining an employee (a) if doing so is mandated by State or federal statute or regulation (e.g., CDL requirements) or (b) if the employee is impaired while on the job.

Illegal Possession, Use, and Sale of Cannabis

While the MRTA legalizes adult-use cannabis, it does impose penalties for activities that are not authorized by the Cannabis Law or the Penal Law. Individuals under the age of 21 who are found to be in possession of cannabis or cannabis products are subject to a \$50 civil penalty (Cannabis Law § 132). Additionally, Article 222 of the Penal Law makes possessing or selling various amounts of cannabis and cannabis concentrate subject to various penalties.

Licensees are subject to civil penalties and license suspension and revocation for myriad violations.

Expungement of Records

The MRTA provides extensive procedures for expunging criminal records for many previous cannabis related convictions. The NYS Division of Criminal Justice Services and the Office of Court Administration will be promulgating rules and guidance to facilitate expunging these convictions and the handling of any records related thereto.

¹ 1990 N.Y. Op. Atty. Gen. (Inf.) 35.

² M.H.R.L. § 24(1)(a).

³ M.H.R.L. § 24(1)(a).

⁴ Id.

⁵ General discussion as to number and qualifications of petitioners for a local law subject to a referendum on petition. 1978 N.Y.

Op. Atty. Gen. (Inf.) 291.

⁶ Id.

⁷ M.H.R.L. § 24(1)(a).

⁸ M.H.R.L § 24(1)(a).

⁹ M.H.R.L § 24(1)(b).

¹⁰ Village Law § 9-908.

¹¹ Village Law § 9-902(5).

¹² Village Law § 9-900(2).

¹³ Village Law § 9-904.

¹⁴ Village Law § 9-902(1).

¹⁵ Id.

¹⁶ Village Law § 9-908.

¹⁷ Id.

RESOLUTION NO.: 217 - 2021

OF

SEPTEMBER 13, 2021

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT OF
CLAIM WITH CENTRAL MUTUAL INSURANCE COMPANY
A/S/O JAVIER ALVARADO IN THE AMOUNT OF \$7,755.15**

WHEREAS, Central Mutual Insurance Company a/s/o Javier Alvarado 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 Seven Thousand Seven Hundred Fifty-Five and 15/100 Dollars (\$7,755.15) 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 Central Mutual Insurance Company a/s/o Javier Alvarado in the total amount of Seven Thousand Seven Hundred Fifty-Five and 15/100 Dollars (\$7,755.15) 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.