

A regular meeting of the City Council of the City of Newburgh was held on Monday, May 9, 2022 at 7:00 PM in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Moment of Silence / Momento de Silencio

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

Pledge of Allegiance / Juramento a la Alianza

Roll Call / Lista de Asistencia

Present: Mayor Harvey, presiding; Councilmember Grice, Councilmember Martínez, Councilmember Monteverde, Councilmember Shakur, Councilmember Sklarz, Councilmember Sofokles - 7

COMMUNICATIONS

Approval of the minutes from the City Council meeting of April 25, 2022 / Aprobacion del Acta de la Reunion General del Consejo del 25 de abril de 2022

Councilmember Grice moved and Councilmember Shakur seconded.

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

CARRIED



City Manager's Update

Newburgh City Council Meeting

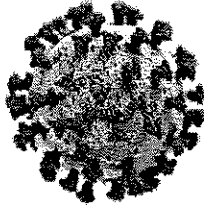
Monday, May 9, 2022



Novel Coronavirus (COVID-19)

For more information

Hotline: 1-888-364-3065



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



New York State Department of Health COVID-19 Tracker

Testing data as of: 5/5/2022 2 PM
Testing data last updated on: 5/6/2022

Statewide

Tested Positive (5/05)
13,902

Total Results Received (5/05)
226,277

Tested Positive (Cumulative)
5,195,818

Total Results Received (Cumulative)
108,420,564

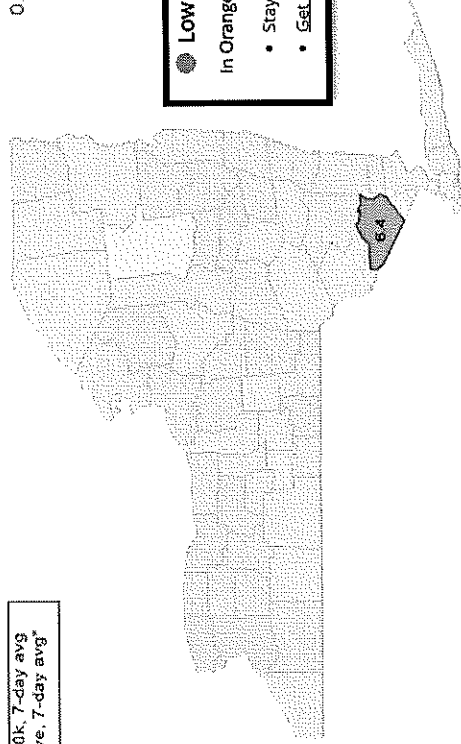
Tested Positive by Sex (Cumulative)

Female 51.9% Male 46.4% Unknown 1.7%

Positive Tests by County

○ Cases per 100k, 7-day avg
● Test % Positive, 7-day avg*

0.0 18.5



● Low
In Orange County, New York, community level is Low:
• Stay up to date with COVID-19 vaccines
• Get tested if you have symptoms

Click County to See Detail
Click Again for Statewide

Onondaga
Ontario
Orange
Orleans
Oswego
Otsego
Putnam
Queens
Rensselaer
Richmond
Rockland
Saratoga
Schenectady
Schoharie
Schuyler
Seneca
St. Lawrence
Steuben
Suffolk
Sullivan
Tioga
Tompkins
Ulster
Warren
Washington
Wayne
Westchester
Wyoming
Yates

County Testing Details: Orange (5/5)

Tested Positive (Prior Day)	Total Results Received (Prior Day)	Cases per 100k (Prior day)	Test % Positive (Prior Day)*	Tested Positive (Cumulative)	Total Results Received (Cumulative)
209	2,290	54.7	8.1%	110,105	1,642,842

Get Boosted Against COVID-19

WHO? Everyone ages 12 and older should get a booster.

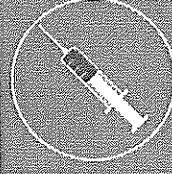
WHEN? At least 5 months after your second Pfizer or Moderna shot or 2 months after your Johnson & Johnson shot.



Find COVID-19
Vaccines Near You

Visit [Vaccines.gov](https://www.vaccines.gov)

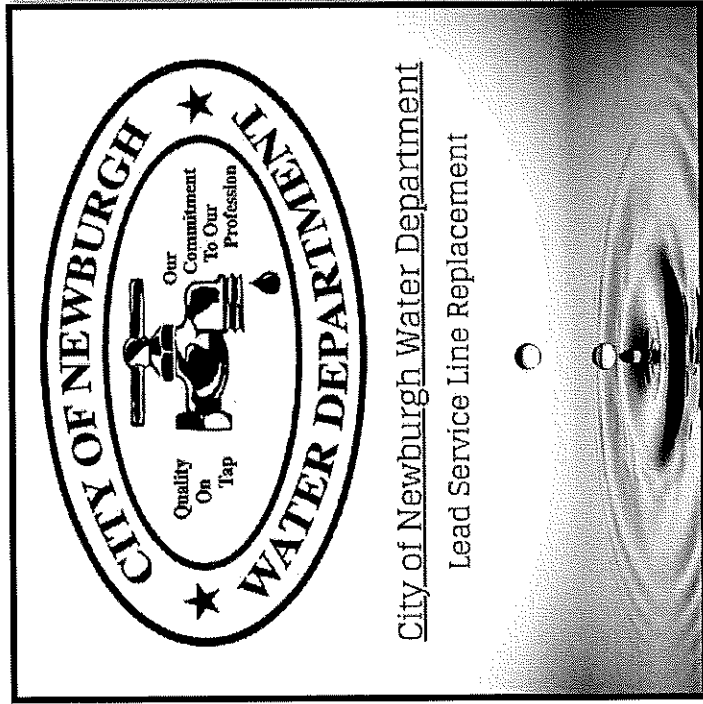
Or Call 1-800-232-0233



COMPLIMENTARY RIDES
TO **VACCINE SITES**

City of Newburgh Residents
get **FREE RIDES** to your
COVID-19 Vaccination
Appointment

CALL: 845-569-7420



31

Applications received

3

Reimbursements issued

20

Applications approved

5

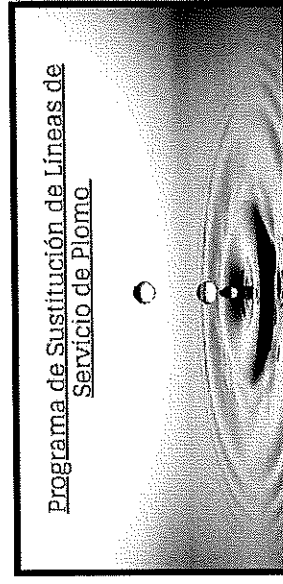
Applications pending code violations

3

Will be completed during Third street project work



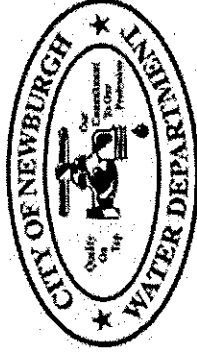
**APPLICATION
AVAILABLE IN
SPANISH!**



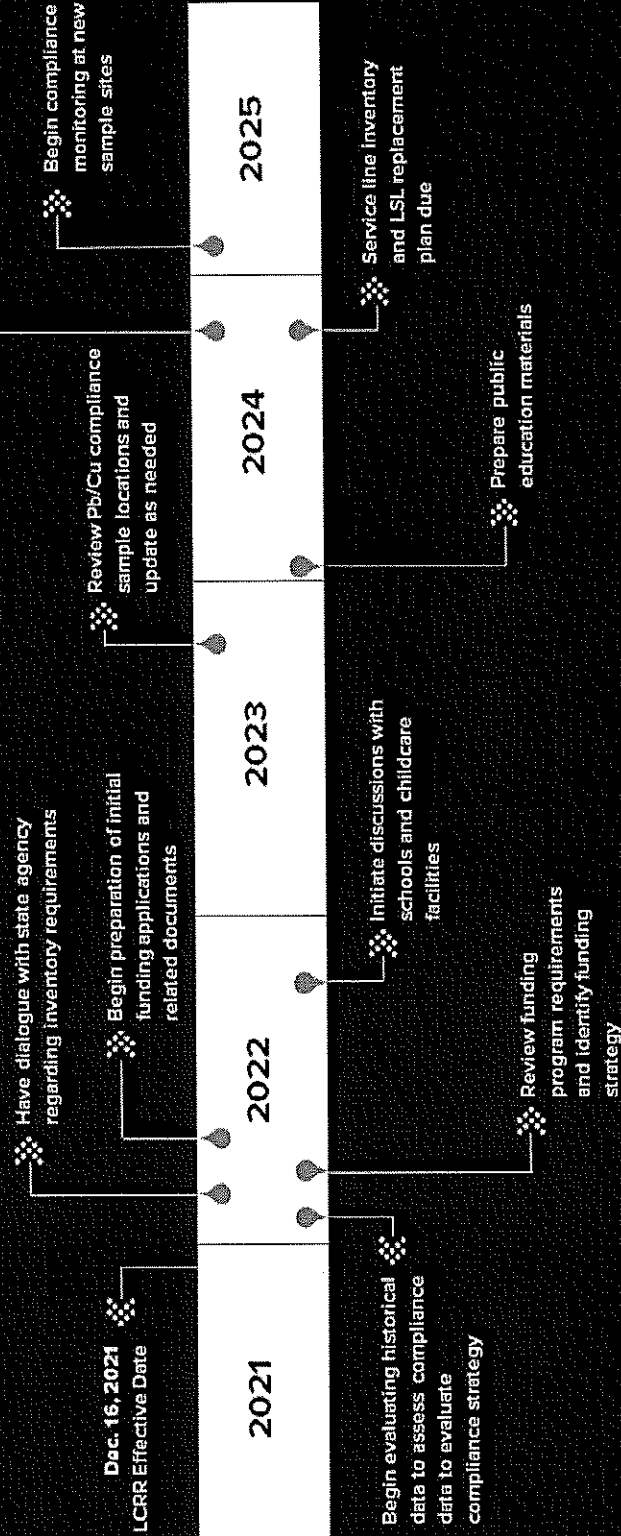
**Get Help Replacing Your
Lead Water Service Lines**

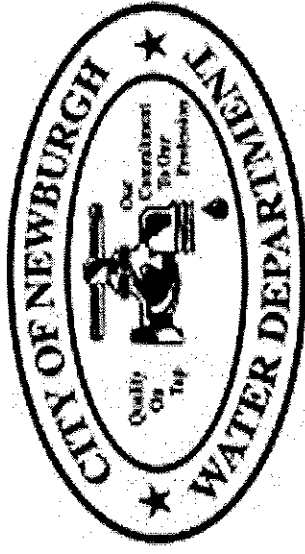
**CALL 845-565-3356 TO DETERMINE
YOUR ELIGIBILITY**

NEW EPA LEAD AND COPPER COMPLIANCE REVISIONS

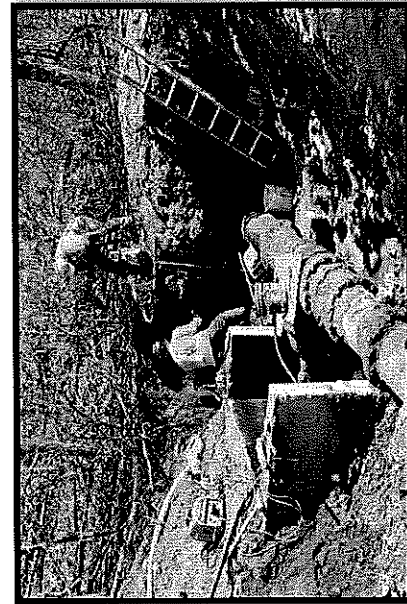
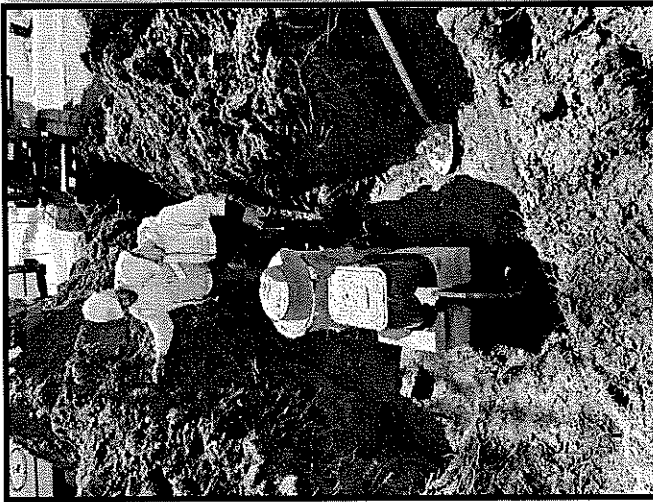
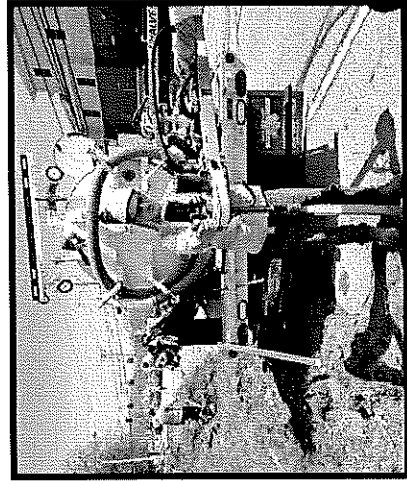
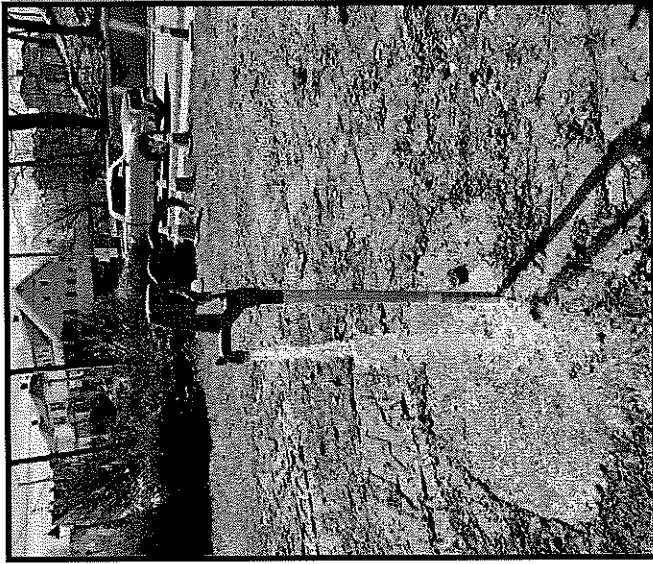
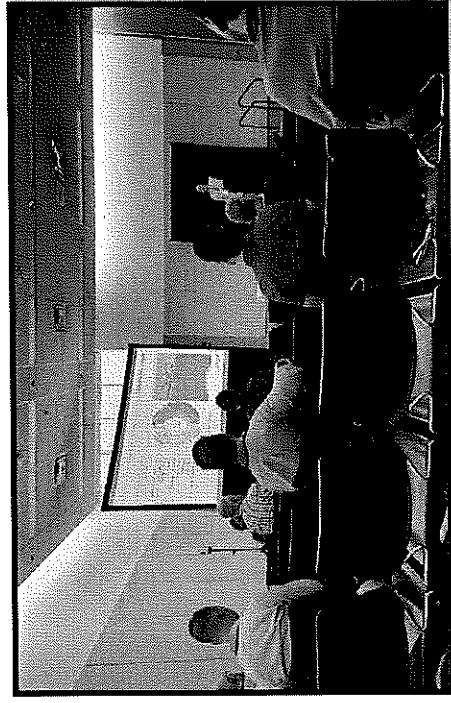


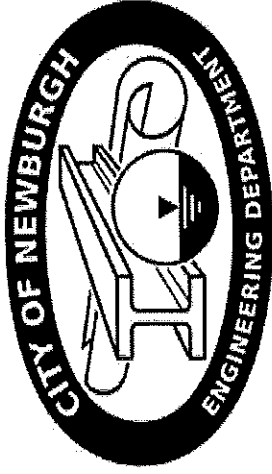
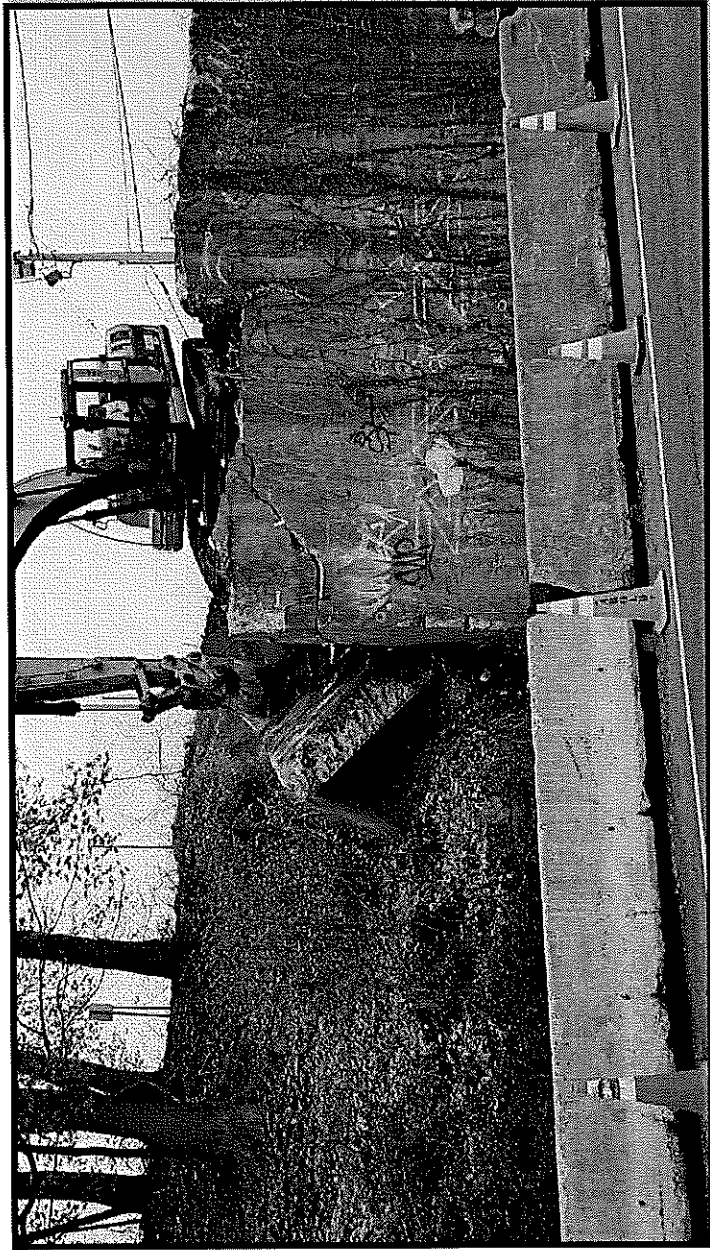
Oct. 16, 2024
LCRR Compliance Date



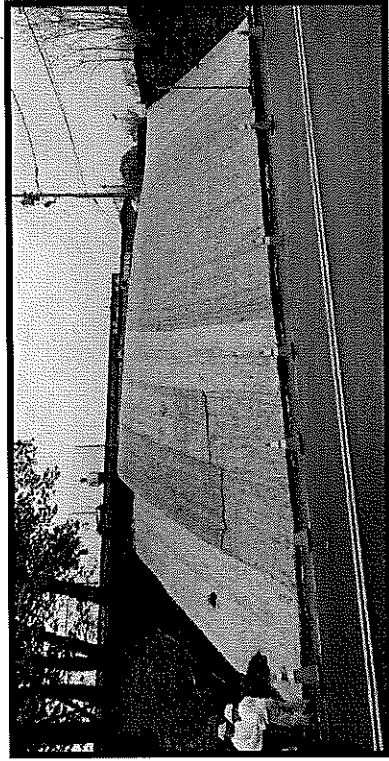
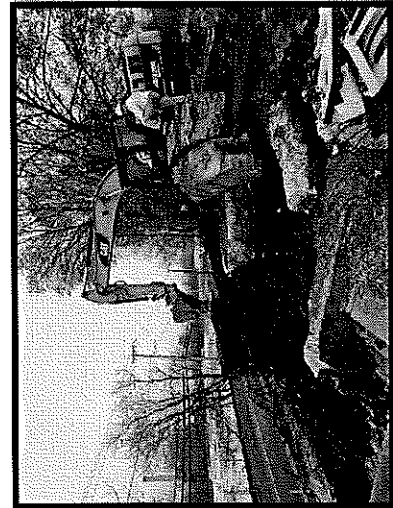


DISTRIBUTION DIVISION

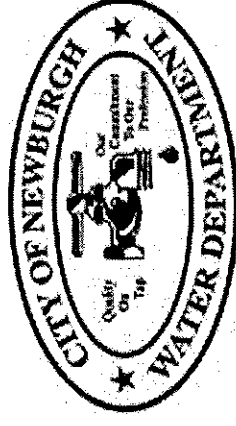
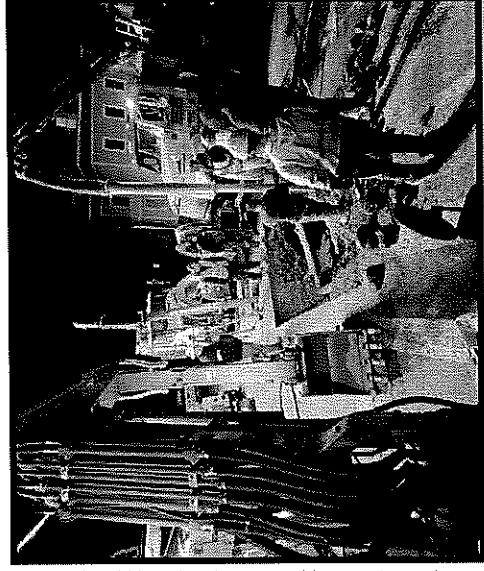
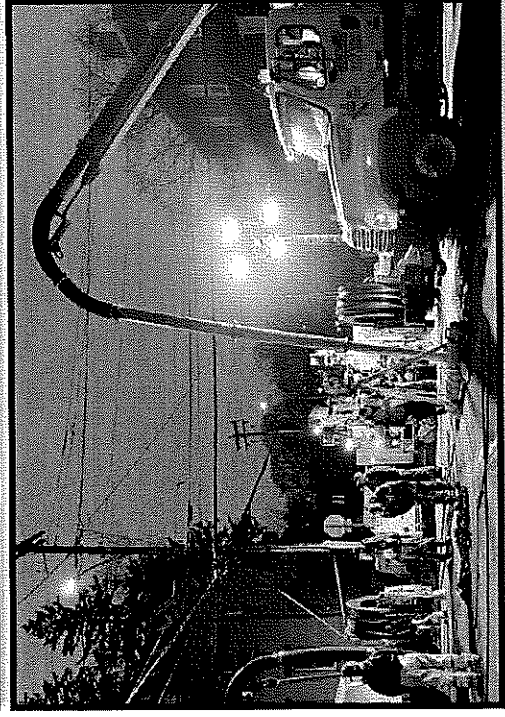
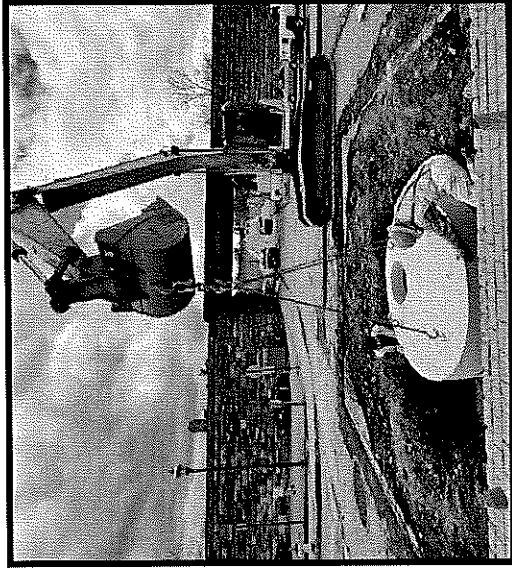
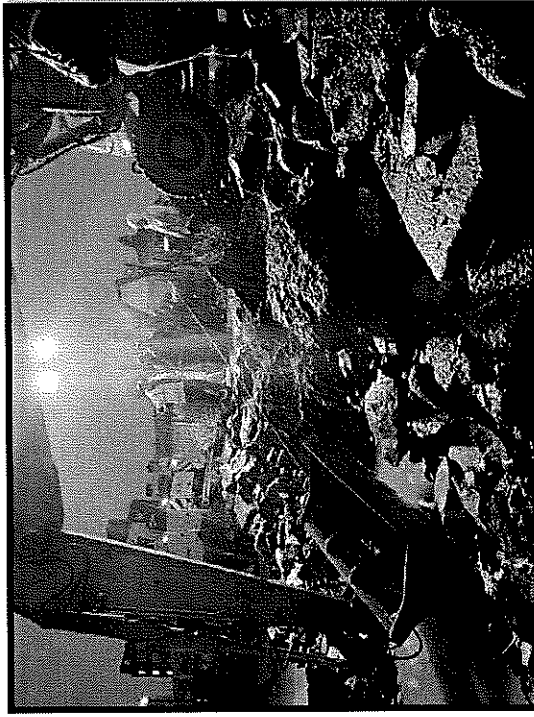




REMOVAL OF THE FAILING RETAINING WALL ON COLDEN STREET



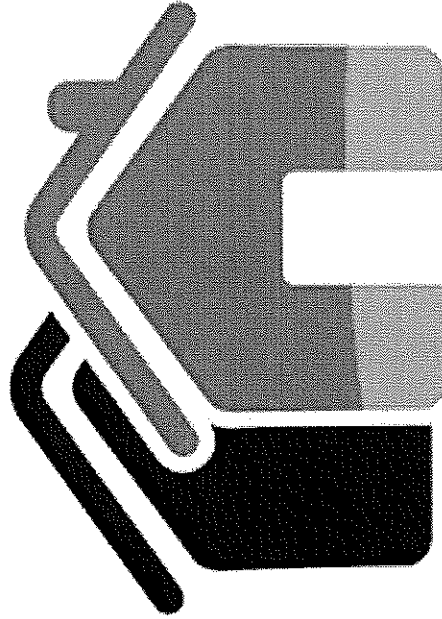
SEWER MAIN REPAIRS AT VARIOUS LOCATIONS



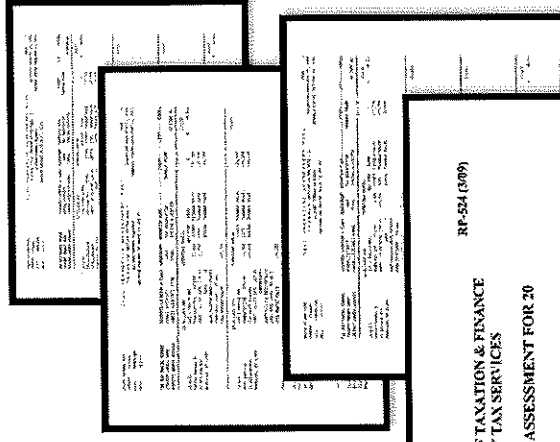
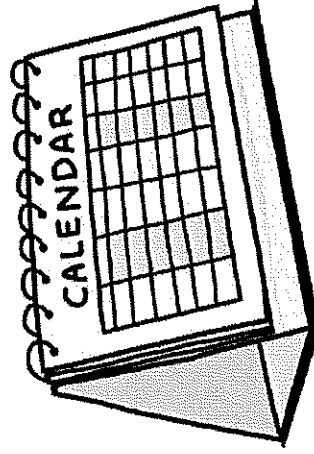
2022 TENTATIVE ASSESSMENT ROLL

Available online

Have questions?
Call the Assessor's Office at
845-569-7333



GRIEVANCE DAY MAY 24



RP-554 (2009)

NEW YORK STATE DEPARTMENT OF TAXATION & FINANCE
OFFICE OF REAL PROPERTY TAX SERVICES

COMPLAINT ON REAL PROPERTY ASSESSMENT FOR 20

BEFORE THE BOARD OF ASSESSMENT REVIEW FOR _____
(city, town village or county)

PART ONE: GENERAL INFORMATION

(General information and instructions for completing this form are contained in form RP-524-Ins)

1. Name and telephone no. of owner(s) _____

2. Mailing Address of owner(s) _____

Day no. () _____

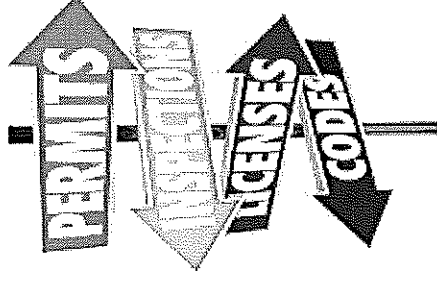
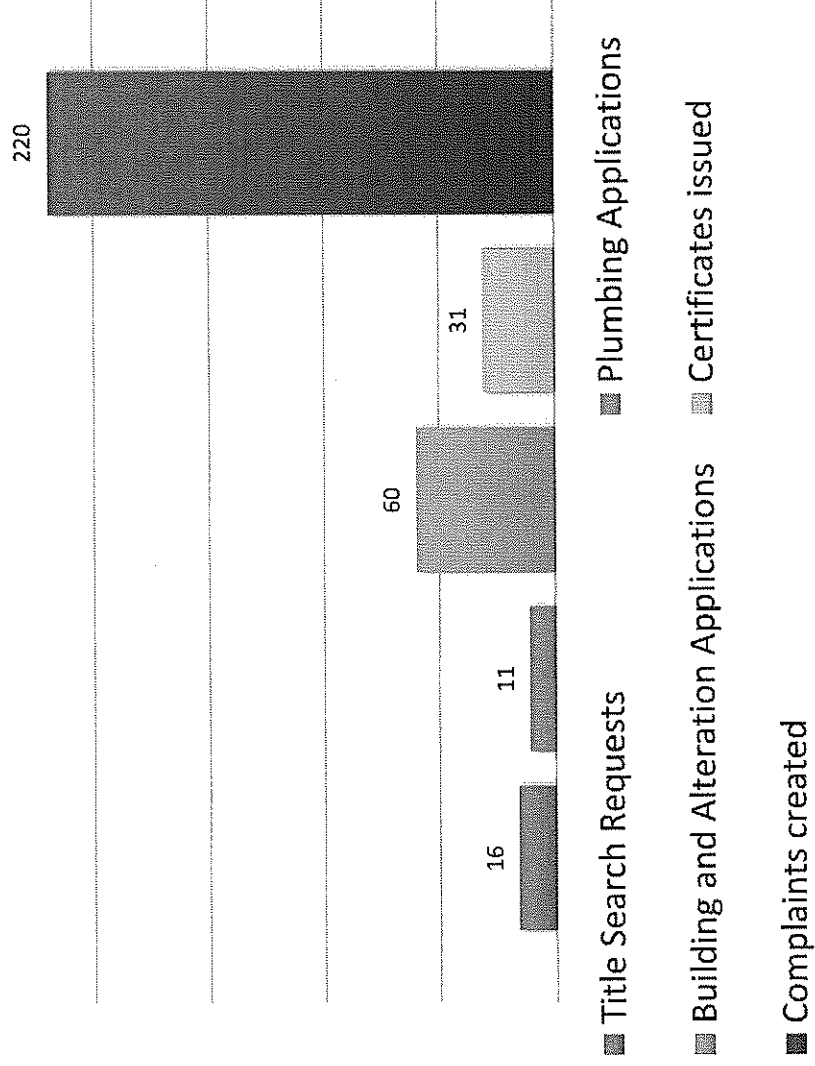
Evening no. () _____

Email (optional) _____

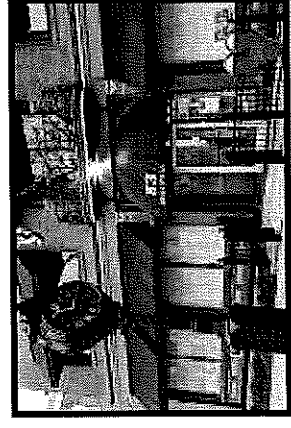
3. Name, address and telephone no. of representative of owner. If representative is filing application.
(if applicable, complete Part Four on page 4.)

CODE COMPLIANCE UPDATE

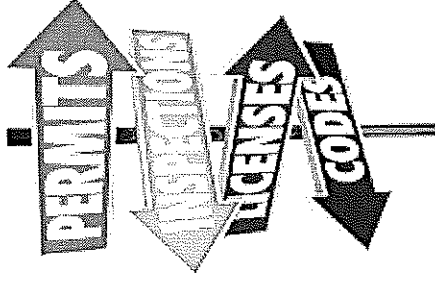
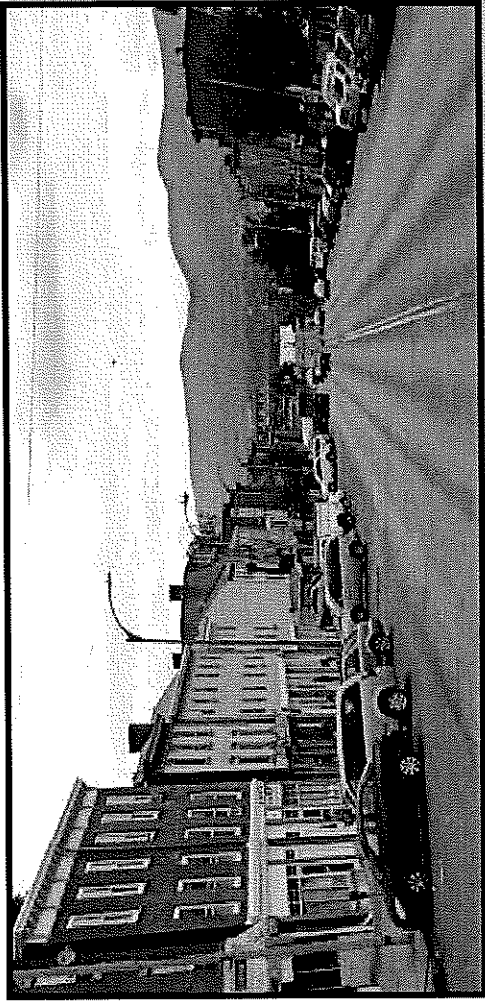
APRIL

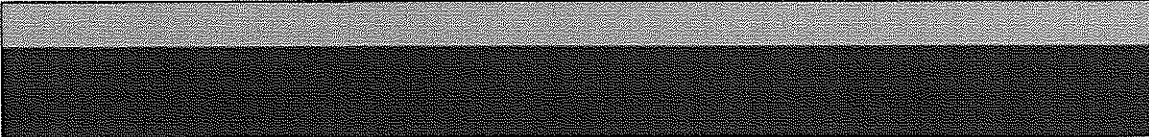


COMPLIANCE REMINDER

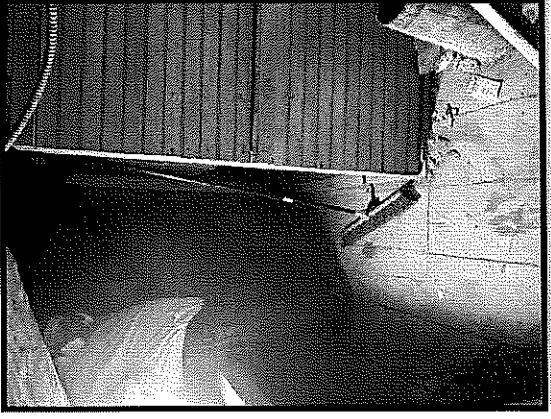
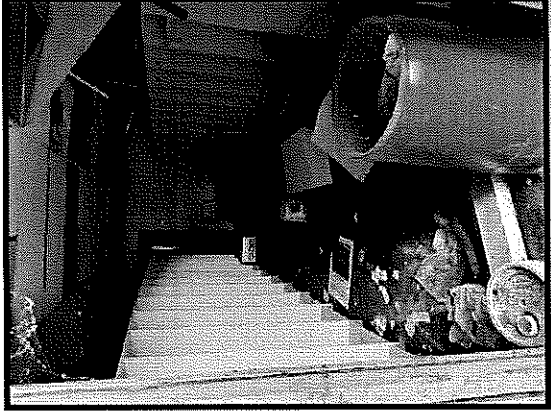
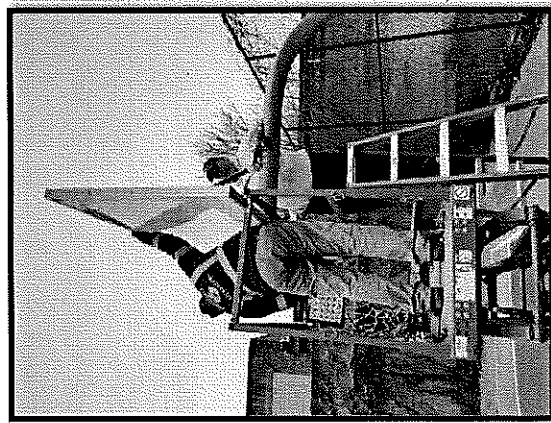
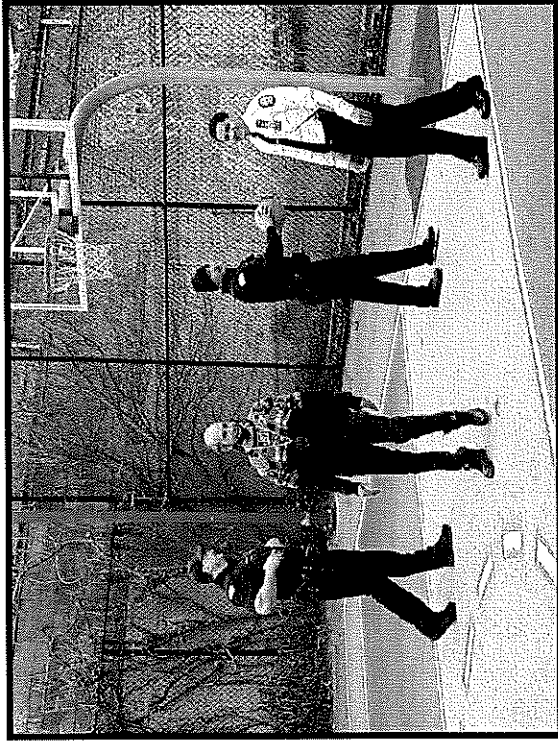


QOL TASK FORCE ON BROADWAY





UPDATES



**CITY OF NEWBURGH
RECREATION
DEPARTMENT**

**SUMMER
BASKETBALL
LEAGUE**

JUNE 28 - AUG. 4*

**TUESDAY &
THURSDAY NIGHTS**

3 DIVISIONS

GRADES:

K-2 3-5 6-8

\$50

Includes:

- Jersey
- Medal
- Games with Coaches & Refs

Register at Newburgh
Activity Center, 401
Washington Street or
online at
<https://cityofnewburgh.recdesk.com/>

CONTACT INFORMATION

Michael Tetrault
845-569-7374
mtetrault@cityofnewburgh-ny.gov
Dates subject to change

City of Newburgh Recreation

Summer Family Fun Days 2022

June 27th, 2022 to August 5th, 2022

FREE

WET SLIDES

NEW GROWING GARDEN

SUMMER FUN DAYS

*** Not a Drop off Center**

*** Children must be accompanied by parents.**

FREE

FAMILY GAMES

And Much More!

Monday 9am to 1pm
Wednesdays 11am to 3pm (wet slides)
Fridays 9am to 1pm

Activity Center (activities near the pool)
401 Washington St. Newburgh, NY 12550
Contact: Recreation Coordinator, Colleen Marcado 845-569-7379
Email: smarcado@cityofnewburgh-ny.gov

**City of Newburgh
Recreation Youth
Baseball Program**

6 Week Program

May 10th - June 17th*

\$40

401 Washington Street, Newburgh, NY Baseball Field #2

401 Washington Street, Newburgh, NY Baseball Field #2

Tee Ball	Minors	Majors
5-6 Years Old Fridays	7-8 Years Old Tues. & Thurs.	9-10 Years Old Tues. & Thurs.
6:00PM - 7:00PM	6:00PM - 7:00PM	7:00PM - 8:00PM

**2022 SOCCER
YOUTH LEAGUE**

MAY 2 - JUNE 8, 2022 | 6:00 PM - 7:00 PM

BOY & GIRL | RATES \$45 & \$55

DELANO HITCH RECREATION PARK
401 WASHINGTON STREET

REGISTER TODAY!
CALL 845-569-7379

REGISTER ONLINE AT <https://cityofnewburgh.recdesk.com>

CITY OF NEWBURGH

SUMMER
MOVIES
CONTEST

CAST YOUR VOTE
ONLINE

DEADLINE - MAY 13!

Visit the City of Newburgh
online for details

www.cityofnewburgh-ny.gov



SMOKE ALARMS SAVE LIVES!

Working smoke alarms can cut the risk of death from home fires in half.

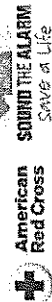
That's why we're rallying volunteers, fire departments and partners to *Sound the Alarm*, where it's safe to do so.

Together, we're installing **FREE** smoke alarms in your community. Request a smoke alarm installation today!

Newburgh, NY
Saturday, May 14
8 a.m. - 4 p.m.

Our teams will install up to three **FREE** smoke alarms to make your home safer, and help you develop a personalized fire escape plan.

Learn more at RedCross.org/STAnny
or call 845-249-4228.



SOUND THE ALARM
Save a Life

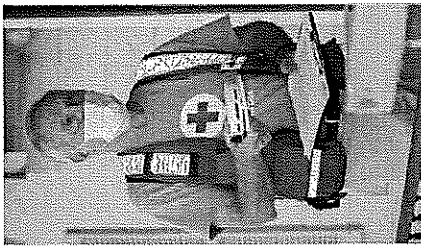
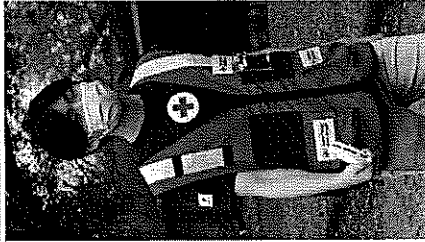
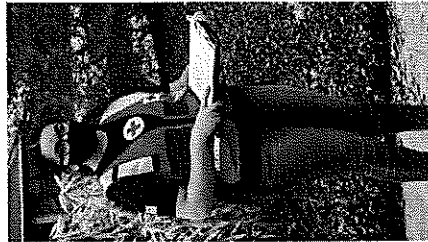
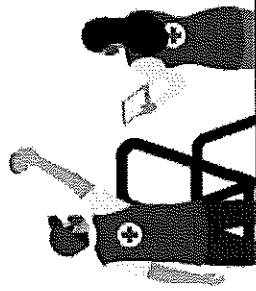


PHOTO: J. K. WATKINS



SOUND THE ALARM
Save a Life



¡Las alarmas de humo salvan vidas!

Las alarmas de humo que funcionan pueden reducir el riesgo de muerte a la mitad en incendios domésticos.

Por esa razón, estamos buscando voluntarios, departamentos de bomberos y colaboradores para la campaña *Activa tu Alarma*, donde es seguro hacerlo.

Juntos, instalaremos alarmas de humo **GRATUITAS** en su comunidad. ¡Solicita una instalación de alarma de humo hoy mismo!

Newburgh, Nueva York
sábado, 14 de mayo
8 am-4 pm

Nuestros equipos instalarán hasta tres detectores de humo GRATIS y le ayudarán a desarrollar un plan personalizado de escape en caso de un incendio.

Visite RedCross.org/STAnny
o llame al 845-249-4228.



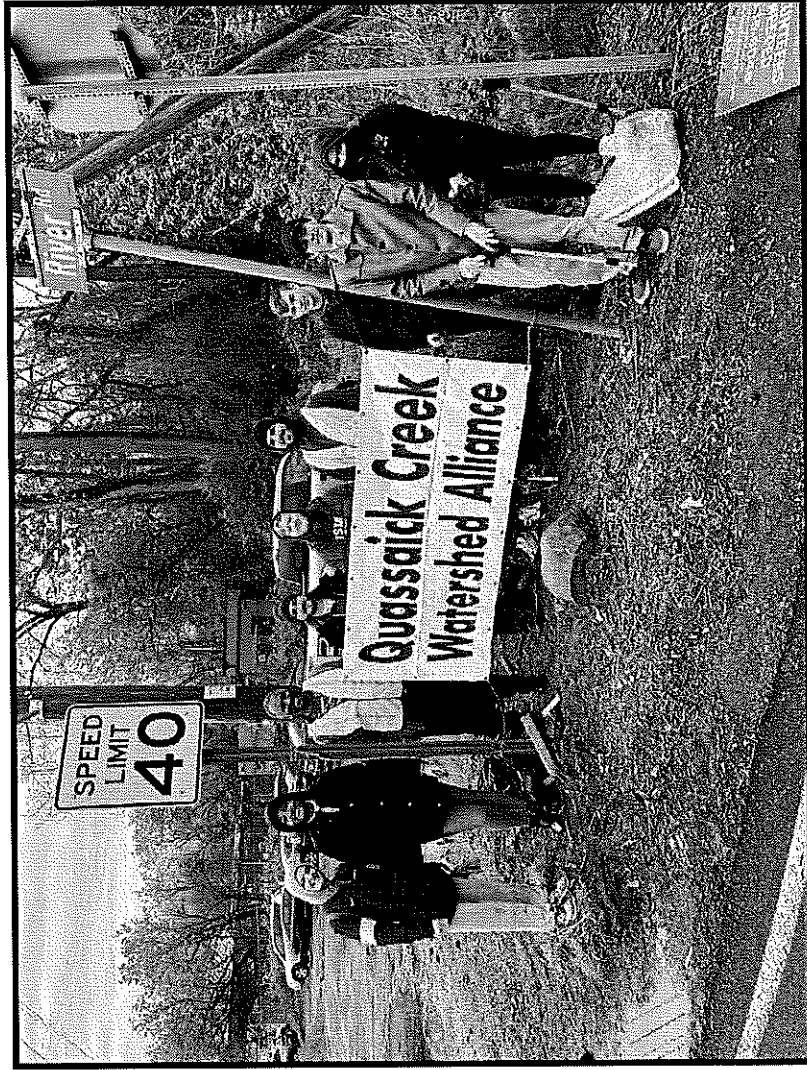
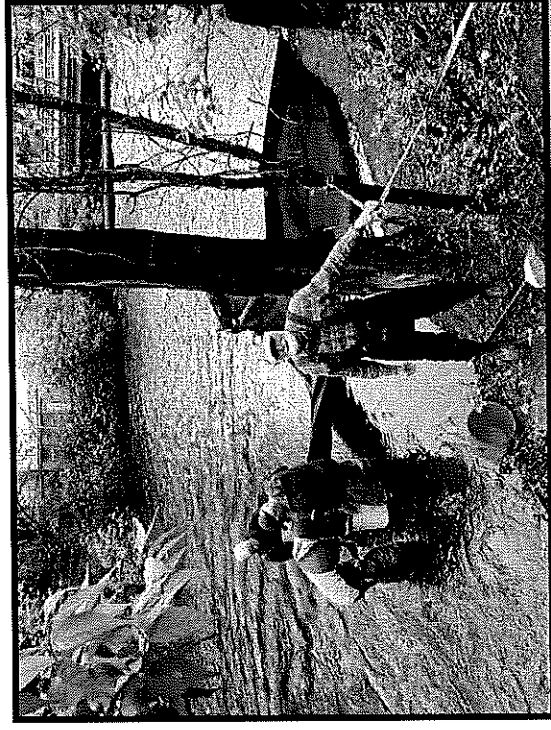
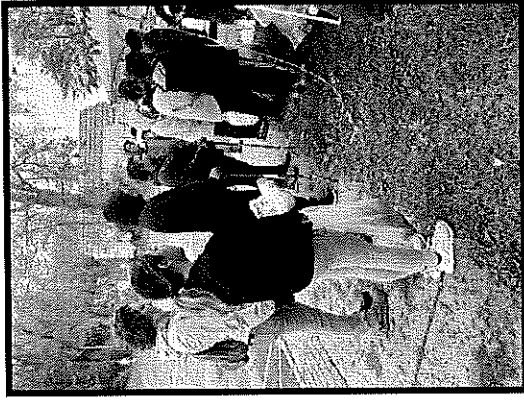
ACTIVA TU ALARMA
Salve una Vida



PHOTO: J. K. WATKINS

RIVERKEEPER. SWEEP

11th Annual Riverkeeper Sweep



BOARD & COMMISSION VACANCIES



CITY OF NEWBURGH

SEDAC

SEEKS NEW MEMBERS

SUBMIT AN APPLICATION BY

MAY 29

Apply to
Serve on the



**CITIZENS
ADVISORY
COMMITTEE**

SEVEN MEMBERS

- 1 from each Ward
- 3 residents At-Large

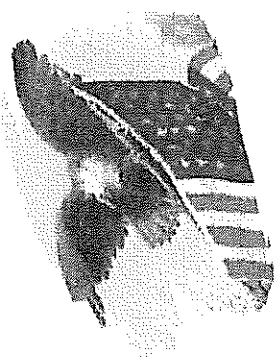
**APPLY ONLINE ON THE CITY WEBSITE
OR SUBMIT A COMPLETED APPLICATION
AT CITY HALL, 83 BROADWAY**



SUBMIT AN APPLICATION BY

JUNE 15

CITY SPONSORED EVENTS



MEMORIAL DAY PARADE

May 30, 2022






CREAMPUFFS
Presents the 2ND
ANNUAL

JUNETEENTH EVENT

*You don't want to
miss out on this
one!!!!*

**\$100 Vendor slots
available**

Contact Information:
creampuffsllc@gmail.com / (845) 522-8121

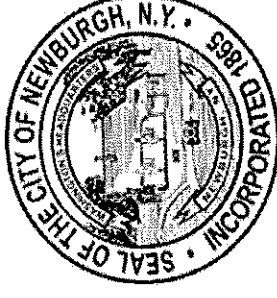
Jun 19
Performances by
surrounding local talent
looking for more performers: dance, singing,
instrument playing,
poetry, conscious rap, & more "limited slots"

Jun 19
Raising
Awareness
"UNITY, SUPPORT, DECISION MAKING &
MORE"

Jun 19
Father's Day raffle & tons
of activities for the kids!!!
face painting, bouncy houses, tug a war, the
list goes
on

For more information:
creampuffsllc@gmail.com (845) 522-8121

We're Hiring!

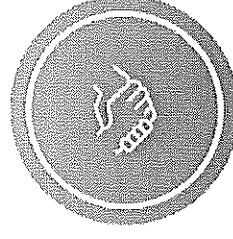


▼ Current Vacancies

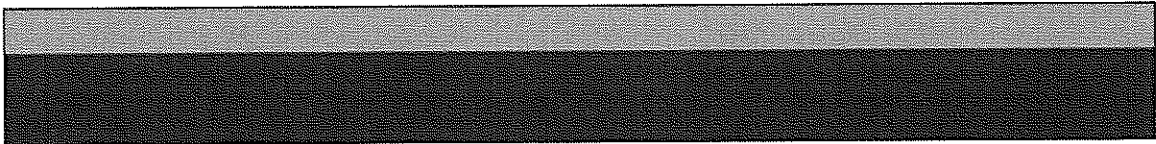
POLICE / RECREATION / DPW / WATER

CITY OF NEWBURGH – AN EQUAL OPPORTUNITY EMPLOYER

Justice, Equity, Diversity and Inclusion are core values to the City of Newburgh, where there is a strong commitment to establishing and maintaining an environment free of discrimination. These values are promoted through the daily practice of professionalism, respect, acceptance and understanding. As such, City residents along with women, minorities, individuals with disabilities, members of the LGBTQ community, and veterans are encouraged to apply.



Job Opportunities





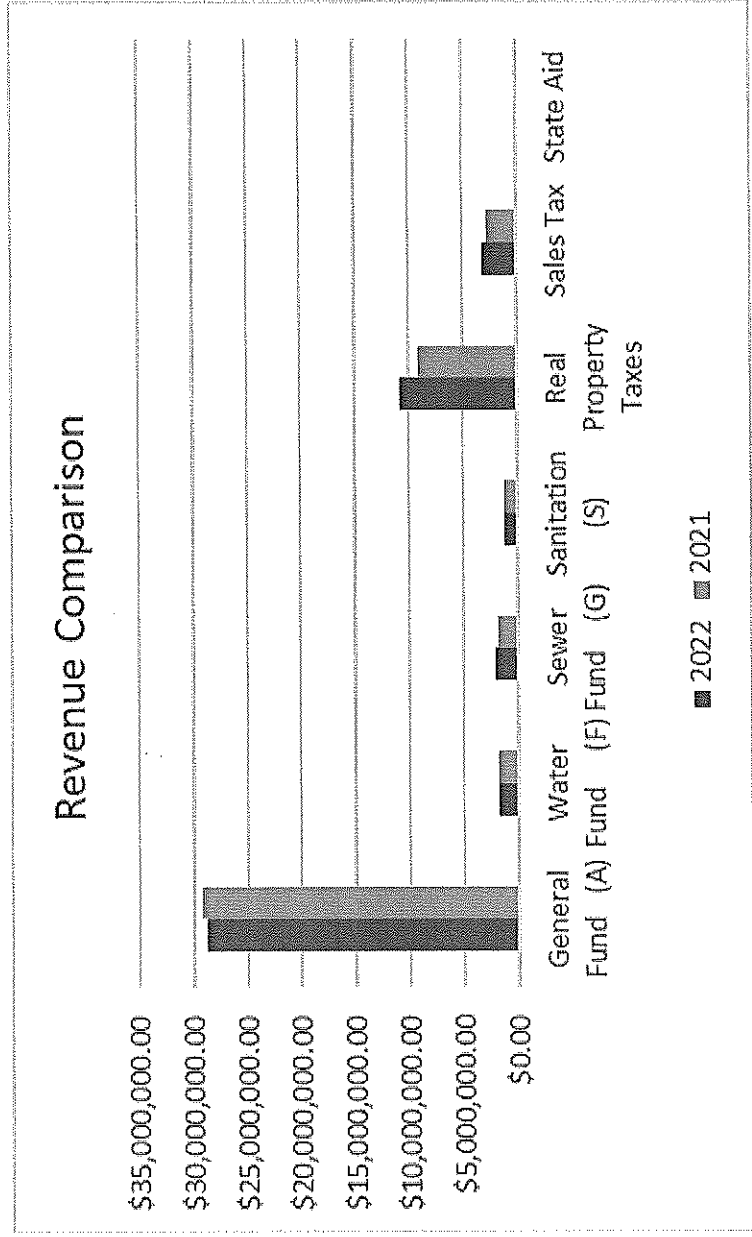
CITY OF NEWBURGH

2022- First Quarter Budget and Overtime Review

First Quarter Budget Review: Revenue-Real Property Tax Collections

Account	Budget	Collection	% Received
Real Property Taxes	\$ 22,999,692.00	\$ 10,762,608.00	
Real Property Taxes Omitted	\$ 29,916.00	\$ 23,568.05	
	\$ 23,029,608.00	\$ 10,786,176.05	47%
	Lien	\$ 582,775.66	
	\$ 23,029,608.00	\$ 11,368,951.71	49%

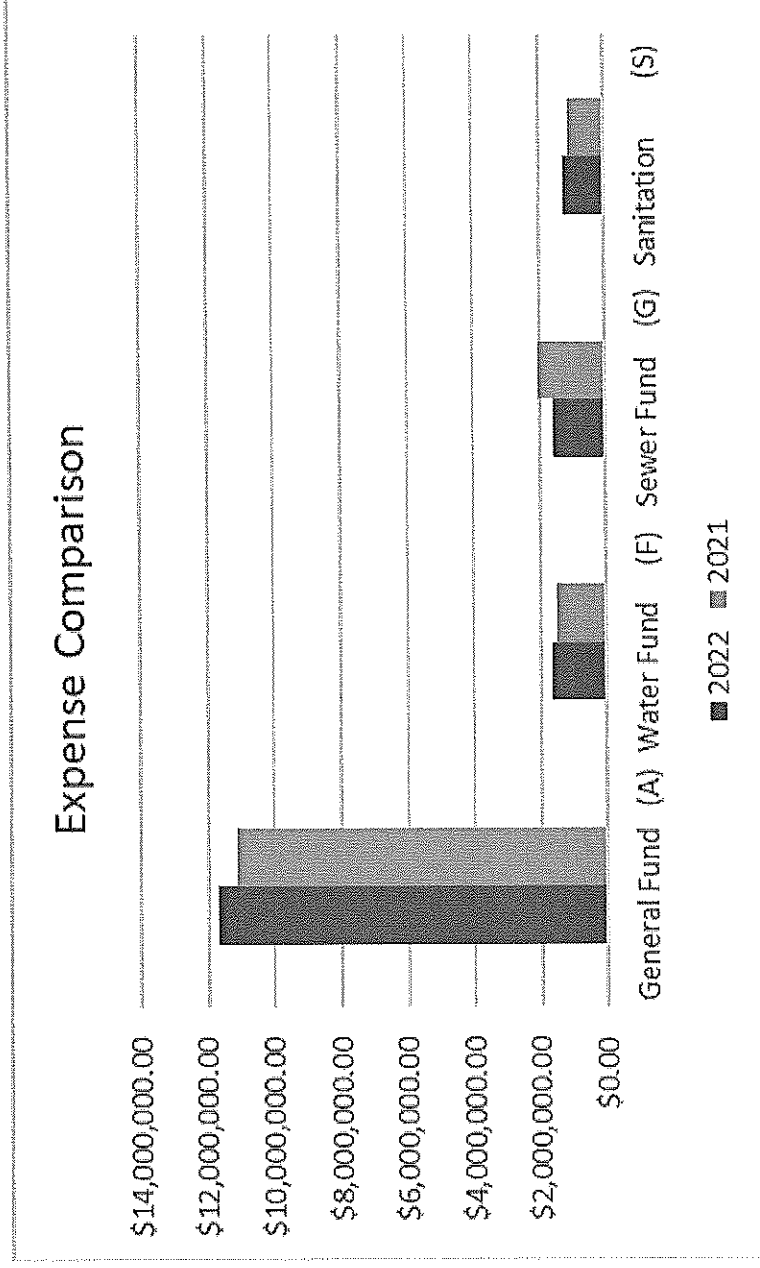
First Quarter Budget Review: Revenue- Year to Year Comparison



First Quarter Budget Review: Expense- Public Safety Overtime

	Original Budget	Adjusted Budget	YTD Actual	% Expended
Fire	\$ 1,465,835	\$ 1,465,835	\$ 214,248	15%
Police	\$ 1,420,000	\$ 1,420,000	\$ 275,385	19%
Total	\$ 2,885,835	\$ 2,885,835	\$ 489,633	17%

First Quarter Budget Review: Expense- Year to Year Comparison



First Quarter Budget Review: **Overtime- Year to Year Comparison**

Designation	Fund	2022		2021		Change in Expense
		YTD Actual		YTD Actual		
Fire Overtime	(A)	\$214,248.00		\$338,456.07		-\$124,208.07
Police Overtime	(A)	\$275,385.00		\$356,621.11		-\$81,236.11
Total Change year to year for Q1:						-\$205,444.18

First Quarter Overtime Review: KVS

Police

Account Number	Account Name	January	February	March
A.3120.0103	Overtime	\$69,652.04	\$71,052.22	\$88,983.98
A.3120.0103.0001	Overtime-Civilians	\$11,845.75	\$12,319.27	\$10,839.58
A.3120.0109	Narcotics Enforcement Overtime	\$141.83	\$0.00	\$151.96
A.3120.0111	Special Event/Detail Overtime	\$0.00	\$0.00	\$0.00
A.3120.0113	Court Overtime	\$3,926.70	\$2,309.58	\$4,162.15
Total		\$85,566.32	\$85,681.07	\$104,137.67

Fire

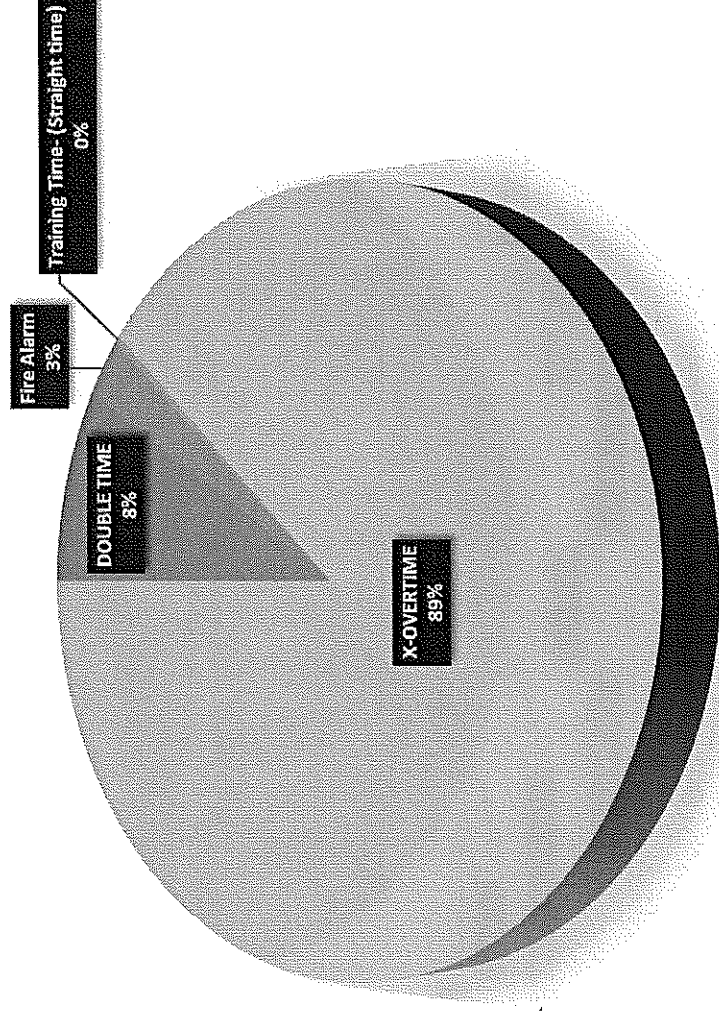
Account Number	Account Name	January	February	March
A.3412.0103	Overtime	\$89,398.25	\$45,876.13	\$59,986.09
A.3412.0103.0001	Overtime-Civilians	\$8,041.73	\$2,628.47	\$6,444.42
A.3412.0108	Fire Training Overtime	\$828.92	\$210.14	\$834.22
Total		\$98,268.90	\$48,714.74	\$67,264.73

Department	Quarter 1
2022 Police	\$275,385.06
2021 Police	\$356,621.11
Difference	-\$81,236.05
% Change Y/Y	-23%

Department	Quarter 1
2022 Fire	\$214,248.37
2021 Fire	\$338,456.07
Difference	-\$124,207.70
% Change Y/Y	-37%

First Quarter Overtime Review: By Function

Fire Overtime by Function: First Quarter 2022



PRESENTATIONS

First Quarter Comptroller Update

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

Damian DePauw, City of Newburgh thanked the Council for their support with the E-Bike Project. He is the Executive Director of Impact Inc. and he is working in collaboration with ICF Inc. to pursue the NYSERDA New York Clean Transportation Prize. They think that Newburgh could use some E-Bikes and there is good infrastructure here for it as our streets were originally designed for pedestrian traffic. They look forward to working with the City Council and the leadership here to develop a plan. They had a great community engagement event at the Newburgh Urban Farm Fair and Councilmember Grice took one for a spin. They are great and will help people in the community to improve their health and mobility and some studies even say that it drastically improves the local economy so he looks forward to working together on this.

Carla Johnson, 52 S. Miller Street said she moved here in 2012 when rent for a one bedroom apartment was about \$750.00 and a two bedroom was about \$850.00 to \$950.00. Her building is being sold so she is going to have to move but the apartments now are about \$2200.00, which is outrageous. She saw the Mayor and Councilmembers Shakur and Grice at a Ribbon Cutting at 166 Broadway and she attended a Zoning Board meeting for the first time. Developers are coming in telling stories and she doesn't know how some of these projects were approved. That building at 166 Broadway has numerous code violations with water damage and mold so it's strange that we are doing a Ribbon Cutting at a building that is water damaged. She also asked Councilmember Sofokles when they will be doing the sign for the Youngblood's on Lutheran St. and added that we have to do better with our housing here.

Sertaira Boyd, Prospect Street, said she was at a Rally the other day and the idea of Mitchell-Lama came up. When we speak about affordable apartments, Mitchell-Lama would make affordability for people because you pay for your apartment and your monthly rent is set at \$700.00 or \$800.00. When you decide to sell you get your money back provided there are no damages so we need to start looking at Mitchell-Lama Programs for the City of Newburgh. We need to do better with our FOIL system because Middletown and Rochester have a turnaround in less than twenty-four hours. She just turned in the Creole, English and Spanish digital complaint forms so we are just waiting for the Arabic.

She has talked to a lot of people here who are tired of going out of our own municipality for catch and release fishing. At Brown's Pond and Washington Lake we can give anywhere from fifty to a thousand keys that cannot be re-made. This is an idea that Judy Kennedy entertained before she passed. Catch and release is therapeutic for a lot of people and we can teach kids how to fish. Some people are willing to pay \$500.00 to \$1,000.00 for a key here so this is another economic strategy we could bring to the City of Newburgh. We also really need to get a grip on our buildings and codes.

Barry Simpson, 43 City Terrace said he has lived here for about twenty years. You are saving money with Police and DPW but he has tickets from snow removal and sweeping

along with pictures showing that they didn't plow or sweep. We are saving money but in his neighborhood there are more crack heads and things going on so we need more cops instead of saving money on overtime. His next-door neighbor did a beautiful overhaul on his house but when you look in the back there is a home with doors on the upper floors but no porch so if someone opens that door they are going to fall straight down. Garbage is also piled high in between the buildings with rats.

Evan Campbell, E. Parameter Street said he owns a Food Truck and he started on Liberty Street. People didn't want him there so he was harassed and after a few months he moved up by St. Patrick's Cemetery on Broadway where he has been for the past four years. Now the Police Officers are telling him that he can't park on Broadway anymore even though he has his Permit. He doesn't see anything in the ordinance about not being able to park on Broadway so why was he forced to move with no notification. Now he is on Ann Street and his regular customers don't see him so his income for his family is going down. He feels that this is harassment.

Hillary Rayford, City of Newburgh congratulated Mr. Venning who is doing a great job making sure everything is in check. In regard to the Juneteenth Celebration, she met with Omari Shakur and Ray Harvey, the NAACP President and they asked her to collaborate with them and she feels the meeting went well. She put in an application for the Permit for the Program and it was approved but now there is a conflict. This is for our people and it is open to everyone so where do we go from here?

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

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

Mayor Harvey asked the City Manager to explain why the Food Trucks were told that they have to move off of Broadway.

Todd Venning, City Manager explained that this year they have been focusing on a lot of the complaints received from residents and taxpayers and have tasked several departments to enforce our laws some of which have not been enforced in some time. One of those laws applies to parking on Broadway and Mobile Food Vendors. He noted that in a separate part of the Code there are two statements. One states that parking on Broadway has to be at a forty-five degree angle so you must have a serving window facing the sidewalk. The only way a Food Truck could be parked on Broadway would be if they have a serving window out of the back or the front of the truck. Anywhere on Broadway that angled parking is required and that is the only way a Food Truck would be allowed on Broadway.

Mayor Harvey said that Ms. Boyd asked about catch and release fishing which is very therapeutic and the Council has been discussing this for well over a year so he asked the

Water Department Superintendent, Mr. Vradenburgh to tell us about some good news about Masterson Lake.

Mr. Vradenburgh said that they have had major infrastructure work done at Washington Lake which is now completed so we are cleaning that area and doing some beautification with something special coming shortly.

Mayor Harvey said there will be some opportunity to fish there and he was down at the Waterfront earlier and saw people fishing at the river so there is that also.

Councilmember Grice thanked everyone for coming out tonight. He saw a comment on social media and he doesn't always respond but we are going to listen and sometimes we have to say no. We are always open to suggestions on looking how to change something to make it more fair for everyone. On Broadway, we are not doing this because a certain organization moved in and brought properties. It's because we are enforcing our rules and laws. He was at the Ribbon Cutting for that business but it doesn't mean he supports everything that businesses is doing so he was looking to see for himself what was going on. He spoke with our Corporation Counsel and some community members about which direction to go to protect our renters and property owners. This is on our minds and it's more complex than what people would think but we are on it. He added that River Keeper had a great event and he is glad that he participated.

Councilmember Martinez said there is a lot going on tonight. She support E-Bikes and Climate Legislation to make our City more walkable and accessible without solely relying on cars. In regard to rent hikes and affordable housing, she completely agrees. She was at the Housing Rally over the weekend which was about highlighting the issues of housing across New York but specifically here in Newburgh. Her predecessors and colleagues passed Good Cause Eviction so she agrees they need to make sure our government is keeping our residents here. They have been working hard to pass legislation so she assured everyone that she is going to do everything she can to make sure that their constituents stay in their homes. She wants development but without displacement. On the Food Trucks, at past Council sessions we talked about maybe having a central Food Truck Area so she would like to continue exploring that idea. She also supports Juneteenth and is very excited about the celebration.

Councilmember Monteverde said it was a busy weekend and she was at the Rally also talking about affordable housing. There is obviously a lot going on in the City of Newburgh as they all get calls about people being displaced and rents going up overnight. They spoke at the Rally about rent control and the Tenant Opportunity to Purchase Act so that has to be researched. Inclusionary Zoning would be helpful because it will set aside a certain amount of affordable housing units when a developer comes to build a large project. They also talked about a Land Trust so there is a lot to talk about affordable housing so they are going to have to put their heads together and be committed. That's her focus. She thanked Chief Geraci and Commissioner Gomez with regard to quality of life with walking up Broadway to make sure that everyone is in compliance because she is getting comments from businesses owners in her Ward about how it's making a difference already.

Councilmember Shakur said in regard to the Food Trucks he understands that we have a policy and that we haven't been enforcing the laws but these Food Trucks have permits

already in place so they should have been given a grace period and told what their options are. This is their job to feed their families so we need these people in our community. On Juneteenth he told Ms. Rayford that when they had that meeting he was there representing the interest of putting in for a Permit which was between her and Mr. Gayle so he told them to resolve that. He had no say on it. They each had a venue and he was just there to represent the City so he couldn't make any decisions.

Councilmember Sklarz said they had a Press Conference last week with Senator Gillibrand to announce a Bill she is advancing to include PFAS chemicals in the firefighting foam as part of the chemicals in the Clean Water Act and hopefully it will get approved. If passed, the Bill will protect firefighters at the site and will add additional protections to our watershed. The only safe resolution in this whole matter is that we continue drawing our water from the aqueduct system and our taxpayers should be held harmless from paying for the damage done by others to our water system. The Council is unanimous about that and it will be in the Courts for years to come. We have to put our heads together to find a central location for these Food Trucks so they can be in compliance with codes and they can earn a living.

Councilmember Sofokles said she is glad that we are finally looking at the PFAS legislation because it's been a long time coming. On the man with the Food Truck, she understands his frustration because he has been there for four years and it's his livelihood so we have to figure out a solution. She told Carla that she sent her phone number to the Council so please get it from them and call her to get things going for the Youngblood family. She thanked DPW because they work hard and they have a hard job. The work they did at Downing Park was very quick and it was done correctly with no problems.

Mayor Harvey thanked everyone for coming out tonight. He is an advocate for the Food Trucks and asked the Police Chief and City Manager to give them a grace period between April and May. They can go on the side streets that are right off of Broadway so they are still visible which is an option they can take advantage of. He is planning to meet with Mr. Simmons to hopefully have a Food Truck Festival at the foot of Broadway on the Fourth of July. On the Juneteenth Event and the Black Pride Festival and Parade, he met with the Juneteenth Committee and concluded that they are going to do their own thing separate from the Black Pride Festival. He told Ms. Rayford that he will help her with whatever he can to make her Event successful so they can get together to work on an itinerary.

City Manager, Todd Venning said that there is a conflict that needs to be looked into. Her permit was approved first and there was a second permit so he needs a chance to look at the conflict and sort it out.

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

CITY MANAGER'S REPORT

Resolution No. 107 - 2022 - PIN# 8761.40 Walsh Road Bridge Replacement Construction Agreement with CSX Transportation Inc.

Councilman Grice moved and Councilman Shakur seconded.

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

Adopted

Resolution No. 108 - 2022 - Allocation of \$1,500,000 ARPA Funding to the LTCP Floatables Control/High Rate Disinfection Facility Project

Councilman Shakur moved and Councilman Grice seconded.

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

Adopted

Resolution No. 109 - 2022 - Resolution of Support for Riverkeeper

Councilman Shakur moved and Councilwoman Monteverde seconded.

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

Adopted

Resolution No. 110 - 2022 - Personnel Book Amendment - Executive Office

Councilmember Sklarz asked if they approved a Deputy City Manager position in the Budget.

Mayor Harvey responded, "No we did not."

Councilmember Sklarz said then this is to upgrade a current position that is there. The issue he has is with the qualifications that are listed in the job description. A position at this level should start with a Masters and some experience and a Bachelor's Degree with significantly more experience. We would not be considering anyone without a Bachelor's Degree for this high level position but the way it's written it seems to provide someone without a Degree and a few years of experience working with an elected official to qualify which doesn't seem to be sufficient to him for this type of title.

Mayor Harvey said that after they spoke earlier he had some time to sit with Mr. Venning and when you look at the education requirement that is just the minimum. It doesn't mean that applicants won't have advanced Degrees and/or extensive experience in this type of work. It's just the minimum and depending on how competitive this Post becomes we could very well get applicants with Master's Degrees or advanced Degrees.

City Manager, Todd Venning added that this position was put forth before the Civil Service Commission and was approved on these minimum requirements. When we posted the job before, we had very highly credentialed applicants apply and that is who he expects would be selected this time.

Councilmember Sklarz said that this is up to a \$90,000.00 per year job so normally you ask for a higher level degree requirement and more experience than this seems to be asking for. It seem a bit thin to him.

Councilmember Sofokles said she agrees.

Councilmember Grice understands where Councilmember Sklarz is coming from with his Human Resources experience. When it comes to staffing, as far as he is concerned, we have to be very careful on who or what we are adding because once we add a person then it's recurring. This is not a new position and we have talked about since he has been on the Council to make sure that office is functioning the way it needs to. He added that this position is not a political appointment so please don't lobby the Council. It's a Civil Service position so please apply through the application process.

Mayor Harvey said to that point that sometimes he and other Councilmembers have brainstorming and visionary meetings with Mr. Venning. This is all part of our revitalization and reimagining the City of Newburgh. We talk about upgrading our infrastructure and our enforcement with Codes so the people living here can live a better quality of life but also on the inside with upgrading our talent in City government. Honest, hardworking and talented people that share a common vision that the City Manager and the City Council has put forward. This is what this represents to him. The City Comptroller just did an excellent presentation and all of our department are working to take the City to a different place, which means we are going to have more competitive salaries and more competitive talent. We see it happening because people are participating and contributing. He told Councilmember Sklarz that his points are well taken but after speaking with Mr. Venning it doesn't mean that whoever he decides to go with is going to have a Bachelor's Degree. The salary scale in the City of Newburgh is stuck in the 70's and it's like a time warp.

Councilman Shakur moved and Councilwoman Monteverde seconded.

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

Nays: Sklarz-1

Adopted

Resolution No. 111 - 2022 - Amend 2022 Personnel Budget to Reflect Restructuring of Finance Department

Councilman Shakur moved and Giselle Martinez seconded.

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

Adopted

Resolution No. 112 - 2022 - 2021 M Fund Budget Adjustment

Councilman Shakur moved and Councilman Grice seconded.

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

Adopted

Resolution No. 113 - 2022 - 34 Allison Avenue - Satisfaction of Mortgage

Councilman Shakur moved and Councilwoman Sofokles seconded.

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

Resolution No. 114 - 2022 - 60 William Street - Release of Restrictive Covenants

Councilman Shakur moved and Giselle Martinez seconded.

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

Resolution No. 115 - 2022 - 248 First Street - Release of Restrictive Covenants

Councilman Shakur moved and Councilman Grice seconded.

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

Resolution No. 116 - 2022 - License Agreement with Strongroom for Use and Access to 134 Grand Street (The Dutch Reformed Church)

Giselle Martinez moved and Councilman Shakur seconded.

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

Resolution No. 117 - 2022 - Letter of Support for Proposed E-Bike Project for NYSERSDA Clean Neighborhoods Challenge

Councilmember Grice thanked everyone involved. This is something that he supports and noted that this is separate from the E-Bike and E-Scooter legislation they are working on. Once they have this they will be located on Washington Street so please stop by and take a spin.

Councilmember Shakur said people are asking if they will be at the Library.

Councilmember Martinez asked if this will be on the City Website.

Corporation Counsel, Michelle Kelson said that at this point this is just a resolution in support of getting additional Grant funding.

Mayor Harvey said it also gives us time to think about some of the protocols that were discussed at the Work Session and making sure it is managed properly.

Councilman Grice moved and Giselle Martinez seconded.

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

Resolution No. 118 - 2022 - 2023 Highway Safety Grant

Councilman Grice moved and Councilman Shakur seconded.

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

Resolution No. 119 - 2022 - Resolution Authorizing a Payment of Claim

Councilman Shakur moved and Councilman Grice seconded.

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

Adopted

Resolution No. 120 - 2022 - Resolution Authorizing a Consent Judgement with Imperial Motel

Councilman Shakur moved and Giselle Martinez seconded.

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

Adopted

Ordinance No. 2 - 2022 - Ordinance amending Chapter 190 of the City of Newburgh Code of Ordinances

Councilman Shakur moved and Councilman Grice seconded.

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

Adopted

Ordinance No. 3 - 2022 - Ordinance amending Chapter 249 of the City of Newburgh Code of Ordinances

Mayor Harvey said that Ordinance #2-022 was just passed which provides for \$1000.00 a day in fines for those absentee landlords and building owners who violate the City Code and are warned and given a certain amount of time to correct.

Corporation Counsel, Michelle Kelson said this increases the fine from \$250.00 per day to \$1000.00 per day for each day the violation exists. Any violation that is not corrected will be referred to the City Court and the property owner, absentee or not, may be facing a maximum fine of \$1000.00 per day.

Councilmember Grice thanked Mayor Harvey for this. Once they have that Code violation they must answer for that so we are going to make sure there is no skirting around. Please don't assume when you see us at a certain function or in a certain situation that we don't care about the living conditions and this legislation is just one example of that and there is more to come.

Councilmember Martinez added that this is also about accountability for property owners that don't take care of their buildings or put their residents in dangerous situations. She is still upset about what happened on S. Miller and thanked her colleagues for taking the steps necessary to try to prevent that from happening again.

Councilmember Sofokles said if the Courts don't make them pay the fines can they be re-levied onto their taxes.

Corporation Counsel Michelle Kelson said that at this point and time there is no State or Local Legislation that allows unpaid Court fines to be re-levied into the taxes. There is a Bill pending in the State Legislature sponsored by our local delegation to allow all municipalities in Orange County to re-levy unpaid Court fines in certain circumstance. Unpaid Court fines, if you are corporate owner, could become a judgement that could become a lien on your property that could be executed separately. If you are an individual property owner and you do not appear in Court or you fail to pay a fine you could be subject to an Arrest Warrant or Bench Warrant and be arrested so there are

consequences.

Mayor Harvey said this goes to what Councilmember Martinez just mentioned which is accountability. This is a collective plan to get the City where it needs to be and this is a public safety matter. If you own property that is vacant and not boarded up then you will pay \$1000.00 per day until that's corrected. He hopes the newspapers are listening to this and make this front page news.

On Ordinance #3-2022 he said an individual came and said that this City Council doesn't support local businesses and that we haven't done anything to attract new businesses. We have some very significant projects that are already in the pipeline that support the visions for the new Newburgh. Projects that will attract tourism and bring connectivity from our downtown Broadway corridor to our Waterfront so we can be a bustling economic hub and an eco-friendly city.

Councilmember Shakur said we inherited this housing situation from previous administration and a Code Compliance that wasn't doing their job. This is from years and years of allowing some of these landlords to get away with not fixing up these properties so Code Compliance and the current administration is making sure that as we move forward our housing stock is taken care of.

Councilman Grice moved and Councilman Shakur seconded.

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

Adopted

NEW BUSINESS

Councilmember Monteverde asked when we start the summer schedule.

Mayor Harvey said in June. June, July and August are the summer months so we meet once a month.

Councilmember Martinez said for the June Work Session she wanted to thank Michelle who has been working really hard on some resolutions. She told her that she appreciates her hard work.

Councilmember Shakur said they did a pop-up with PCRAB and Nu-Voters Movement handing out masks, sanitizer, information and doing voter registration. They will be doing two more in the next two weeks on South Street and Liberty Street.

Mayor Harvey said they have a Town Hall meeting coming up on May 26th at 6:00. For new business, as a talking point, he is working on Coffee Talks with the Mayor. We did it before COVID in 2019 and it was very successful so Tiana asked him to remind the Council to respond to her emails. They are asking the Ward Council Members to take the lead on communicating with a business or establishment in their Ward by hosting Coffee Talks with Mayor Harvey in their Ward. It is a listening session with donuts and refreshments to hear what is going on and what they would like to see done better.

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

OLD BUSINESS

Councilmember Sklarz said that West Street has Alternate Side of the Street Parking every other month for street sweeping or plowing. The problem is that the residents are confused as to when it changes so he is proposing that the ordinance be changed to state that enforcement begins at 8:00 in the morning on the first day of the month. We would also have to change the signs but he feels that an ordinance change would be the easiest thing to do. Perhaps we can discuss this at the next Work Session.

Councilmember Sofokles said she drives on West Street every day and where people are parking is the building we just bought for the new police station. Sometimes there are fifteen to twenty cars parked there on a daily basis because it's easy for people to park there but it's time to nip it in the bud.

Mayor Harvey said he would like an update from the Technology Department on the Video Surveillance Program because multiple cameras were down a few weeks ago. Also if there are ways to look at the Drone Program where we could get a special task force in the Police Department to explore that. He saw on the News that they are using drones to help with traffic enforcement so if we had a water main break and we need to redirect the flow of traffic we could use this technology for a more strategic approach. He would also like an update from DPW on milling and paving with some dates on when they are going to start.

Councilmember Shakur said he had some conversations on inclusionary zoning with the new development so can we get an update on that.

Corporation Counsel, Michelle Kelson said that this is where the Council as a group needs to do some work. We have been talking about several very large projects each of you want individually that we are just not going to be able to do all at the same time. With the Housing Study, there were a number of recommendations made and most of the wants from the Council have to do with that Report so we need to know what the priority is for the roll out of those recommendations.

Councilmember Monteverde said she sent a legislative priority list to everyone to update but only received a few comments back. Everyone needs to look at it and prioritize what we are going to focus on.

Ms. Kelson said that if Inclusionary Zoning is the priority, it is a multi-department project. If Rent Regulation under the Emergency Tenant Protection Act is a priority, again it's a multi-department undertaking and it needs to be budgeted. We need to know what sequence you are interested in undertaking these projects so we can develop a plan for how and when we are going to be able to address each of these items.

Mayor Harvey asked Councilmember Monteverde to please re-forward that list to him.

Councilmember Monteverde said she would re-send it to him and would include Todd and Michelle also.

Mayor Harvey said that he and Ms. Kelson have sat down on a number of occasions after we paid a lot of money for Leviticus Housing Study which took about a year and a half to complete. Some of these recommendations are State mandated requirements and one of the pieces when we talk about rent control is that there are requirements and measures that the City has to meet to qualify at the State level to be given the opportunity to impose rent control. There are also stipulations such as if the building was built before 1970 they don't qualify for rent control and a lot of our housing stock was built before that time period.

Councilmember Sklarz said that before we ask staff to do a lot of work we should look over the Leviticus recommendations to have a better understanding and then proceed from there.

Mayor Harvey said they are looking at trying to coordinate a retreat for the Council to fine-tune some of these legislative priorities and they are hoping to maybe do that this summer.

Councilmember Shakur asked about the Police Survey.

City Manager, Todd Venning said that on the 19th they will be presenting the ARPA Survey results and we are waiting for the National Police Foundation to reorganize the data to show all respondents as well as just City residents. We are able to redo the report to see how we look with the city residents and once that is ready it will be on for the following Council meeting. The ARPA Survey will be presented by Ms. Church on May 19th at the Work Session then at the next Work Session the Police will be presenting on the Police Study but the Council asked that we go back and show all data and City resident only.

Councilmember Shakur asked if we can have something done by someone outside of the Police Department.

Mr. Venning said it is an outside not-for-profit but it's a National Police Foundation. We did have a very high response rate so we got a lot of good response. We will start with the data we have and he is hearing from the audience that they did ask for race so that data would be included in the response.

Mayor Harvey said that once we see the data from this if we think it's not sufficient and we want to get an outside agency to be a third party arbitrator then we can do that. It will cost the City money but we will explore that.

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

FURTHER COMMENTS FROM THE COUNCIL

Councilman Grice thanked everyone who stayed and wanted to repeat what he said earlier which is that we have a lot of legislation and most if it is centered on housing. For the community the legislation has to be vetted, it takes funding some times and we have to think about the enforcement. Keep in mind that we are looking at legislation and we are open to further legislation so we do have a lot going on. He gave a shout out to Mr. Vale with the American Red Cross for working with him on the Smoke Alarm Event that is coming up on the 14th. He also thanked our Fire Department, the Armory and other organizations and committees involved. We are still looking for volunteers and it will be at the Armory on the 14th starting at 9:00.

Councilmember Martinez thanked Mayor Harvey for mentioning the Missing and Murdered Indigenous Women's Day, which was on May 5th. We may not have a high Native American population here in the City of Newburgh but it's very important. Thank you for the land acknowledgment also because it is very important to her and representation matters. In terms of housing, she reiterated the importance on affordable housing. She appreciates everyone's patience as things can't happen right away but we are working really hard to make sure that the legislation they bring forward will significantly impact our constituents in a positive way. Regarding the Police she thanked PCRAM, the Commissioner and our Chief because we are working on something that includes more community bonding. This is about community building and balancing public safety so she is looking forward to that collaboration to address constituents issues.

Councilmember Shakur thanked everyone for coming out today. We have had discussions about the war on poverty and the war on drugs but there is more poverty and drugs than ever in our community and all of the Black and Brown kids are sitting in Jail. He does have a solution and he will be talking it about it soon because it has to be addressed. Central Hudson is another war in our community because everybody's bills have doubled or tripled. They tear up our streets and raise our fees so they are robbing our community. Juneteenth, Juneteenth, Juneteenth. Please come out to support us.

Councilmember Sklarz thanked everyone for coming out.

Councilmember Sofokles thanked the Police Department and said it's a pleasure to see them on their bicycles and walking on Broadway talking to people. It's a good thing to see. She agrees with Councilmember Shakur that Juneteenth is going to be a really nice event for the City.

Mayor Harvey said to Councilmember Shakur's point that he has been working with our State Representatives and the Governor's Office regarding Central Hudson. They billed him \$708,000.00 and he thought it was a joke but they credited him and still left \$1,000.00 after they didn't bill him for months. There was a story in the news and he received multiple calls from residents about this same problem so he took it to Senator Skoufis and Assemblyman Jacobson and they are investigating. He did find out that Central Hudson was bought out by a Canadian company so they switched systems and when they switched they did not charge for months then hit everyone with a large bill. There is a Rally he was invited to speak at in Kingston on May 13th at 500 pm with a lineup of speakers who are talking. There is also a homeownership information session on Saturday the 14th along

with the free smoke detectors. We all know and understand these rents are too high in the City of Newburgh. We are all sensitive to that and we are all aware of that so we have to work within the legal parameters on what we can do. We still live in America and the 14th Amendment provides equal rights and protection under the law and in that Amendment it prohibits discrimination for housing and employment. We don't want to get into a situation where we are doing what they call reverse discrimination because we have an influx of new people moving into the City. This is still America and people can move and live wherever they so choose. We live in a capitalistic economy therefore the market economy is guided by the law of supply and demand. All those things being said we don't want to discriminate against folk because they aren't people of color and they want to live in this beautiful historical City that is revitalizing. We have to be careful with that but at the same time we don't want to displace residents either who have been here for decades. We have to find that legal delicate balance.

ADJOURNMENT

There being no further business to come before the Council the meeting adjourned at 9:50 p.m.

**LORENE VITEK
CITY CLERK**

RESOLUTION NO.: 107 - 2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE AN AGREEMENT WITH CSX TRANSPORTATION, INC.
FOR CONSTRUCTION ENGINEERING AND INSPECTION SERVICES
RELATED TO THE REPLACEMENT OF THE WALSH ROAD BRIDGE**

WHEREAS, the City of Newburgh has undertaken a Project for the Bridge Replacement of Walsh Road over Quassaick Creek (BIN 2223620) in the City of Newburgh, Orange County, PIN 8761.40 (the "Project") that is eligible for funding under Title 23 U.S. Code, as amended, and calls for the apportionment of the costs such program to be borne at the ratio of 80% federal funds and 20% non-federal funds; and

WHEREAS, by Resolution No. 143-2017 of June 12, 2017, the City Council approved and agreed to advance the Project by making a commitment of 100% of the non-federal share of costs of preliminary engineering and right-of-way incidental work by approving a Master Federal Aid Local Project Agreement with the New York State Department of Transportation; and

WHEREAS, by Resolution No. 212-2017 of August 14, 2017, Resolution No. 258-2021 of November 8, 2021 and Resolution No. 82-2022 of April 11, 2022, the City Council authorized approved agreements with WSP USA, Inc. for design, preliminary engineering, right-of-way and construction management services for Project; and

WHEREAS, by Resolution No. 104-2019 of May 13, 2019, the City Council approved a Preliminary Engineering Agreement with CSX Transportation, Inc. for review and assessment of design and plans for the Project; and

WHEREAS, CSX Transportation, Inc. requires a Construction Agreement to provide preliminary engineering, flagging, construction engineering and inspection services during the construction of the Project at an initial cost of \$194,606.00 which funding shall be derived from an existing Federal Aid Local Agreement with a reimbursement amount of 80% with a required 20% local match and the local match and the balance of any remaining funding obligations shall be derived from the 2016 BAN and the OCTC TIP Reserve Fund; and

WHEREAS, the City of Newburgh finds that authorizing the City Manager to execute a Construction Agreement with CSX Transportation, Inc. is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh that the Interim City Manager be and he is hereby authorized to execute a Construction Agreement with CSX Transportation, Inc. for preliminary engineering, flagging, construction engineering and inspection services during the construction of the Bridge Replacement of Walsh Road over Quassaick Creek (BIN 2223620) in the City of Newburgh, Orange County, PIN 8761.40.



April 20, 2022

Jason C. Morris, PE
City Engineer
City of Newburgh
83 Broadway
Newburgh, NY 12550

SUBJECT: NY0735; Newburgh, Orange County, New York; Replacement of Walsh Road Bridge over Quassaick Creek adjacent to CSXT; 263588Y; Northern Zone, River Subdivision; QRW-17.25
Unexecuted Construction Agreement Transmittal

Dear Mr. Morris

Reference is made to the WSP e-mail dated February 14, 2022 providing proposed construction schedule information for the subject project. In order to be reimbursed for its costs to support the project during construction, CSXT requires a Construction Agreement to be fully executed between the City of Newburgh and CSXT. Two (2) original Agreements are enclosed. The railroad Force Account Estimate covering an allowance for Protective Services and Construction Engineering/Inspection is included in the agreement.

Please arrange for each original to be executed and return both along with a copy of the necessary advance payment to Bergmann at the following address:

Six Tower Bridge
181 Washington Street, Suite 430
Conshohocken, PA 19428

Per Section 4.3 of the Agreement, City of Newburgh shall provide advance payment in the amount of \$194,606. These funds are to cover the anticipated project costs for Protective Services and Construction Engineering/Inspection. Please be advised that the advance payment is not a fee, but a deposit held in an account against which actual CSXT costs are assessed. If the actual costs are less than the deposit, a refund will be returned, and if the actual costs are more than the deposit, an additional deposit will be requested.

The advance payment should be made payable to "CSX Transportation" and sent with attached Payment Submission Form directly to CSXT at the following address:

P.O. Box 530192
Atlanta, GA 30353-0192

Please note that no work may begin on, over, or adjacent to the CSXT right-of-way, or that could potentially impact CSXT operations, until the following have occurred:

- A fully executed Construction Agreement is in place with the appropriate parties
- The advance payment has been received by CSXT
- The Outside Party provides to this office written notice to proceed with railroad force account work
- The contractor's insurance has been approved in writing by CSXT



- The necessary construction submissions have been submitted by the Outside Party with no exceptions taken by CSXT or its representative
- A pre-construction meeting has been held with CSXT and/or its representatives
- Railroad track protection of a form determined by CSXT is in-place and understood by all parties
- The contractor signs Schedule I of the Construction Agreement

Please do not hesitate to contact Kevin Lewandowski or me at (610) 834-4080 with any questions regarding the above matters.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Erin Goglia'.

FOR Erin Goglia, PE
Project Manager – CSXT GEC

CC: BA file 11310.01
Derek Mihaly, Project Manager – CSXT Public Projects

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CONSTRUCTION AGREEMENT

This Construction Agreement (“**Agreement**”) is made as of _____, 20____, by and between CSX TRANSPORTATION, INC., a Virginia corporation with its principal place of business in Jacksonville, Florida (“**CSXT**”), and CITY OF NEWBURGH a body corporate and political subdivision of the State of New York (“**Agency**”).

EXPLANATORY STATEMENT

1. Agency has proposed to construct, or to cause to be constructed, replacement of Walsh Road Bridge over Quassaick Creek adjacent to CSXT, Newburgh, Orange County, New York, Mile Post QRW-17.25, Northern Zone, River Sub-Division (the “**Project**”).
2. Agency has obtained, or will obtain, all authorizations, permits and approvals from all local, state and federal agencies (including Agency), and their respective governing bodies and regulatory agencies, necessary to proceed with the Project and to appropriate all funds necessary to construct the Project.
3. Agency acknowledges that: (i) by entering into this Agreement, CSXT will provide services and accommodations to promote public interest in this Project, without profit or other economic inducement typical of other Agency contractors; (ii) neither CSXT nor its affiliates (including their respective directors, officers, employees or agents) will incur any costs, expenses, losses or liabilities in excess of payments made to CSXT, by or on behalf of Agency or its contractors, pursuant to this Agreement; and (iii) CSXT retains the paramount right to regulate all activities affecting its property and operations.
4. It is the purpose of this Agreement to provide for the terms and conditions upon which the Project may proceed.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

1. **Project Plans and Specifications**

- 1.1 **Preparation and Approval.** Pursuant to Exhibit A of this Agreement, all plans, specifications, drawings and other documents necessary or appropriate to the design and construction of the Project shall be prepared, at Agency’s sole cost and expense, by Agency or CSXT or their respective contractors. Project plans, specifications and drawings prepared by or on behalf of Agency shall be subject, at CSXT’s election, to the review and approval of CSXT. Such plans, specifications and drawings, as prepared or approved by CSXT, are referred to as the “**Plans**”, and shall be incorporated and deemed a part of this Agreement. Plans prepared or submitted to and

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approved by CSXT as of the date of this Agreement are set forth in Exhibit B to this Agreement.

1.2 Effect of CSXT Approval or Preparation of Plans. By its review, approval or preparation of Plans pursuant to this Agreement, CSXT signifies only that such Plans and improvements constructed in accordance with such Plans satisfy CSXT's requirements. CSXT expressly disclaims all other representations and warranties in connection with the Plans, including, but not limited to, the integrity, suitability or fitness for the purposes of Agency or any other persons of the Plans or improvements constructed in accordance with the Plans.

1.3 Compliance with Plans. The Project shall be constructed in accordance with the Plans.

2. Allocation and Conduct of Work

Work in connection with the Project shall be allocated and conducted as follows:

2.1 CSXT Work. Subject to timely payment of Reimbursable Expenses as provided by Section 4, CSXT shall provide, or cause to be provided, the services as set forth by Exhibit A to this Agreement. Agency agrees that CSXT shall provide all services that CSXT deems necessary or appropriate (whether or not specified by Exhibit A) to preserve and maintain its property and operations, without impairment or exposure to liability of any kind and in compliance with all applicable federal, state and local regulations and CSXT's contractual obligations, including, but not limited to, CSXT's existing or proposed third party agreements and collective bargaining agreements.

2.2 Agency Work. Agency shall perform, or cause to be performed, all work as set forth by Exhibit A, at Agency's sole cost and expense.

2.3 Conduct of Work. CSXT shall commence its work under this Agreement following: (i) delivery to CSXT of a notice to proceed from Agency; (ii) payment of Reimbursable Expenses (as provided by Section 4.1) as required by CSXT prior to the commencement of work by CSXT; (iii) issuance of all permits, approvals and authorizations necessary or appropriate for such work; and (iv) delivery of proof of insurance acceptable to CSXT, as required by Section 9. The initiation of any services by CSXT pursuant to this Agreement, including, but not limited to, the issuance of purchase orders or bids for materials or services, shall constitute commencement of work for the purposes of this Section. The parties intend that all work by CSXT on or CSXT property shall conclude no later than December 31, 2024, unless the parties mutually agree to extend such date.

3. Special Provisions. Agency shall observe and abide by, and shall require its contractors ("Contractors") to observe and abide by the terms, conditions and provisions set forth in Exhibit C to this Agreement (the "Special Provisions"). To the extent that Agency performs

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Project work itself, Agency shall be deemed a Contractor for purposes of this Agreement. Agency further agrees that, prior to the commencement of Project work by any third party Contractor, such Contractor shall execute and deliver to CSXT Schedule I to this Agreement to acknowledge Contractor's agreement to observe and abide by the terms and conditions of this Agreement.

4. Cost of Project and Reimbursement Procedures

4.1 Reimbursable Expenses. Agency shall reimburse CSXT for all costs and expenses incurred by CSXT in connection with the Project, including, without limitation: (1) all out of pocket expenses, (2) travel and lodging expenses, (3) telephone, facsimile, and mailing expenses, (4) costs for equipment, tools, materials and supplies, (5) sums paid to CSXT's consultants and subcontractors, and (6) CSXT labor in connection with the Project, together with CSXT labor overhead percentages established by CSXT pursuant to applicable law (collectively, "**Reimbursable Expenses**"). Reimbursable Expenses shall also include expenses incurred by CSXT prior to the date of this Agreement to the extent identified by the Estimate provided pursuant to Section 4.2.

4.2 Estimate. CSXT has estimated the total Reimbursable Expenses for the Project as shown on Exhibit D (the "**Estimate**", as amended or revised). In the event CSXT anticipates that actual Reimbursable Expenses for the Project may exceed such Estimate, it shall provide Agency with the revised Estimate of the total Reimbursable Expenses, together with a revised Payment Schedule (as defined by Section 4.3.1), for Agency's approval and confirmation that sufficient funds have been appropriated to cover the total Reimbursable Expenses of such revised Estimate. CSXT may elect, by delivery of notice to Agency, to immediately cease all further work on the Project, unless and until Agency provides such approval and confirmation. Furthermore, the Agency acknowledges and understands that any estimated cost to construct the project shall only be good for a limited period of time and that any delays to move to construction, if CSXT agrees to such construction, shall result in increased costs.

4.3 Payment Terms.

4.3.1 Agency shall pay CSXT for Reimbursable Expenses in the amounts and on the dates set forth in the Payment Schedule as shown on Exhibit E (the "**Payment Schedule**", as revised pursuant to Section 4.2). CSXT agrees to submit invoices to Agency for such amounts and Agency shall remit payment to CSXT at the later of thirty (30) days following delivery of each such invoice to Agency or, the payment date (if any) set forth in the Payment Schedule.

4.3.2 Following completion of the Project, CSXT shall submit to Agency a final invoice that reconciles the total Reimbursable Expenses incurred by CSXT against the total payments received from Agency. Agency shall pay to CSXT the amount by which Reimbursable Expenses exceed total payments as shown by the

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final invoice, within thirty (30) days following delivery of such invoice to Agency. In the event that the payments received by CSXT from Agency exceed the Reimbursable Expenses, CSXT shall remit such excess to Agency.

4.3.3 In the event that Agency fails to pay CSXT any sums due CSXT under this Agreement: (i) Agency shall pay CSXT interest at the lesser of 1.0% per month or the maximum rate of interest permitted by applicable law on the delinquent amount until paid in full; and (ii) CSXT may elect, by delivery of notice to Agency: (A) to immediately cease all further work on the Project, unless and until Agency pays the entire delinquent sum, together with accrued interest; and/or (B) to terminate this Agreement.

4.3.4 All invoices from CSXT shall be delivered to Agency in accordance with Section 16 of this Agreement. All payments by Agency to CSXT shall be made by certified check and mailed to the following address or such other address as designated by CSXT's notice to Agency:

CSX Transportation, Inc.
P.O. Box 530192
Atlanta, GA 30353-0192

4.4 Effect of Termination. Agency's obligation to pay to CSXT Reimbursable Expenses in accordance with Section 4 shall survive termination of this Agreement for any reason.

5. Appropriations Agency represents to CSXT that: (i) Agency has appropriated funds sufficient to reimburse CSXT for the Reimbursable Expenses encompassed by the Estimate attached as Exhibit D; (ii) Agency shall use its best efforts to obtain appropriations necessary to cover Reimbursable Expenses encompassed by subsequent Estimates approved by Agency; and (iii) Agency shall promptly notify CSXT in the event that Agency is unable to obtain such appropriations.

6. Easements and Licenses

6.1 Agency Obligation. Agency shall acquire all necessary licenses, permits and easements required for the Project.

6.2 Temporary Construction Licenses. Insofar as it has the right to do so, CSXT hereby grants Agency a nonexclusive license to access and cross CSXT's property, to the extent necessary for the construction of the Project (excluding ingress or egress over public grade crossings), along such routes and upon such terms as may be defined and imposed by CSXT and such temporary construction easements as may be designated on the Plans approved by CSXT.

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- 6.3 Temporary Construction Easements. CSXT may grant without warranty to Agency, if required, a temporary non-exclusive easement for access to the extent necessary for the project on terms and conditions and at a price acceptable to the parties.
- 6.4 Maintenance Agreement. Contemporaneous with the execution of this Agreement, CSXT and Agency have executed that certain Maintenance Agreement providing for Agency's ongoing use, maintenance, repair, renewal and removal of the Project.
- 6.5 Permanent Easements. Insofar as it has the right to do so, CSXT shall grant, without warranty to Agency, easements for the use and maintenance (in accordance with the provisions of the Maintenance Agreement described in 6.4) of the Project wholly or partly on CSXT property as shown on the Plans approved by CSXT, if any, on terms and conditions and at a price acceptable to both parties. Upon request by CSXT, Agency shall furnish to CSXT descriptions and plat plans for the easements.
7. Permits At its sole cost and expense, Agency shall procure all permits and approvals required by any federal, state, or local governments or governmental agencies for the construction, maintenance and use of the Project, copies of which shall be provided to CSXT.
8. Termination
- 8.1 By Agency. For any reason, Agency may, as its sole remedy, terminate this Agreement by delivery of notice to CSXT. Agency shall not be entitled to otherwise pursue claims for consequential, direct, indirect or incidental damages or lost profits as a consequence of CSXT's default or termination of this Agreement or Work on the Project by either party.
- 8.2 By CSXT. In addition to the other rights and remedies available to CSXT under this Agreement, CSXT may terminate this Agreement by delivery of notice to Agency in the event Agency or its Contractors fail to observe the terms or conditions of this Agreement and such failure continues more than ten (10) business days following delivery of notice of such failure by CSXT to Agency.
- 8.3 Consequences of Termination. If the Agreement is terminated by either party pursuant to this Section or any other provision of this Agreement, the parties understand that it may be impractical for them to immediately stop the Work. Accordingly, they agree that, in such instance a party may continue to perform Work until it has reached a point where it may reasonably and safely suspend the Work. Agency shall reimburse CSXT pursuant to this Agreement for the Work performed, plus all costs reasonably incurred by CSXT to discontinue the Work and protect the Work upon full suspension of the same, the cost of returning CSXT's property to its former condition, and all other costs of CSXT incurred as a result of the Project up to the time of full suspension of the Work. Termination of this Agreement or Work on the Project, for any reason, shall not diminish or reduce Agency's obligation to pay CSXT for Reimbursable Expenses

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incurred in accordance with this Agreement. In the event of the termination of this Agreement or the Work for any reason, CSXT's only remaining obligation to Agency shall be to refund to Agency payments made to CSXT in excess of Reimbursable Expenses in accordance with Section 4.

9. Insurance. In addition to the insurance that Agency requires of its Contractor, Agency shall acquire or require its Contractor to purchase and maintain insurance in compliance with CSXT's insurance requirements attached to this Agreement as Exhibit F. Neither Agency nor Contractor shall commence work on the Project until such policy or policies have been submitted to and approved by CSXT's Risk Management Department.

10. Ownership and Maintenance

10.1 By Agency. Agency shall own, maintain and repair, at its sole cost and expense, all parts comprising the permanent aspects of the Project, as shown by the Plans. In the event Agency fails to do so after reasonable notice from CSXT (no more than thirty (30) days, unless an emergency condition exists or is imminent in the opinion of CSXT, that requires immediate action), CSXT may perform such maintenance and repair, at Agency's sole cost and expense. Upon the cessation of use of the Project by Agency, Agency shall remove the structure and restore CSXT's property to its original condition, at Agency's sole cost and expense, to CSXT's satisfaction.

10.2 Alterations. Agency shall not undertake any alteration, modification or expansion of the Project, without the prior approval of CSXT, which may be withheld for any reason, and the execution of such agreements as CSXT may require.

11. Indemnification

- 11.1 Generally. To the maximum extent permitted by applicable law, Agency and its Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless from and against all claims, demands, payments, suits, actions, judgments, settlements, and damages of every nature, degree, and kind (including direct, indirect, consequential, incidental, and punitive damages), for any injury to or death to any person(s) (including, but not limited to the employees of CSXT, its affiliates, Agency or its Contractors), for the loss of or damage to any property whatsoever (including but not limited to property owned by or in the care, custody, or control of CSXT, its affiliates, Agency or its Contractors, and environmental damages and any related remediation brought or recovered against CSXT and its affiliates), arising directly or indirectly from the negligence, recklessness or intentional wrongful misconduct of the Contractors, Agency, and their respective agents, employees, invitees, contractors, or its contractors' agents, employees or invitees in the performance of work in connection with the Project or activities incidental thereto, or from their presence on or about CSXT's property. The foregoing indemnification obligation shall not be limited to the insurance coverage

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required by this Agreement, except to the extent required by law or otherwise expressly provided by this Agreement.

- 11.2 Compliance with Laws. Agency shall comply, and shall require its Contractors to comply, with any federal, state, or local laws, statutes, codes, ordinances, rules, and regulations applicable to its construction and maintenance of the Project. Agency's Contractors shall indemnify, defend, and hold CSXT and its affiliates harmless with respect to any fines, penalties, liabilities, or other consequences arising from breaches of this Section.
- 11.3 "CSXT Affiliates". For the purpose of this Section 11, CSXT's affiliates include CSX Corporation and all entities, directly or indirectly, owned or controlled by or under common control of CSXT or CSX Corporation and their respective officers, directors, employees and agents.
- 11.4 Notice of Incidents. Agency and its Contractor shall notify CSXT promptly of any loss, damage, injury or death arising out of or in connection with the Project work.
- 11.5 Survival. The provisions of this Section 11 shall survive the termination or expiration of this Agreement.
12. Independent Contractor The parties agree that neither Agency nor its Contractors shall be deemed either agents or independent contractors of CSXT. Except as otherwise provided by this Agreement, CSXT shall exercise no control whatsoever over the employment, discharge, compensation of, or services rendered by Agency or Agency's Contractors, or the construction practices, procedures, and professional judgment employed by Agency or its Contractor to complete the Project. Notwithstanding the foregoing, this Section 12 shall in no way affect the absolute authority of CSXT to prohibit Agency or its Contractors or anyone from entering CSXT's property, or to require the removal of any person from its property, if it determines, in its sole discretion, that such person is not acting in a safe manner or that actual or potential hazards in, on or about the Project exist.
13. "Entire Agreement" This Agreement embodies the entire understanding of the parties, may not be waived or modified except in a writing signed by authorized representatives of both parties, and supersedes all prior or contemporaneous written or oral understandings, agreements or negotiations regarding its subject matter. In the event of any inconsistency between this Agreement and the Exhibits, the more specific terms of the Exhibits shall be deemed controlling.
14. Waiver If either party fails to enforce its respective rights under this Agreement, or fails to insist upon the performance of the other party's obligations hereunder, such failure shall not be construed as a permanent waiver of any rights or obligations in this Agreement.

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15. Assignment CSXT may assign this Agreement and all rights and obligations herein to a successor in interest, parent company, affiliate, or future affiliate. Upon assignment of this Agreement by CSXT and the assumption of CSXT's assignee of CSXT's obligations under this Agreement, CSXT shall have no further obligation under this Agreement. Agency shall not assign its rights or obligations under this Agreement without CSXT's prior consent, which consent may be withheld for any reason.
16. Notices All notices, consents and approvals required or permitted by this Agreement shall be in writing and shall be deemed delivered upon personal delivery, upon the expiration of three (3) days following mailing by first class U.S. mail, or upon the next business day following mailing by a nationally recognized overnight carrier, to the parties at the addresses set forth below, or such other addresses as either party may designate by delivery of prior notice to the other party:
- | | |
|---------------|--|
| If to CSXT: | CSX Transportation, Inc.
500 Water Street, J-301
Jacksonville, Florida 32202
Attention: Director Project Management – Public Projects |
| If to Agency: | City of Newburgh
83 Broadway
Newburgh, New York 12550
Attention: Jason C. Morris, P.E – City Engineer |
17. Severability The parties agree that if any part, term or provision of this Agreement is held to be illegal, unenforceable or in conflict with any applicable federal, state, or local law or regulation, such part, term or provision shall be severable, with the remainder of the Agreement remaining valid and enforceable.
18. Applicable Law This Agreement shall be governed by the laws of the State of New York exclusive of its choice of law rules. The parties further agree that the venue of all legal and equitable proceedings related to disputes under this Agreement shall be situated in Duval County, Florida, and the parties agree to submit to the personal jurisdiction of any State or Federal court situated in Duval, Florida.

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BY SIGNING THIS AGREEMENT, I certify that there have been no changes made to the content of this Agreement since its approval by the CSXT Legal Department on **November 5, 2021**.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in duplicate, each by its duly authorized officers, as of the date of this Agreement.

CITY OF NEWBURGH

By: _____

Name: _____

Title: _____

CSX TRANSPORTATION, INC.

By: _____

Name: Tony C. Bellamy

Title: Director Project Management - Public Projects

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EXHIBIT A
ALLOCATION OF WORK

Subject to Section 2.1, work to be performed in connection with the Project is allocated as follows:

- A. Agency shall let by contract to its Contractors:
 - 1. Means and access to construct replacement of Walsh Road Bridge over Quassaick Creek adjacent to CSXT.
- B. CSXT shall perform or cause to be performed:
 - 1. Preliminary engineering services.
 - 2. Flagging services and other protective services and devices as may be necessary.
 - 3. Construction engineering and inspection to protect the interests of CSXT.

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EXHIBIT B

PLANS AND SPECIFICATIONS

Plans, Specifications and Drawings:

As of the date of this Agreement, the following plans, specifications and drawings have been submitted by Agency to CSXT for its review and approval:

SHEET	DESCRIPTION	PREPARER	DATE
1 to 33	Final Plans	WSP USA	02/2021
4 of 33	General Notes - 1	WSP USA	10/2021
Pages 113 & 114	NYSDOT Standard Specifications	NYSDOT	01/2021
1 to 230	Proposal Book	City of Newburgh	02/17/2021

EXHIBIT C

CSXT SPECIAL PROVISIONS

DEFINITIONS:

As used in these Special Provisions, all capitalized terms shall have the meanings ascribed to them by the Agreement, and the following terms shall have the meanings ascribed to them below:

“CSXT” shall mean CSX Transportation, Inc., its successors and assigns.

“CSXT Representative” shall mean the authorized representative of CSX Transportation, Inc.

“Agreement” shall mean the Agreement between CSXT and Agency dated as of _____, as amended from time to time.

“Agency” shall mean the City of Newburgh.

“Agency Representative” shall mean the authorized representative of City of Newburgh.

“Contractor” shall have the meaning ascribed to such term by the Agreement.

“Work” shall mean the Project as described in the Agreement.

I. AUTHORITY OF CSXT ENGINEER

The CSXT Representative shall have final authority in all matters affecting the safe maintenance of CSXT operations and CSXT property, and his or her approval shall be obtained by the Agency or its Contractor for methods of construction to avoid interference with CSXT operations and CSXT property and all other matters contemplated by the Agreement and these Special Provisions.

II. INTERFERENCE WITH CSXT OPERATIONS

- A. Agency or its Contractor shall arrange and conduct its work so that there will be no interference with CSXT operations, including train, signal, telephone and telegraphic services, or damage to CSXT's property, or to poles, wires, and other facilities of tenants on CSXT's Property or right-of-way. Agency or its Contractor shall store materials so as to prevent trespassers from causing damage to trains, or CSXT Property. Whenever Work is likely to affect the operations or safety of trains, the method of doing such Work shall first be submitted to the CSXT Representative for approval, but such approval shall not relieve Agency or its Contractor from liability in connection with such Work.

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- B. If conditions arising from or in connection with the Project require that immediate and unusual provisions be made to protect train operation or CSXT's property, Agency or its Contractor shall make such provision. If the CSXT Representative determines that such provision is insufficient, CSXT may, at the expense of Agency or its Contractor, require or provide such provision as may be deemed necessary, or cause the Work to cease immediately.

III. NOTICE OF STARTING WORK. Agency or its Contractor shall not commence any work on CSXT Property or rights-of-way until it has complied with the following conditions:

- A. Notify CSXT in writing of the date that it intends to commence Work on the Project. Such notice must be received by CSXT at least ten business days in advance of the date Agency or its Contractor proposes to begin Work on CSXT property. The notice must refer to this Agreement by date. If flagging service is required, such notice shall be submitted at least thirty (30) business days in advance of the date scheduled to commence the Work.
- B. Obtain authorization from the CSXT Representative to begin Work on CSXT property, such authorization to include an outline of specific conditions with which it must comply.
- C. Obtain from CSXT the names, addresses and telephone numbers of CSXT's personnel who must receive notice under provisions in the Agreement. Where more than one individual is designated, the area of responsibility of each shall be specified.

IV. WORK FOR THE BENEFIT OF THE CONTRACTOR

- A. No temporary or permanent changes to wire lines or other facilities (other than third party fiber optic cable transmission systems) on CSXT property that are considered necessary to the Work are anticipated or shown on the Plans. If any such changes are, or become, necessary in the opinion of CSXT or Agency, such changes will be covered by appropriate revisions to the Plans and by preparation of a force account estimate. Such force account estimate may be initiated by either CSXT or Agency, but must be approved by both CSXT and Agency. Agency or Contractor shall be responsible for arranging for the relocation of the third party fiber optic cable transmission systems, at no cost or expense to CSXT.
- B. Should Agency or Contractor desire any changes in addition to the above, then it shall make separate arrangements with CSXT for such changes to be accomplished at the Agency or Contractor's expense.

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V. HAUL ACROSS RAILROAD

- A. If Agency or Contractor desires access across CSXT property or tracks at other than an existing and open public road crossing in or incident to construction of the Project, the Agency or Contractor must first obtain the permission of CSXT and shall execute a license agreement or right of entry satisfactory to CSXT, wherein Agency or Contractor agrees to bear all costs and liabilities related to such access.
- B. Agency and Contractor shall not cross CSXT's property and tracks with vehicles or equipment of any kind or character, except at such crossing or crossings as may be permitted pursuant to this section.

VI. COOPERATION AND DELAYS

- A. Agency or Contractor shall arrange a schedule with CSXT for accomplishing stage construction involving work by CSXT. In arranging its schedule, Agency or Contractor shall ascertain, from CSXT, the lead time required for assembling crews and materials and shall make due allowance therefore.
- B. Agency or Contractor may not charge any costs or submit any claims against CSXT for hindrance or delay caused by railroad traffic; work done by CSXT or other delay incident to or necessary for safe maintenance of railroad traffic; or for any delays due to compliance with these Special Provisions.
- C. Agency and Contractor shall cooperate with others participating in the construction of the Project to the end that all work may be carried on to the best advantage.
- D. Agency and Contractor understand and agree that CSXT does not assume any responsibility for work performed by others in connection the Project. Agency and Contractor further understand and agree that they shall have no claim whatsoever against CSXT for any inconvenience, delay or additional cost incurred by Agency or Contractor on account of operations by others.

VII. STORAGE OF MATERIALS AND EQUIPMENT

Agency and Contractor shall not store their materials or equipment on CSXT's property or where they may potentially interfere with CSXT's operations, unless Agency or Contractor has received CSXT Representative's prior written permission. Agency and Contractor understand and agree that CSXT will not be liable for any damage to such materials and equipment from any cause and that CSXT may move, or require Agency or Contractor to move, such material and equipment at Agency's or Contractor's sole expense. To minimize the possibility of damage to the railroad tracks resulting from the unauthorized use of equipment, all grading or other construction equipment that is left

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parked near the tracks unattended by watchmen shall be immobilized to the extent feasible so that it cannot be moved by unauthorized persons.

VIII. CONSTRUCTION PROCEDURES

A. General

1. Construction work on CSXT property shall be subject to CSXT's inspection and approval.
2. Construction work on CSXT property shall be in accord with CSXT's written outline of specific conditions and with these Special Provisions.
3. Contractor shall observe the terms and rules of the CSXT Safe Way manual, which Agency and Contractor shall be required to obtain from CSXT, and in accord with any other instructions furnished by CSXT or CSXT's Representative.

B. Blasting

1. Agency or Contractor shall obtain CSXT Representative's and Agency Representative's prior written approval for use of explosives on or adjacent to CSXT property. If permission for use of explosives is granted, Agency or Contractor must comply with the following:
 - a. Blasting shall be done with light charges under the direct supervision of a responsible officer or employee of Agency or Contractor.
 - b. Electric detonating fuses shall not be used because of the possibility of premature explosions resulting from operation of two-way train radios.
 - c. No blasting shall be done without the presence of an authorized representative of CSXT. At least 10 days' advance notice to CSXT Representative is required to arrange for the presence of an authorized CSXT representative and any flagging that CSXT may require.
 - d. Agency or Contractor must have at the Project site adequate equipment, labor and materials, and allow sufficient time, to (i) clean up (at Agency's expense) debris resulting from the blasting without any delay to trains; and (ii) correct (at Agency's expense) any track misalignment or other damage to CSXT's property resulting from the blasting, as directed by CSXT Representative, without delay to trains. If Agency's or Contractor's actions result

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in delay of any trains, including Amtrak passenger trains, Agency shall bear the entire cost thereof.

- e. Agency and Contractor shall not store explosives on CSXT property.

2. CSXT Representative will:

- a. Determine the approximate location of trains and advise Agency or Contractor of the approximate amount of time available for the blasting operation and clean-up.
- b. Have the authority to order discontinuance of blasting if, in his or her opinion, blasting is too hazardous or is not in accord with these Special Provisions.

IX. MAINTENANCE OF DITCHES ADJACENT TO CSXT TRACKS

Agency or Contractor shall maintain all ditches and drainage structures free of silt or other obstructions that may result from their operations. Agency or Contractor shall provide erosion control measures during construction and use methods that accord with applicable state standard specifications for road and bridge construction, including either (1) silt fence; (2) hay or straw barrier; (3) berm or temporary ditches; (4) sediment basin; (5) aggregate checks; and (6) channel lining. All such maintenance and repair of damages due to Agency's or Contractor's operations shall be performed at Agency's expense.

X. FLAGGING / INSPECTION SERVICE

- A. CSXT has sole authority to determine the need for flagging required to protect its operations and property. In general, flagging protection will be required whenever Agency or Contractor or their equipment are, or are likely to be, working within fifty (50) feet of live track or other track clearances specified by CSXT, or over tracks.
- B. Agency shall reimburse CSXT directly for all costs of flagging that is required on account of construction within CSXT property shown in the Plans, or that is covered by an approved plan revision, supplemental agreement or change order.
- C. Agency or Contractor shall give a minimum of 10 days' advance notice to CSXT Representative for anticipated need for flagging service. No work shall be undertaken until the flag person(s) is/are at the job site. If it is necessary for CSXT to advertise a flagging job for bid, it may take up to 90-days to obtain this

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service, and CSXT shall not be liable for the cost of delays attributable to obtaining such service.

- D. CSXT shall have the right to assign an individual to the site of the Project to perform inspection service whenever, in the opinion of CSXT Representative, such inspection may be necessary. Agency shall reimburse CSXT for the costs incurred by CSXT for such inspection service. Inspection service shall not relieve Agency or Contractor from liability for its Work.
- E. CSXT shall render invoices for, and Agency shall pay for, the actual pay rate of the flagpersons and inspectors used, plus standard additives, whether that amount is above or below the rate provided in the Estimate. If the rate of pay that is to be used for inspector or flagging service is changed before the work is started or during the progress of the work, whether by law or agreement between CSXT and its employees, or if the tax rates on labor are changed, bills will be rendered by CSXT and paid by Agency using the new rates. Agency and Contractor shall perform their operations that require flagging protection or inspection service in such a manner and sequence that the cost of such will be as economical as possible.

XI. UTILITY FACILITIES ON CSXT PROPERTY

Agency shall arrange, upon approval from CSXT, to have any utility facilities on or over CSXT Property changed as may be necessary to provide clearances for the proposed trackage.

XII. CLEAN-UP

Agency or Contractor, upon completion of the Project, shall remove from CSXT's Property any temporary grade crossings, any temporary erosion control measures used to control drainage, all machinery, equipment, surplus materials, falsework, rubbish, or temporary buildings belonging to Agency or Contractor. Agency or Contractor, upon completion of the Project, shall leave CSXT Property in neat condition, satisfactory to CSXT Representative.

XIII. FAILURE TO COMPLY

If Agency or Contractor violate or fail to comply with any of the requirements of these Special Provisions, (a) CSXT may require Agency and/or Contractor to vacate CSXT Property; and (b) CSXT may withhold monies due Agency and/or Contractor; (c) CSXT may require Agency to withhold monies due Contractor; and (d) CSXT may cure such failure and the Agency shall reimburse CSXT for the cost of curing such failure.

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EXHIBIT D

INITIAL ESTIMATE
ATTACHED

ESTIMATE SUBJECT TO REVISION AFTER: 4/7/2023 DOT NO.: 263588Y
 CITY: Newburgh COUNTY: Orange STATE: NY
 DESCRIPTION: Replacement of Walsh Road Bridge over Quassaick Creek adjacent to CSXT
 ZONE: Northern SUB-DIV: River MILE POST: QRW-17.25
 AGENCY PROJECT NUMBER:

PRELIMINARY ENGINEERING:

212	Contracted & Administrative Engineering Services	\$	-
	Subtotal	\$	-

CONSTRUCTION ENGINEERING/INSPECTION:

212	Contracted & Administrative Engineering Services	\$	168,800
	Subtotal	\$	168,800

FLAGGING SERVICE: (Contract Labor)

70	Labor (Conductor-Flagman)	Days @	\$ 350.00	\$	-
50	Labor (Foreman/Inspector)	5	Days @	\$ 504.00	\$ 2,520
70	Additive	187.00%	(Transportation Department)	\$	-
50	Additive	222.00%	(Engineering Department)	\$	5,594
	Subtotal			\$	8,114

SIGNAL & COMMUNICATIONS WORK:

\$	-
----	---

TRACK WORK:

\$	-
----	---

PROJECT SUBTOTAL:

\$	176,914
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900	CONTINGENCIES:	10.00%	\$	17,691
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PROJECT TOTAL:

\$	194,606
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CURRENT AUTHORIZED BUDGET:

\$	-
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TOTAL SUPPLEMENT REQUESTED:

\$	194,606
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DIVISION OF COST:

Agency	100.00%	\$	194,606
Railroad		\$	-

This estimate has been prepared based on site conditions, anticipated work duration periods, material prices, labor rates, manpower and resource availability, and other factors known as of the date prepared. The actual cost for CSXT work may differ based upon the agency's requirements, their contractor's work procedures, and/or other conditions that become apparent once construction commences or during the progress of the work.

Office of Chief Engineer Public Projects--Jacksonville, Florida

Estimated prepared by: Bergmann

Approved by: **DSM** CSXT Public Project Group

DATE: 04/07/22 REVISED:

DATE: 04/15/22

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EXHIBIT E

PAYMENT SCHEDULE

Advance Payment in Full

Upon execution and delivery of notice to proceed with the Project, Agency will deposit with CSXT a sum equal to the Reimbursable Expenses, as shown by the Estimate. If CSXT anticipates that it may incur Reimbursable Expenses in excess of the deposited amount, CSXT will request an additional deposit equal to the then remaining Reimbursable Expenses which CSXT estimates that it will incur. CSXT shall request such additional deposit by delivery of invoices to Agency. Agency shall make such additional deposit within 30 days following delivery of such invoice to Agency.

EXHIBIT F

INSURANCE REQUIREMENTS

I. Insurance Policies:

Agency and Contractor, if and to the extent that either is performing work on or about CSXT's property, shall procure and maintain the following insurance policies:

1. Commercial General Liability coverage at their sole cost and expense with limits of not less than \$5,000,000 in combined single limits for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured. The policy shall include endorsement ISO CG 24 17 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
2. Statutory Worker's Compensation and Employers Liability Insurance with limits of not less than \$1,000,000, which insurance must contain a waiver of subrogation against CSXT and its affiliates (if permitted by state law).
3. Commercial automobile liability insurance with limits of not less than \$1,000,000 combined single limit for bodily injury and/or property damage per occurrence, and such policies shall name CSXT as an additional named insured. The policy shall include endorsement ISO CA 20 70 evidencing that coverage is provided for work within 50 feet of a railroad. If such endorsement is not included, railroad protective liability insurance must be provided as described in item 4 below.
4. Railroad protective liability insurance with limits of not less than \$5,000,000 combined single limit for bodily injury and/or property damage per occurrence and an aggregate annual limit of \$10,000,000, which insurance shall satisfy the following additional requirements:
 - a. The Railroad Protective Insurance Policy must be on the ISO/RIMA Form of Railroad Protective Insurance - Insurance Services Office (ISO) Form CG 00 35.
 - b. CSX Transportation must be the named insured on the Railroad Protective Insurance Policy.
 - c. Name and Address of Contractor and Agency must appear on the Declarations page.
 - d. Description of operations must appear on the Declarations page and must match the Project description.

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e. Authorized endorsements must include the Pollution Exclusion Amendment - CG 28 31, unless using form CG 00 35 version 96 and later.

f. Authorized endorsements may include:

(i). Broad Form Nuclear Exclusion - IL 00 21

(ii) 30-day Advance Notice of Non-renewal or cancellation

(iii) Required State Cancellation Endorsement

(iv) Quick Reference or Index - CL/IL 240

g. Authorized endorsements may not include:

(i) A Pollution Exclusion Endorsement except CG 28 31

(ii) A Punitive or Exemplary Damages Exclusion

(iii) A "Common Policy Conditions" Endorsement

(iv) Any endorsement that is not named in Section 4 (e) or (f) above.

(v) Policies that contain any type of deductible

5. All insurance companies must be A. M. Best rated A- and Class VII or better.

6. The CSX OP number or CSX contract number, as applicable, must appear on each Declarations page and/or certificates of insurance.

7. Such additional or different insurance as CSXT may require.

II. Additional Terms

1. Contractor must submit the original Railroad Protective Liability policy, Certificates of Insurance and all notices and correspondence regarding the insurance policies to:

2.

Insurance Department
CSX Transportation, Inc.
500 Water Street, C-907
Jacksonville, FL 32202

OR

insurancedocuments@csx.com

2. Neither Agency nor Contractor may begin work on the Project until it has received CSXT's written approval of the required insurance.

SCHEDULE I

CONTRACTOR'S ACCEPTANCE

To and for the benefit of CSX Transportation, Inc. ("CSXT") and to induce CSXT to permit Contractor on or about CSXT's property for the purposes of performing work in accordance with the Agreement dated _____, 20____, between City of Newburgh and CSXT, Contractor hereby agrees to abide by and perform all applicable terms of the Agreement, including, but not limited to Exhibits C and F to the Agreement, and Sections 3, 9 and 11 of the Agreement.

Contractor: _____

By: _____

Name: _____

Title: _____

Date: _____

RESOLUTION NO.: 108 - 2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING AND ALLOCATING \$1,500,000.00 OF
AMERICAN RESCUE PLAN ACT OF 2021 FUNDING TO
THE FLOATABLES CONTROL AND
HIGH RATE DISINFECTION FACILITY PROJECT
AS PART OF THE CITY OF NEWBURGH LONG TERM CONTROL PLAN**

WHEREAS, on March 11, 2021, President Joe Biden signed into law the American Rescue Plan Act of 2021 (ARPA) which includes Coronavirus State and Local Fiscal Recovery Funds (Fiscal Recovery Funds), providing federal payments to all state, local, tribal, and territorial governments in the United States that recipients may use, among other approved uses, to make necessary investments in water and sewer infrastructure; and

WHEREAS, the City of Newburgh proposes to allocate \$1,500,000.00 of ARPA funds received to planning, final design and construction phases of the Floatables Control and High Rate Disinfection Facility Project as part of the City of Newburgh Long Term Control Plan; and

WHEREAS, the City Council finds that authorizing and allocating \$1,500,000.00 of ARPA funds to support the completion of the Floatables Control and High Rate Disinfection Facility Project as part of the City's Long Term Control Plan is in the best interests of the health, safety and welfare of the residents of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to allocate \$1,500,000.00 of American Rescue Plan Act of 2021 funds to the Floatables Control and High Rate Disinfection Facility Project as part of the City of Newburgh Long Term Control Plan; and that the City Manager is authorized to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary administer the Floatables Control and High Rate Disinfection Facility Project funded thereby.

RESOLUTION NO.: 269 - 2021

OF

NOVEMBER 22, 2021

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND ENTER INTO AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES WITH ARCADIS OF NEW YORK INC. FOR THE FLOATABLES CONTROL AND DISINFECTION FACILITY AND WATER POLLUTION CONTROL PLANT INFLUENT SEWER PROJECT AS PART THE COMBINED SEWER OVERFLOW LONG TERM CONTROL PLAN IN THE AMOUNT OF \$1,025,000.00

WHEREAS, by Resolution No. 219-2011 of October 24, 2011, the City Council of the City of Newburgh, New York authorized the City Manager to execute an Order on Consent with the New York State Department of Environmental Conservation ("NYS DEC") to resolve violations at the Wastewater Treatment Plant and for the development of the CSO Long Term Control Plan ("LTCP"); and

WHEREAS, by Resolution No. 303-2015 of November 23, 2015, the City Council of the City of Newburgh authorized the City Manager to execute a Modification Order on Consent approving a Schedule of Compliance for Phase I through V of the LTCP; and

WHEREAS, by Resolution No. 189-2019 of August 12, 2019, the City Council approved an agreement with Arcadis of New York, Inc. for professional services to complete the planning and preliminary engineering for the LTCP Phase II, III, and IV projects including as basis of design report for the Floatables Control and Disinfection Facility Project; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for professional engineering services to complete the design and preparation of bid documents for the Floatables Control and Disinfection Facility and Water Pollution Control Plant Influent Sewer Project; and

WHEREAS, the funding for the cost of said services in the amount of \$1,025,000.00 shall be derived from an existing grant and loan from the New York State Environmental Facilities Corporation under project CWSRF#C3-7332-11-00, HG1.8197.0200.8174.2017, ARPA Funds and future WIIA & WQIP Grant program funds, if awarded; and

WHEREAS, this Council determines that accepting the proposal and executing a contract with Arcadis of New York, Inc. in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept the letter proposal and execute an agreement with Arcadis of New York, Inc. for professional services to complete the design and preparation of bid documents for the Floatables Control and Disinfection Facility and Water Pollution Control Plant Influent Sewer Project, with other provisions as Corporation Counsel may require, in an amount not to exceed \$1,025,000.00.

I, Lorane Vitak, 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 Nov. 22, 2021 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 22 day of Nov 2021

Lorane Vitak
City Clerk

[illegible]

RESOLUTION NO.: 109 - 2022

OF

MAY 9, 2022

**A RESOLUTION ENDORSING THE APPLICATION OF RIVERKEEPER FOR A
NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
ROUND 35 HUDSON RIVER ESTUARY TRIBUTARY RESTORATION AND
RESILIENCY PROGRAM GRANT FOR RECONNAISSANCE ACTIVITIES FOR DAM
REMOVAL FEASIBILITY ON FURNACE BROOK AND QUASSAICK CREEK**

WHEREAS, in 2020 Riverkeeper removed a 5-foot-high, 75-foot-wide dam on Furnace Brook in Westchester County and a 106-year old, 7-foot-high, 100-foot-long dam on Quassaick Creek in Orange County, restoring over two miles of critical habitat for river herring and American eel; and

WHEREAS, Riverkeeper is continuing to restore free flowing waters in both tributaries having designed plans for removal of the next barrier on Furnace Brook, which will be removed by Westchester County, and has an agreement to remove the 4th barrier on Quassaick Creek, with the 3rd barrier being removed by the City of Newburgh; and

WHEREAS, Riverkeeper is applying to the New York State Department of Environmental Conservation for a project grant under Round 35 of the Hudson River Estuary Tributary Restoration and Resiliency Program involving the Quassaick Creek, a site located partially within the territorial jurisdiction of the City of Newburgh, for additional work of removing dams upstream that no longer serve any functional purpose and continue to contribute to the decline of fish and other imperiled aquatic life; and

WHEREAS, Riverkeeper's dam removal activities propose to mitigate effects of climate change by reducing the impacts from impounded water that may occur during intense rain events; and

WHEREAS, like Riverkeeper, the City of Newburgh is committed to removing the upstream dams, and fully supports Riverkeeper's efforts to reverse the effects of climate change, protect the City's watershed, and for dam removal across the Hudson River Estuary and in the Quassaick Creek by building community support and investigating high priority dams whose removal would provide the highest biological and ecological benefit to the river's aquatic species and habitat - particularly river herring and eel;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby supports and endorses the application of Riverkeeper for a grant under the Round 35 Hudson River Estuary Program Tributary Restoration and Resiliency program for reconnaissance activities for dam removal feasibility on Furnace Brook and Quassaick Creek.

[LETTERHEAD]

[DATE]

Susan Pepe
Grants Coordinator, Hudson River Estuary Program
New York State Department of Environmental Conservation
625 Broadway
Albany, NY 12233-3506

Re: Riverkeeper proposal for dam removal reconnaissance

Dear Ms. Pepe,

I am writing in support of Riverkeeper's proposal to engage in reconnaissance activities for dam removal feasibility on Furnace Brook and Quassaick Creek in the Hudson River Estuary.

We believe that removing obsolete dams that no longer serve human infrastructure is critical to restoring biodiversity and the abundance of life in the Hudson. More specifically, removing these dams will help restore certain species of migratory fish that are in serious decline, such as river herring and American eel. Riverkeeper has been playing an extremely valuable role in this regard with their habitat restoration and dam removal efforts in the Hudson Valley since 2016. In addition, we have seen that blue crab, and potadromous species have been observed upstream of the site of former dams.

In 2020, Riverkeeper removed a 5-foot-high, 75-foot-wide dam on Furnace Brook in Westchester County and a 106-year old, 7-foot-high, 100-foot-long dam on Quassaick Creek in Orange County, restoring over two miles of critical habitat for river herring and American eel. Riverkeeper is continuing to restore free flowing waters in both tributaries, having designed plans for removal of the next barrier on Furnace Brook (which will be removed by Westchester County) and has an agreement to remove the 4th barrier on Quassaick Creek (the 3rd barrier is being removed by the City of Newburgh). Each waterway has several more dams upstream that continue to block fish and other imperiled aquatic life and Riverkeeper is committed to removing them, one dam at a time.

We fully support Riverkeeper's efforts to continue making the case for dam removal across the Hudson River Estuary and in these two waterways in particular by building community support and investigating high priority dams whose removal would provide the highest biological and ecological benefit to the river's aquatic species and habitat - particularly river herring and eel.

[INSERT ANY RELEVANT INFO ABOUT YOUR ORG AND RELATIONSHIP TO RIVERKEEPER]

If you have any questions, please feel free to contact me at [NUMBER/ EMAIL].

Sincerely,

[SIGNATURE]

[NAME]

[TITLE]

RESOLUTION NO.: 110-2022

OF

MAY 9, 2022

**A RESOLUTION AMENDING THE 2022 PERSONNEL ANALYSIS BOOK
TO DELETE ONE EXECUTIVE ASSISTANT TO THE CITY MANAGER POSITION AND
ADD ONE CHIEF OF STAFF POSITION IN THE EXECUTIVE OFFICE**

WHEREAS, the City Manager proposes to delete one Executive Assistant to the City Manager position and add one Chief of Staff position to improve the efficiency of the Executive Office; and

WHEREAS, the change in the job titles of such positions requires the amendment of the City of Newburgh Adopted Personnel Analysis Book for 2022;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Personnel Analysis Book for the fiscal year 2022 be amended to delete one Executive Assistant to the City Manager position and add one Chief of Staff position in the Executive Office.

NEWBURGH CIVIL SERVICE COMMISSION

RESOLUTION NO. 2022-2

A Resolution to amend the Appendices of the City of Newburgh Civil Service Commission Local Rules and Regulations.

At a regular meeting of the Newburgh Civil Service Commission held on April 20, 2022, the following resolution was adopted:

WHEREAS the Newburgh Civil Service Commission deems it necessary to make certain changes to the Appendices of the Newburgh Civil Service Commission Local Rules and Regulations; and

WHEREAS the Newburgh Civil Service Commission has duly advertised and convened and completed a public hearing, on this date, with no public or written comments received, on the proposed changes to the Appendices of the Newburgh Civil Service Commission Local Rules and Regulations;

NOW THEREFORE BE IT RESOLVED that subject to the approval of the New York State Civil Service Commission, the following changes be made to the Appendices of the Newburgh Civil Service Commission Local Rules and Regulations:

Remove: Executive Assistant to the City Manager in Exempt Class

Add: Chief of Staff to Exempt Class

Submission Includes:

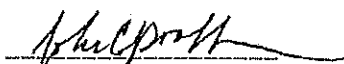
1. Original signed and 2 additional copies of this adopted resolution
2. Notice of Public Hearing
3. Affidavit of Publication of Notice
4. Supporting documentation and information for each requested amendment

Certification of Submission

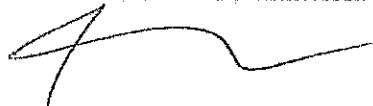
We attest that this resolution and supporting documents have been reviewed by this office and are complete and accurate. We have determined that the requests for amendments included in this Resolution comply with the standards set forth in state and local law. This office supports this request and has performed all duties and actions required by Civil Service Law and Local Rules and Regulations. This submission is complete and appropriate for consideration by the New York State Civil Service Commission.



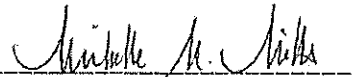
Vera M. Best
Chairperson



John C. Powell
Commissioner



Todd Venning
City Manager

Attest: 

Michelle M. Mills, Civil Service Administrator

Date: 4/20/22

RESOLUTION NO.: 111-2022

OF

MAY 9, 2022

A RESOLUTION AMENDING THE 2022 PERSONNEL ANALYSIS BOOK
TO DELETE TWO SENIOR ACCOUNT CLERK POSITIONS AND
ADD ONE JUNIOR ACCOUNTANT POSITION
AND ONE ACCOUNT CLERK POSITION IN THE FINANCE DEPARTMENT

WHEREAS, the Director of Finance proposes to delete two Senior Account Clerk positions and add one Junior Accountant position and one Account Clerk position to improve the efficiency of the Finance Department; and

WHEREAS, the change in the job titles of such positions requires the amendment of the City of Newburgh Adopted Personnel Analysis Book for 2022;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Personnel Analysis Book for the fiscal year 2022 be amended to delete two Senior Account Clerk positions and add one Junior Accountant position and one Account Clerk position in the Finance Department.

RESOLUTION NO.: 112 - 2022

OF

MAY 9, 2022

RESOLUTION AMENDING RESOLUTION NO: 282-2020,
THE 2021 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
FOR 2021 YEAR END SELF-INSURANCE FUND ADJUSTMENT

WHEREAS, all 2021 budget lines ending in excess of appropriation can be covered by other 2021 budget lines ending with funds remaining, which requires a budget amendment but no increase in excess of the total annual appropriation; 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>GL Account</u>	<u>Description</u>	<u>Decrease Budget</u>	<u>Increase Budget</u>
Self-Insurance Fund			
Revenue:			
M.0000.5111	Appropriated Reserve		\$ 800,000.00
Expense:			
M.1930.0400	Judgement & Claims		\$ 800,000.00

2021 Year End Council Budget Adjustments

GL Account	Description	Decrease Budget	Increase Budget
Appropriated Reserve - Revenue M.0000.5111			\$ 800,000.00
Judgements & Claims M.1930.0400	Judgements & Claims		\$ 800,000.00
Total Self Insurance Budget Adjustments		<u>\$ -</u>	<u>\$ 1,600,000.00</u>

RESOLUTION NO.: 113 - 2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
SATISFACTIONS OF MORTGAGE IN CONNECTION WITH THE PREMISES
LOCATED AT 34 ALLISON AVENUE (SECTION 15, BLOCK 4, LOT 6)**

WHEREAS, the Newburgh Community Development Agency ("NCDA") issued a first mortgage to Cesar Lujan and Wanda Rivera in the principal sum of \$4,927.00 for the premises located at 34 Allison Avenue (Section 15, Block 4, Lot 6) ("Premises"), dated June 27, 1995, and recorded in the Orange County Clerk's Office on June 29, 1995, in Liber 5444 of Deeds at Page 69; and

WHEREAS, the Newburgh Community Development Agency ("NCDA") issued a second mortgage to Cesar Lujan and Wanda Rivera in the principal sum of \$14,175.00 for the Premises, dated February 7, 1996, and recorded in the Orange County Clerk's Office on July 8, 1996, in Liber 5819 of Deeds at Page 135; and

WHEREAS, City records reflect that both mortgages have been paid in full; and

WHEREAS, this Council has determined that issuing and executing Satisfactions of Mortgage by the City of Newburgh, as successor in interest to the NCDA, 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 mortgages issued by Newburgh Community Development Agency to Cesar Lujan and Wanda Rivera in the principal sums of \$4,927.00 and \$14,175.00, respectively, are hereby satisfied, and the City Manager is hereby authorized to execute the attached Satisfactions in connection with said mortgages.

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

Does hereby consent that the following mortgage be discharged of record:

MORTGAGE bearing the date of June 27, 1995, made by Cesar Lujan and Wanda Rivera to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$4,927.00, and duly recorded in the office of the Orange County Clerk's Office on June 29, 1995, in Liber 5444 of Deeds at Page 69; and said Mortgage being

ASSIGNED by the Newburgh Community Development Agency to the City of Newburgh by an Assignment and Assumption of Mortgage Without Covenant dated November 15, 2010 and duly recorded in the office of the Orange County Clerk's Office on November 22, 2010, in Liber 13085 of Deeds at Page 869; and

which Mortgage has not been further assigned of record.

Dated: May _____, 2022

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: _____-2022

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

On the ____ day of May in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

Notary Public

SATISFACTION OF MORTGAGE

KNOW ALL MEN BY THESE PRESENTS, THAT

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

Does hereby consent that the following mortgage be discharged of record:

MORTGAGE bearing the date of February 7, 1996, made by Cesar Lujan and Wanda Rivera to the Newburgh Community Development Agency, given to secure payment of the principal sum of \$14,175.00, and duly recorded in the office of the Orange County Clerk's Office on July 8, 1996, in Liber 5819 of Deeds at Page 135; and said Mortgage being

ASSIGNED by the Newburgh Community Development Agency to the City of Newburgh by an Assignment and Assumption of Mortgage Without Covenant dated November 15, 2010 and duly recorded in the office of the Orange County Clerk's Office on November 22, 2010, in Liber 13085 of Deeds at Page 869; and

which Mortgage has not been further assigned of record.

Dated: May _____, 2022

THE CITY OF NEWBURGH

By: _____

Todd Venning, City Manager

Pursuant to Res. No.: _____-2022

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

On the ____ day of May in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

Notary Public



CITY OF NEWBURGH

OFFICE OF ECONOMIC DEVELOPMENT
NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
NEWBURGH COMMUNITY DEVELOPMENT AGENCY
1 CORWIN COURT, SUITE #101
NEWBURGH, NY 12550

TEL: (845)569-9400

FAX: (845)569-9700

August 19, 2002

Cesar Lujan
Wanda Rivera
34 Allison Avenue
Newburgh, NY 12550

Re: Satisfaction of Mortgage
34 Allison Avenue
Newburgh, NY
Section 15, Block 4, Lot 6
Amount: \$4,927.00

Dear Mr. Lujan and Ms. Rivera:

Enclosed please find duly executed Satisfaction of Mortgage. Please record with the Orange County Clerk's office at your earliest convenience. It is important that you file this document so the lien that we presently have on your home will be removed from record. There will be a charge if we have to re-issue this document. After recording, put in a secure place for future use.

If you have any questions regarding the above, please do not hesitate to contact our office.

Sincerely,

Robert H. McKenna
Director

RHM/tm

Enclosure

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY.

Know all Men by these Presents,

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

DOES HEREBY CERTIFY that the following Mortgage IS PAID, and does hereby consent that the same be discharged of record.

Mortgage dated the 27th day of June , 1995 , made by CESAR LUJAN AND
WANDA RIVERA
to Newburgh Community Development Agency

in the principal sum of \$ 4,927.00 and recorded on the 29th day of June 1995 ,
in Liber 5444 ~~XXXXXX~~ of Mortgages, page 69 , in the office
of the County Clerk of the County of Orange

the seal annexed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

said instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Section 821 of the Real Property Law expressly provides who must execute the certificate of discharge in specific cases and also provides, among other things, that (1) no certificate shall purport to discharge more than one mortgage, (except that mortgages affected by instruments of consolidation, amendment, modification or correction may be included in one certificate if the instruments are set forth in detail in separate paragraphs); (2) if the mortgage has been assigned, in whole or in part, the certificate shall set forth: (a) the date of each assignment in the chain of title of the person or persons signing the certificate, (b) the names of the assignor and assignee, (c) the interest assigned, and (d) if the assignment has been recorded, the book and page where it has been recorded or the serial number of such record, or (e) if the assignment is being recorded simultaneously with the certificate of discharge, the certificate of discharge shall so state, and (f) if the mortgage has not been assigned of record, the certificate shall so state; (3) if the mortgage is held by any fiduciary, including an executor or administrator, the certificate of discharge shall recite the name of the court and the venue of the proceedings in which his appointment was made or in which the order or decree vesting him with such title or authority was entered.

NEWBURGH COMMUNITY DEVELOPMENT
AGENCY

TO

CESAR LUJAN AND WANDA RIVERA

Satisfaction of Mortgage

Dated, August 19, 1982

The land affected by the within instrument
lies in City of Newburgh, Orange County
New York



CITY OF NEWBURGH

OFFICE OF ECONOMIC DEVELOPMENT
NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
NEWBURGH COMMUNITY DEVELOPMENT AGENCY
1 CORWIN COURT, SUITE #101
NEWBURGH, NY 12550

TEL: (845)569-9400

FAX: (845)569-9700

August 23, 2002

Cesar Lujan
Wanda Rivera
34 Allison Avenue
Newburgh, NY 12550

Re: Satisfaction of Mortgage
34 Allison Avenue
Newburgh, NY
Section 15, Block 04, Lot 06
Amount: \$14,175.00

Dear Mr. Lujan and Ms. Rivera:

Enclosed please find duly executed Satisfaction of Mortgage. Please record with the Orange County Clerk's office at your earliest convenience. It is important that you file this document so the lien that we presently have on your home will be removed from record. There will be a charge if we have to re-issue this document. After recording, put in a secure place for future use.

If you have any questions regarding the above, please do not hesitate to contact our office.

Sincerely,

Robert H. McKenna
Director

RHM/tm

Enclosure

THIS IS A LEGAL INSTRUMENT AND SHOULD BE EXECUTED UNDER SUPERVISION OF AN ATTORNEY.

Know all Men by these Presents,

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

DOES HEREBY CERTIFY that the following Mortgage IS PAID, and does hereby consent that the same be discharged of record.

Mortgage dated the 7th day of February, 1996, made by CESAR LUJAN AND WANDA RIVERA to Newburgh Community Development Agency

in the principal sum of \$ 14,175.00 and recorded on the 8th day of July 1996,
in Liber 5819 ~~XXXXXX~~ of Mortgages, page 135, in the office
of the County Clerk of the County of Orange

the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

going instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

Section 21 of the Real Property Law expressly provides who must execute the certificate of discharge in specific cases and also provides, among other things, that (1) no certificate shall purport to discharge more than one mortgage, except that mortgages affected by instruments of consolidation, spreader, modification or correction may be included in one certificate if the instruments are set forth in detail in separate paragraphs; (2) if the mortgage has been assigned, in whole or in part, the certificate shall set forth: (a) the date of each assignment in the chain of title of the person or persons signing the certificate, (b) the names of the assignor and assignee, (c) the interest assigned, and (d) if the assignment has been recorded, the book and page where it has been recorded or the serial number of such record, or (e) if the assignment is being recorded simultaneously with the certificate of discharge, the certificate of discharge shall so state, and (f) if the mortgage has not been assigned of record, the certificate shall so state; (3) if the mortgage is held by any fiduciary, including an executor or administrator, the certificate of discharge shall recite the name of the court and the venue of the proceedings in which his appointment was made or in which the order or decree vesting him with such title or authority was entered.

NEWBURGH COMMUNITY DEVELOPMENT
AGENCY

TO

CESAR LUJAN AND WANDA RIVERA

Satisfaction of Mortgage

Dated, August 23, 1992

The land affected by the within instrument
lies in City of Newburgh, Orange County
New York

Reserve this space for use of Recording Office.

STATE OF NEW YORK)

COUNTY OF ORANGE)

On the 26th day of August in the year 2002, before me, the undersigned, a Notary Public in and for said State, personally appeared ROBERT H. MCKENNA, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

Victor Rodriguez
Notary

HECTOR RODRIGUEZ
Notary Public State of New York
No. 01RO6060263
Qualified in Ulster County
Commission Expires 6/18/2007

RESOLUTION NO.: 114-2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
TO THE PREMISES KNOWN AS 60 WILLIAM STREET (SECTION 38, BLOCK 3, LOT 32)**

WHEREAS, on October 6, 1987, the City of Newburgh conveyed property located at 60 William Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 3, Lot 32, to the City of Newburgh Industrial Development Agency; and

WHEREAS, the title company for the prospective purchaser has requested a release of the restrictive covenants contained in said deed; and

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 60 William Street, Section 38, Block 3, Lot 32 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, and 3 in a deed dated October 6, 1987, from THE CITY OF NEWBURGH to THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY, recorded in the Orange County Clerk's Office on October 19, 1987, in Liber 2816 of Deeds at Page 145 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2022

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2022

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

On the ____ day of _____ in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 115-2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED
ISSUED TO GEORGE BLAKE TO THE PREMISES KNOWN AS
248 FIRST STREET (SECTION 22, BLOCK 5, LOT 27)**

WHEREAS, on November 1, 2000, the City of Newburgh conveyed property located at 248 First Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 22, Block 5, Lot 27, to George Blake; and

WHEREAS, the title company for the prospective purchaser has requested a release of the restrictive covenants contained in said deed; and

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

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

RELEASE OF COVENANTS AND
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 248 First Street, Section 22, Block 5, Lot 27 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, and 6 in a deed dated November 1, 2000, from THE CITY OF NEWBURGH to GEORGE BLAKE, recorded in the Orange County Clerk's Office on November 2, 2000, in Liber 5397 of Deeds at Page 260 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: _____, 2022

THE CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Pursuant to Res. No.: ____-2022

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

On the ____ day of _____ in the year 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

RESOLUTION NO.: 116 - 2022

OF

MAY 9, 2022

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER
INTO A LICENSE AGREEMENT WITH STRONGROOM TO ALLOW USE AND
ACCESS TO THE DUTCH REFORMED CHURCH LOCATED AT 134 GRAND STREET
(SECTION 19, BLOCK 1, LOT 25) FOR AN ARTWORK DISPLAY**

WHEREAS, Strongroom, a non-profit organization producing contemporary art installations, has proposed a light and sound installation by artist Liz Nielsen for the exterior of the Dutch Reformed Church, located at 134 Grand Street, more accurately described as Section 19, Block 1, Lot 25 on the official Tax Map of the City of Newburgh, for the public to observe and enjoy; and

WHEREAS, the proposed installation is titled "Force Fields" and will feature laser lights installed at the top of the Dutch Reformed Church, facing down, under direction of a professional lighting designer, in which beams of light will "wrap" the building along the Grand Street side and the front facade, from the top of the columns downward and will be paired with a subtle sound of a faint heartbeat; and

WHEREAS, the proposed art installation requires a license agreement and this Council has determined that entering into a license agreement for this purpose 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 Strongroom to allow access to City-owned property known as the Dutch Reformed Church located at 134 Grand Street (Section 19, Block 1, Lot 25) for the purpose of installing and displaying a temporary art exhibit for public viewing.

LICENSE AGREEMENT

THIS LICENSE AGREEMENT, dated as of _____, 2022, 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

STRONGROOM, a non-profit corporation with an address of 234 Grand Street, Newburgh, New York 12550 ("Licensee").

WHEREAS, the City is the owner of the Dutch Reformed Church located at 134 Grand Street in the City of Newburgh, and more accurately described as Section 19, Block 1, Lot 25 on the official tax map of the City of Newburgh (hereinafter referred to as "the DRC"); and

WHEREAS, the Licensee has requested use of and access to the DRC for the purpose of undertaking the installation and exhibition of a temporary art exhibit;

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

Section 1. Grant of License. The City hereby represents that it owns the Dutch Reformed Church, located at 134 Grand Street in the City of Newburgh, and more accurately described as Section 19, Block 1, 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 Licensor's property located at 134 Grand Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary, for the purposes of and to install and display a temporary art exhibit for public display.

Section 2. Use of and Access to 134 Grand Street ("the DRC"). Use of and access to the DRC is limited to the exterior of the building for the purpose of installing and displaying a temporary art exhibit for public viewing under the conditions as set forth herein:

- a. No access and/or entry to the building interior is permitted with the exception of an electrician retained by Licensee for the sole purpose of installing and removing the electrical wiring between the individual lights comprising the art display and installing a GFCI circuit breaker. Licensee's electrician shall possess a City master electrician license and obtain a permit for electrical work at Licensee's sole cost and expense as required by applicable law, rule and regulation. No public access to exterior grounds inside the existing safety fences is permitted.
- b. Licensee will install temporary fencing along the west side of the building along the basement window wells.
- c. Licensee agrees to perform all work hereunder 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.

- d. Licensee acknowledges the historic significance of the DRC and shall perform all work hereunder using the least intrusive methods to install components of the temporary art exhibit consistent with Federal and State historic preservation guidelines. The components of the art exhibit shall be temporary and removable wherever and whenever possible, except for affixing the wood supports which will hold the lighting on the upper façade of the building, provided that no other less intrusive method is feasible.
- e. Licensee will perform regular trash clean-up on the grounds around the DRC and will maintain the lighting, equipment and components of the temporary art exhibit in a safe condition and working order throughout the term of this License Agreement.
- f. Licensee shall give Licensor no less than forty-eight (48) hours advance notice of its commencement of work in, on, or around the DRC.
- g. At the conclusion of the temporary art exhibit, the Licensee and its agents, employees, volunteers, and contractors shall restore the DRC to a clean and orderly state in substantially the same condition as existed prior to the granting of this license.

Section 3. Insurance. The 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 at the time of the public opening of the installation 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. For the purpose of creating and displaying the art installation, Licensee shall maintain liability insurance in the amount of \$1,000,000.00 per occurrence.

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. 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 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 DRC under this License Agreement.

Section 6. Term of License. The license or privilege hereby given shall commence on May 29, 2022 and shall expire without further notice to either party to the other at 11:59 pm on September 30, 2022.

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 of the term specified in paragraph 6, 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 9. 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. 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.

WITNESSETH:

THE CITY OF NEWBURGH
LICENSOR

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

STRONGROOM
LICENSEE

By: _____
Kelly Schroer, Founder

Approved as to form:

MICHELLE KELSON
Corporation Counsel

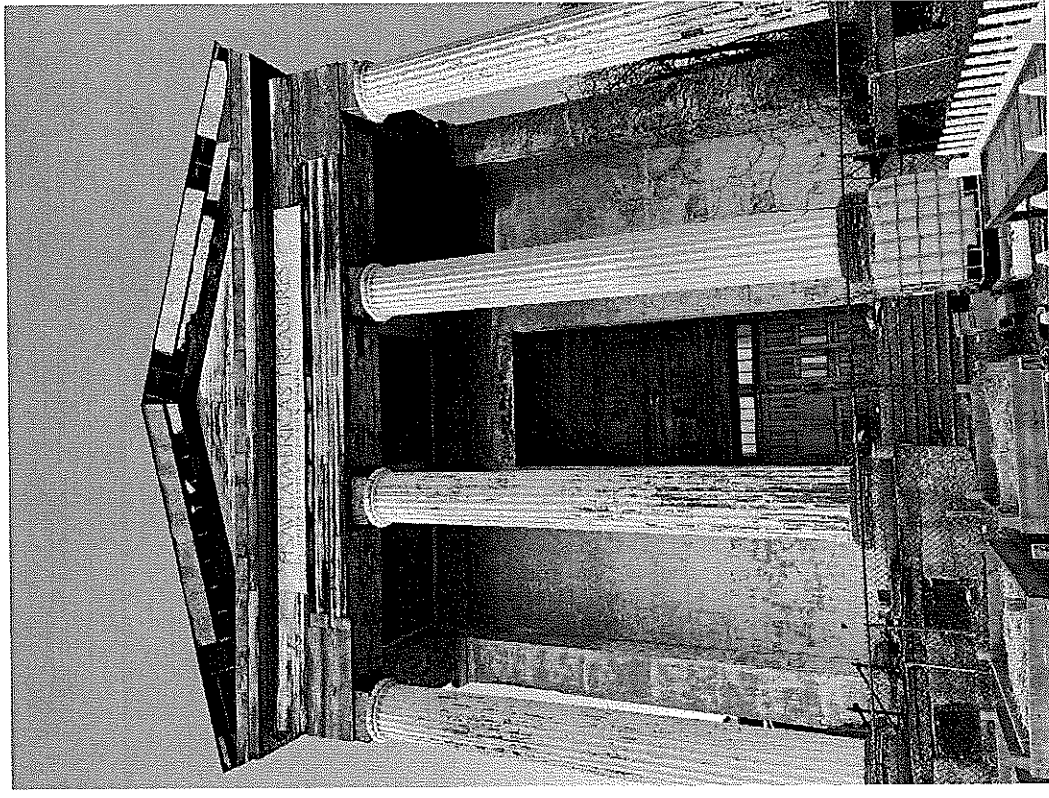
JANICE GASTON
City Comptroller

STRONG ROOM

**Proposal to The City of
Newburgh**

**Re: STRONGROOM
presentation by artist
Liz Nielsen**

**On the Dutch Reformed
Church exterior /
134 Grand Street**



Project Overview

STRONGROOM would like to propose to the City of Newburgh a light and sound installation on the exterior of the Dutch Reformed Church, conceived by locally-based and internationally-recognized artist Liz Nielsen.

The installation will be titled "Force Fields"

Using laser lights installed at the top of the church, facing down, under direction of a professional lighting designer, beams of light will "wrap" the building along the Grand Street side and the front facade, from the top of the columns downward.

The lights will be paired with a subtle sound of a faint heartbeat. The sound will come from speakers that can be either installed and locked inside the building, or concealed on the exterior.

We propose to install the work at the end of May to open in time for the Newburgh Illuminated Festival, and close at the end of September after Newburgh Open Studios.

The installation will be mainly viewable after dusk.

STRONGROOM will insure, fund, and maintain the exhibition for its duration. We request use of the building from the City of Newburgh, and use of an electrical hook up (there appears to be lights at the site so we are hopeful this is possible)

Project Description

This project is a large-scale, high-impact public artwork by artist Liz Nielsen, presented at one of The City of Newburgh's most important historical sites: The Dutch Reformed Church.

Liz Nielsen is an artist based in Newburgh. While her work usually results in photographs, her medium is light. Creating "paintings with light" her 20+ year career has led her to develop unique processes around color theory and light. For her STRONGROOM installation at the Dutch Reformed Church, she will take her experience with light to a new scale, while incorporating the strong spiritual and other-worldly concepts that ground her work.

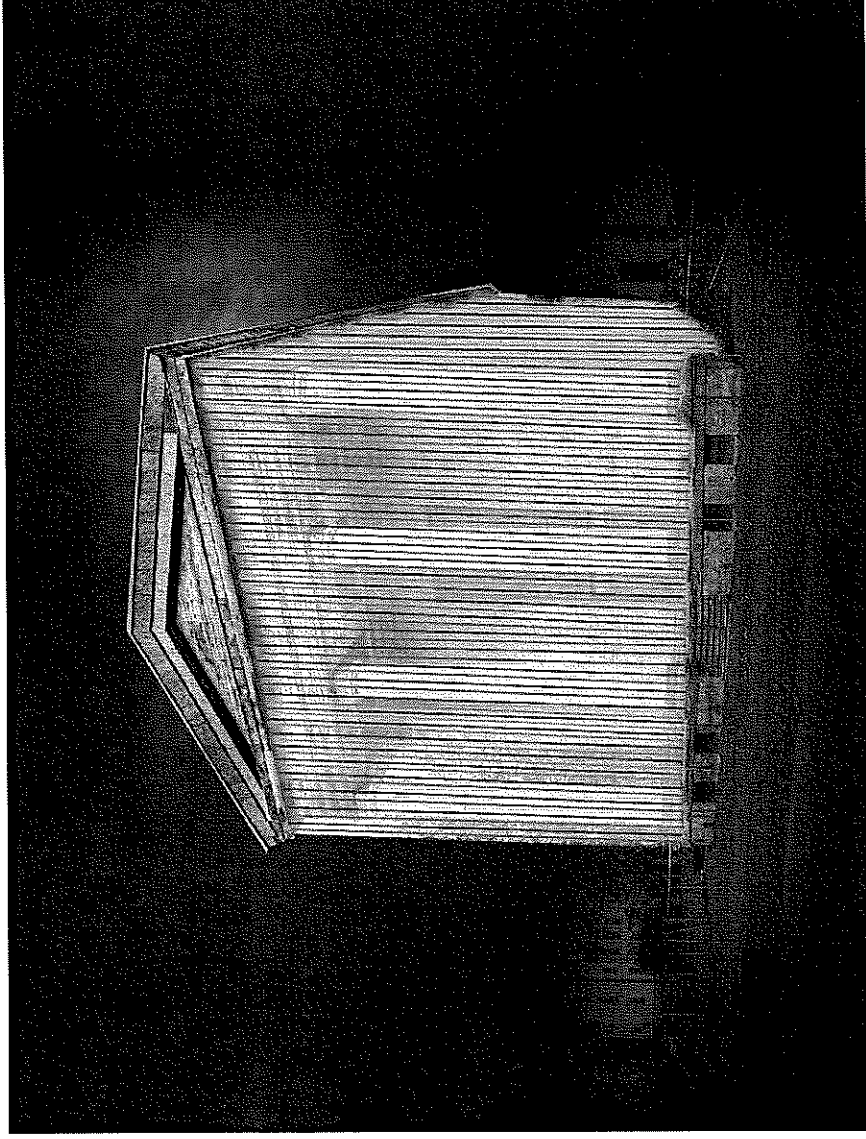
Titled, "Force Fields," Liz will create a force field of protective energy around the building's exterior by utilizing lights or lasers that "wrap" the exterior of the building. The glowing lights create an imagined sense of space, a barrier between the harmful elements and extended time that has allowed the building to come into its current state - something Liz refers to as "minor architecture." For many years in her artistic practice, Liz has been thinking about "marked energy in space, through architecture, and through the flow of space."

The effect of the force field causes defined energy pathways with the intention to "preserve" the building and protect its energy. The force field can be considered similar to the passing through the surface of water, or perhaps through another time/space/dimension. While expressing an underlying, non-denominational spirituality, the installation also refers to the passage of time, the world changing as the church has stood there, as both witness and participant in its varied uses, deterioration, attempts at revival, and its current state of "limbo."

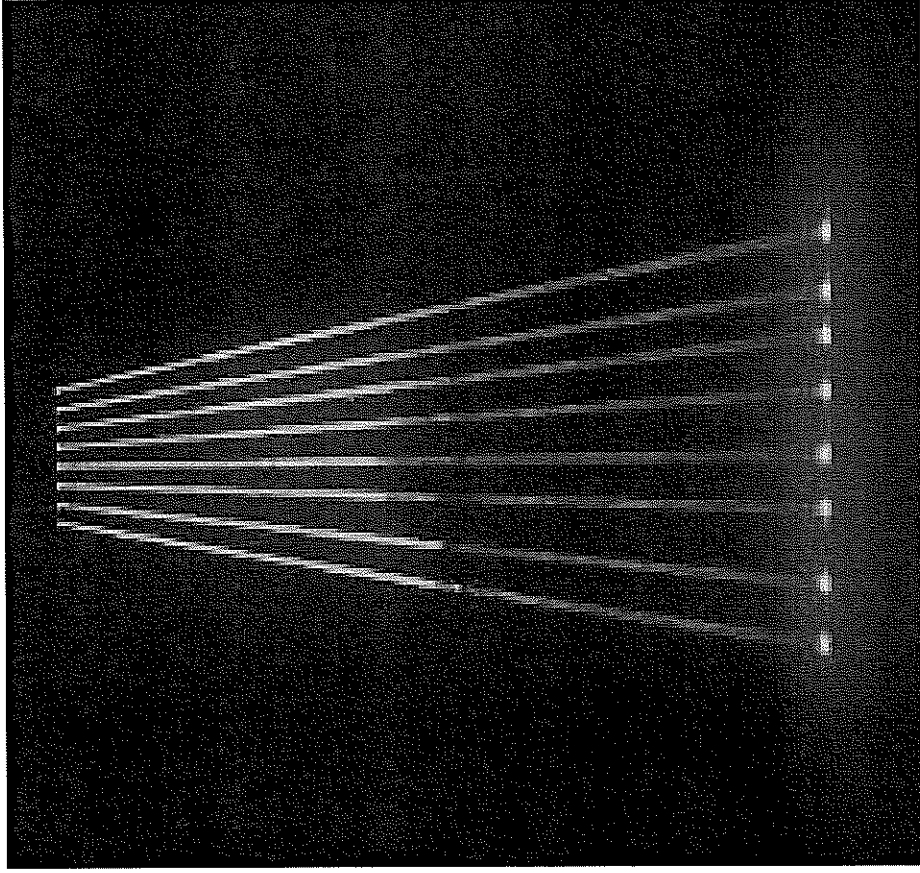
Paired with the lights, will be a subtle sound emanating from the building's interior, which will become more audible as you approach: A faint heartbeat. This poetic gesture further impresses the idea of the building as a spiritual being, with 187 years of life and history, waiting for its next chapter to unfold.

Artist rendering

In actuality the lights will wrap around the Grand St side, NOT as pictured.



Proposed lighting effect



Timeline:

- Installation: May 30th- June 1, 2022
- On view: June 1 - September 30, 2022
- June 4: Newburgh Illuminated Festival
- July 22 - 24: Upstate Art Weekend
- September 24 - 25: Newburgh Open Studios
- De-installation: September 26, 2022
- Installation will be viewable to the public from dusk until dawn

Logistics

- Exhibition and related programing will be funded by STRONGROOM
- STRONGROOM to provide liability insurance
- STRONGROOM will be responsible for installation and de-installation of materials
- We will need to drill wood supports (which hold the lighting) on the upper facade of the building.
(To be installed using a boom lift)
- We will work with a City of Newburgh licenced Electrician to install and remove the electrical wiring between the individual lights, as well as add a GFCI circuit breaker. The electrician will apply for a permit to do so.
- We will ensure the lights are not dangerous for the human eye and post appropriate signage of any potential risk.
- Temporary fencing will be added along the west side of the building along the basement window wells.
- Installation will take 2 days, we are aiming for May 31 and June 1
- De-installation will take 1 day at the end of September

About STRONGROOM

Strongroom is a 501(c)(3) organization founded in 2016 and based exclusively in Newburgh. We do not have a permanent space. Instead, our mission is to bring high-quality contemporary art installations and public programs to various neighborhoods in Newburgh, utilizing empty and public spaces through temporary site-specific installations by professional artists.

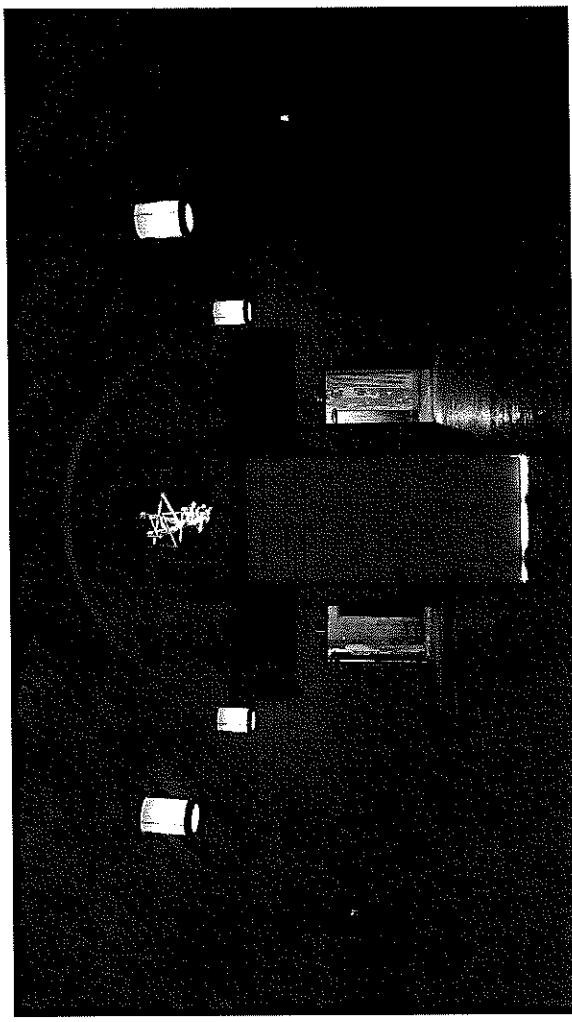
Strongroom was founded by Kelly Schroer, who has been a Newburgh resident since March 2014. Kelly has an MA in Contemporary Art and BA in Art History, and has worked in the art world for over a decade in both non-profit and commercial sectors, while also continuing an independent curatorial practice. From 2010- 2018 Kelly was on the Sales team of David Zwirner gallery in New York and currently works as a private art consultant, in addition to curating Strongroom projects in Newburgh.

For images and videos of our past projects and programs, please see our website: www.strongroom.us

Past STRONGROOM projects



Tahir Carl Karmali at 255 Broadway / Firehouse
<https://www.strongroom.us/tahir-carl-karmali>

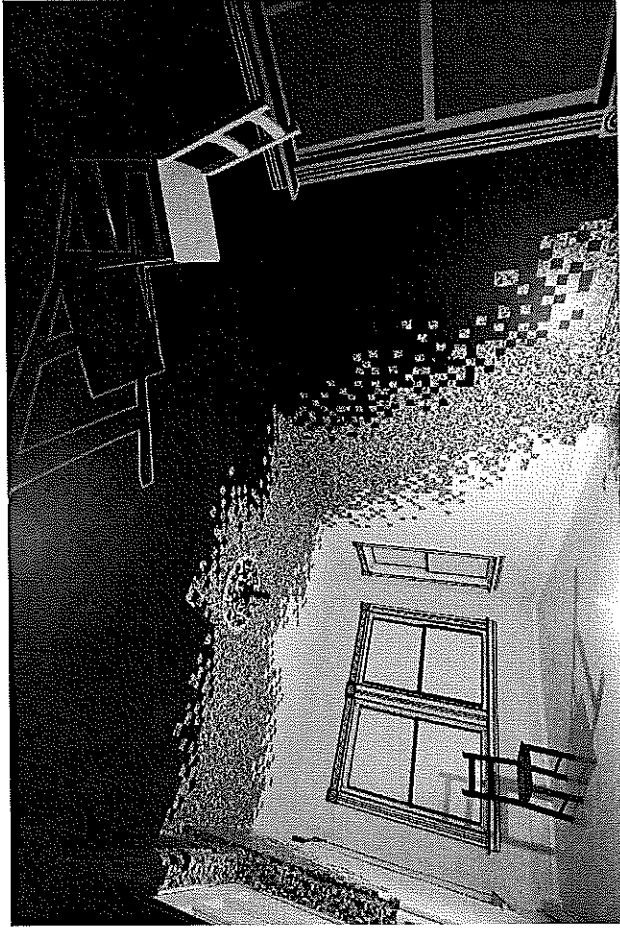


James Clar at 188 Grand Street / Church
<https://www.strongroom.us/clar>

Past STRONGROOM projects

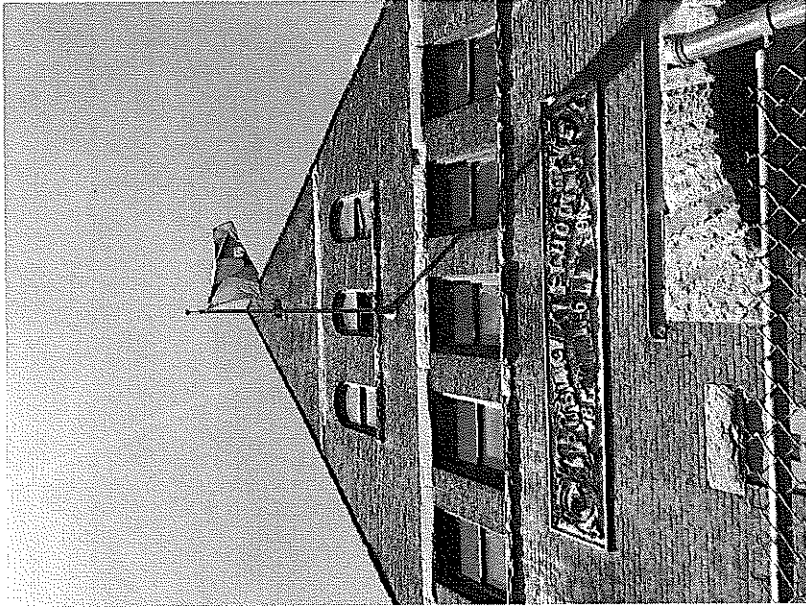


Jennifer Williams at 128 Liberty Street / Public work
<https://www.strongroom.us/williams>



Jessica Angel at 91 Liberty Street / Townhouse
<https://www.strongroom.us/jessica-angel>

Past STRONGROOM projects



Azikiwe Mohammed at 1 Liberty Street / Liberty Street School
<https://www.strongroom.us/azikiwe-mohammed>

Past STRONGROOM projects



Martin Roth at 120 Grand St/ City Club
<https://www.strongroom.us/roth>



Modupeola Fadugba at Boys and Girls Club of Newburgh / empty swimming
pool performance by NPAA
<https://www.strongroom.us/modupeola-fadugba>

About Liz Nielsen

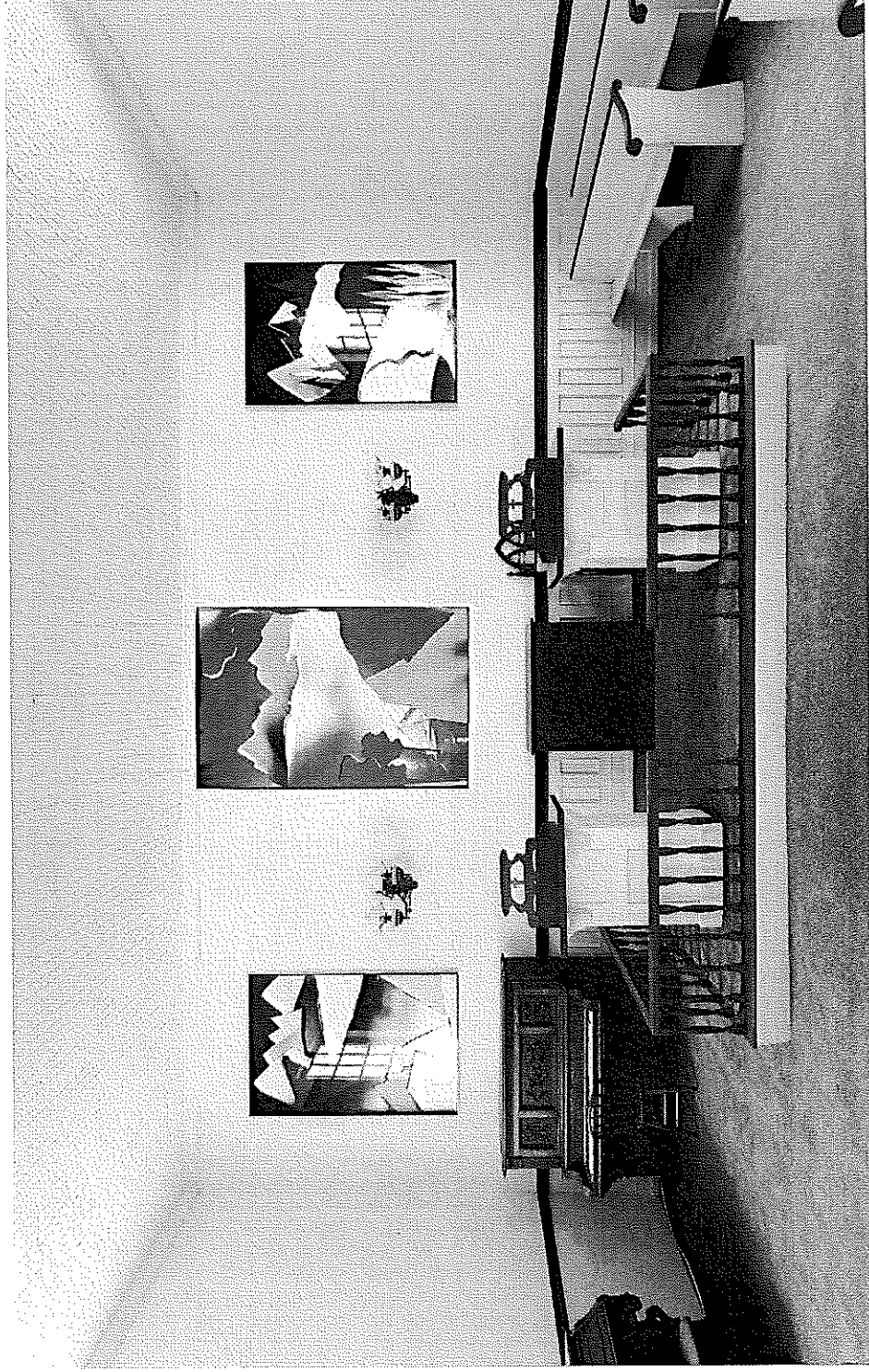
Liz Nielsen is a contemporary artist working in light and photo, based in Newburgh, NY.

Her photographs are made without a camera and can also be described as light paintings. She works in the analogue color darkroom exposing light sensitive paper and processing it through traditional photographic chemicals. Each image is unique (her process does not allow for editions) and ranges in size from 100" x 100" to 4" x 5".

Liz has exhibited her work extensively including recent solo exhibitions through her gallery representation in New York, Los Angeles, London and Paris. Her work has been featured at international art fairs such as Paris Photo, Photo London, and Unseen Amsterdam, as well as the Untitled Art Fair in Miami, FL. Nielsen has been reviewed in Artforum, the New Yorker, the Guardian, the London Financial Times, LensCulture, Vogue UK, and FOAM magazine among others.

Liz's concepts focus on her spiritual connection with earth and sky and often incorporate ideas around the big bang theory, the cosmos, and connections between humanity and architecture or landscape. An experienced color theorist, she has developed a unique process in mixing colors through light. As part of the LGBTQ community she has exhibited her work with many other queer artists, as well as supporting and promoting women, non binary and diverse artists through her Newburgh gallery, Elijah Wheat Showroom. In her artistic practice, Liz presents an openness and desire to connect people through big picture concepts that bring us together and are meaningful to all audiences.

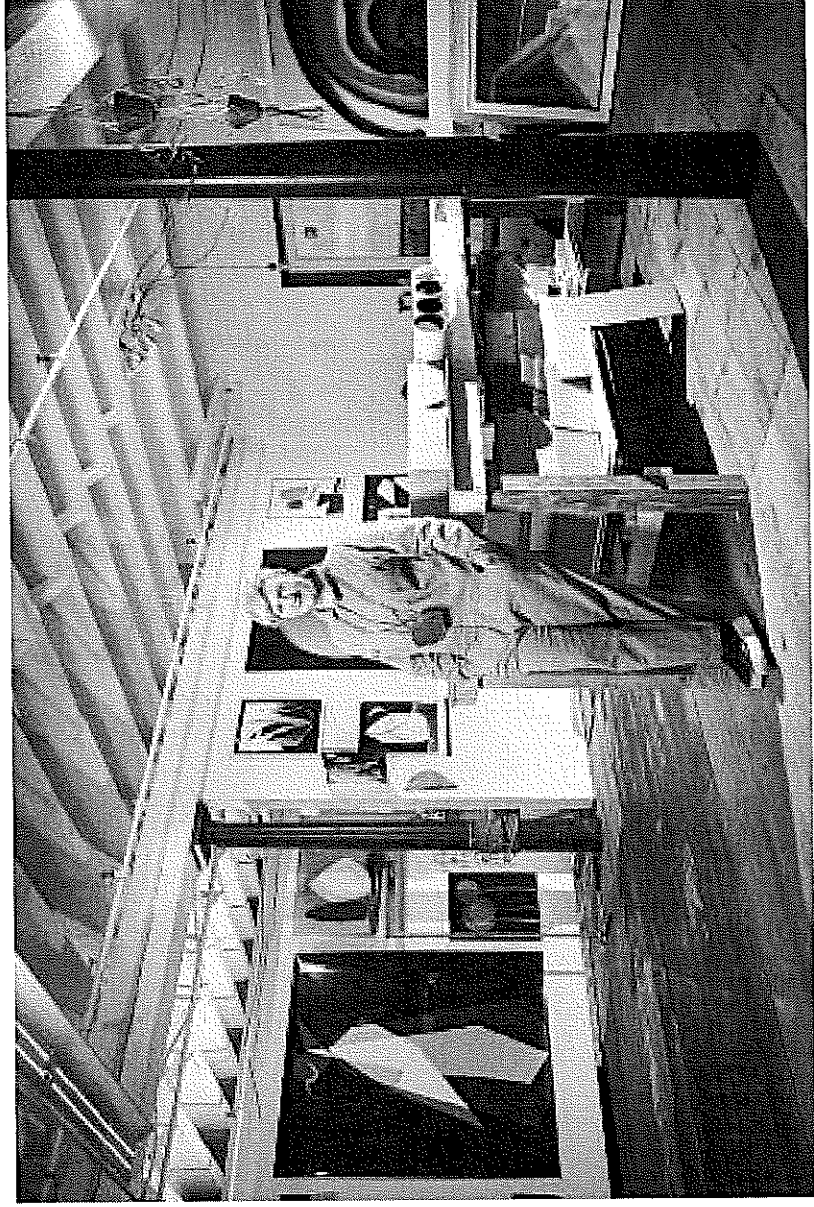
Past projects by Liz Nielsen



Past projects by Liz Nielsen



Liz Nielsen in her Newburgh waterfront studio
(Where she also runs Elijah Wheat Showroom Gallery with her wife Carolina Wheat)



Contact

Kelly Schroer
Founder, STRONGROOM
info@strongroom.us
646 894 0453

Thank you for your consideration.

RESOLUTION NO.: 117 - 2022

OF

MAY 9, 2022

**A RESOLUTION SUPPORTING THE APPLICATION OF ICF, INC. AND ITS PARTNERS
FOR A NYSERDA CLEAN NEIGHBORHOODS CHALLENGE PROGRAM GRANT
FOR AN E-BIKE LIBRARY PROGRAM IN THE CITY OF NEWBURGH**

WHEREAS, in January 2022, ICF, Inc., in partnership with Shared Mobility Inc., GObike Buffalo, and other partners was awarded a Phase One NYSERDA Clean Neighborhoods Challenge grant for its Accelerating Clean Communities with E-Bike Systems (ACCESS) Project which integrates e-bikes within 5 underserved communities, including the City of Newburgh, through lending libraries and supporting infrastructure; and

WHEREAS, ICF, Inc.'s Phase I award package includes funding for planning, community partners and in-kind support from technical experts and eligibility for a Phase Two grand prize award for an innovative project that addresses air pollution reduction in underserved communities; and

WHEREAS, ICF, Inc.'s ACCESS Project would bring an affordable, convenient, and sustainable mobility option to Newburgh in the form of an e-bike library and purchase assistance program that would empower low-income and traditionally underserved residents by enhancing access to jobs, educational opportunities, services, healthy food, healthcare, and other community lifelines without the negative externalities such as bike/scooter "litter" on sidewalks that may result from dockless shared micromobility services; and

WHEREAS, ICF, Inc.'s ACCESS Project directly implements the City's 2020 Bicycle Action Plan's recommendations to support formation of an electric bike library program or bikeshare program, as well as to collect data on bicycle traffic to facilitate decision-making and potential grant funding for active mobility projects and supports the City's green initiatives, including its Complete Streets Policy, New York State Climate Smart Communities Pledge, Local Waterfront Revitalization Program, and Sustainable Master Plan; and

WHEREAS, the City of Newburgh finds that supporting the ACCESS Project by working with the ICF team on infrastructure planning and installation of pop-up projects, promoting the program to potential users through our networks, and leveraging existing initiatives to support implementation is in the best interests of the City of Newburgh and its residents and stakeholders;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby supports and endorses the application of ICF, Inc., in partnership with Shared Mobility Inc., GObike Buffalo, and other partners for a Phase Two NYSERDA Clean Neighborhoods Challenge grant for its Accelerating Clean Communities with E-Bike Systems (ACCESS) which integrates e-bikes within 5 underserved communities, including the City of Newburgh, through lending libraries and supporting infrastructure.

<Organizational Logo/Letterhead>

[Date]

New York Clean Transportation Prizes
TransportPrizes@nysersda.ny.gov

RE: City of Newburgh Support of Proposed E-Bike Project for NYSERSDA Clean Neighborhoods Challenge

Dear New York Clean Transportation Prizes Team,

Improving electric assist bicycle (e-bike) access and infrastructure represents a significant opportunity to enhance equitable mobility for the City of Newburgh's 28,800+ residents. Over 30% of households have zero vehicles available, and an additional 40% only have just one vehicle. The topography of Newburgh is uniquely suited for e-bikes because steep hills pose a barrier for many potential cyclists, especially for travelling between downtown and the waterfront. The City's compact footprint at 3.8 square miles enables the average cyclist to bike from one end of the city to another in 25 minutes or less.

I am writing in support of the proposed e-bike program led by ICF in partnership with Shared Mobility Inc, GObike Buffalo, and local partner IMPACT, Inc. Through the 511NY Rideshare program, the City began discussions with ICF and other partners in April 2021 on a potential e-bike library program in Newburgh. If awarded by NYSERDA in the Clean Neighborhoods Challenge, this program would bring an affordable, convenient, and sustainable mobility option to Newburgh in the form of e-bikes. The e-bike library and purchase assistance would empower low-income and traditionally underserved residents by enhancing access to jobs, educational opportunities, services, healthy food, healthcare, and other community lifelines. The proposed program model brings these benefits to Newburgh without the negative externalities such as bike/scooter "litter" on sidewalks that can sometimes result from dockless shared micromobility services.

The ICF team's proposed e-bike solution directly implements the City's 2020 Bicycle Action Plan's recommendations to support formation of an electric bike library program or bikeshare program, as well as to collect data on bicycle traffic to facilitate decision-making and potential grant funding for active mobility projects. Additionally, the program supports the City initiatives below:

- The City's adopted Complete Streets policy in April 2019, building on years of groundwork to support economic revitalization such as the Newburgh Complete Streets Project on Broadway;
- The City's commitment to the New York State Climate Smart Communities Pledge (adopted in April 2018), specifically the elements to support a green innovation economy and reduce community energy use;
- The City's Local Waterfront Revitalization Program (adopted in July 2017) to link various public recreation facilities via multi-modal transportation systems;
- The City's Sustainable Master Plan (adopted in 2008), which establishes transportation-focused goals that the roads and streets in the City are safe, efficient, and provide a welcoming environment for pedestrians, bicyclists and handicapped persons, and that there is a regional transportation system that supports a variety of modes of transportation.

The City of Newburgh will support the program by working with the ICF team on infrastructure planning and installation of pop-up projects, promoting the program to potential users through our networks, and leveraging existing initiatives to support implementation. The City of Newburgh will dedicate up to two staff hours per month on the project: one hour to join the program steering committee, and one hour to coordinate with the ICF team on planning, project implementation, and any public-facing communications.

<Organizational Logo/Letterhead>

This time commitment will be concentrated within one year of implementation during the three-year grant period.

The City of Newburgh looks forward to collaborating with the ICF team on this impactful effort. Thank you for your consideration.

Sincerely,
<Signature>

<Name>
<Title>
<Organization>

RESOLUTION NO.: 118 - 2022

OF

MAY 9, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A NEW YORK STATE
GOVERNOR'S TRAFFIC SAFETY COMMITTEE
2023 HIGHWAY SAFETY PROGRAM GRANT
IN AN AMOUNT NOT TO EXCEED \$20,000.00 WITH NO CITY MATCH REQUIRED

WHEREAS, the City of Newburgh wishes to apply for a State of New York Governor's Traffic Safety Committee 2023 Highway Safety Program Grant in the amount of \$20,000.00 with no City match required; and

WHEREAS, the Governor's Traffic Safety Committee Highway Safety Program offers grant funding to conduct programs which promote pedestrian and bicycle safety education; and

WHEREAS, if awarded the City of Newburgh Police Department will use the funds to create a bike garden at the Delano-Hitch Recreation Park to conduct bike rodeos where parents and children can learn about bike safety and to purchase helmets, bike racks, promotional materials, paint and other supplies to create the bike garden; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a New York State Governor's Traffic Safety Committee 2023 Highway Safety Program Grant in the amount of \$20,000.00 with no City match required; and that the City Manager is authorized to execute all such contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the program funded thereby.

RESOLUTION NO.: 119 - 2022

OF

MAY 9, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE
A PAYMENT OF CLAIM WITH AFRICA PICKENS
IN THE AMOUNT OF \$2,618.08

WHEREAS, Africa Pickens brought a claim against the City of Newburgh; and

WHEREAS, the parties have reached an agreement for the payment of the claim in the amount of Two Thousand Six Hundred Eighteen and 08/100 Dollars (\$2,618.08) 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 Africa Pickens in the total amount of Two Thousand Six Hundred Eighteen and 08/100 Dollars (\$2,618.08) and that the City Manager be and he hereby is authorized to execute documents as the Corporation Counsel may require to effectuate the settlement as herein described.

RESOLUTION NO.: 120-2022

OF

MAY 9, 2022

A RESOLUTION APPROVING THE CONSENT JUDGMENT AND AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI PROCEEDINGS AGAINST THE CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NOS. EF007244-2018, EF005474-2019, EF003390-2020 and EF004813-2021 INVOLVING SECTION 28, BLOCK 2, LOT 21.2 (IMPERIAL MOTEL)

WHEREAS, Imperial Motel has commenced tax certiorari proceedings against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2018-2019, 2019-2020, 2020-2021 and 2021-2022 tax years bearing Orange County Index Nos. EF007244-2018, EF005474-2019, EF003390-2020 and EF004813-2021; and

WHEREAS, it appears from the recommendation of the City Assessor, Joanne Majewski, and Kelly M. Naughton, Esq. of Burke, Miele, Golden & Naughton, LLP, Special Counsel for the City of Newburgh in the aforesaid proceeding, upon a thorough investigation of the claims that further proceedings and litigation by the City would involve considerable expense with the attendant uncertainty of the outcome, and that settlement of the above matters as more fully set forth below is reasonable and in the best interests of the City; and

WHEREAS, Imperial Motel is willing to settle this proceeding without interest, costs or disbursements, in the following manner:

1. That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2018-2019 as tax map number 28-2-21.2 be reduced to a market value of \$863,600.00.
2. That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2019-2020 as tax map number 28-2-21.2 be reduced to a market value of \$868,400.00.
3. That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2020-2021 as tax map number 28-2-21.2 be reduced to a market value of \$876,000.00.
4. That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2021-2022 as tax map number 28-2-21.2 be discontinued with prejudice.

NOW, THEREFORE BE IT RESOLVED, that the proposed settlement as set forth and described above, and the attached Consent Judgment is hereby accepted pursuant to the provisions of the General City Law and other related laws.

BE IT FURTHER RESOLVED, that Todd Venning, City Manager of the City of Newburgh; Joanne Majewski, Assessor of the City of Newburgh; Kelly M. Naughton, Esq. on behalf of Burke, Miele, Golden & Naughton, LLP, as Special Counsel, be and they hereby are designated as the persons for the City who shall apply for such approval pursuant to the aforesaid laws.

The issues of these proceedings having duly come on for trial at an IAS Term of this Court, and the petitioner having appeared by NICHOLAS J. CONNOLLY, ESQ., of HERMAN KATZ CANGEMI WILKES & CLYNE, LLP, the respondents having appeared by KELLY M. NAUGHTON, ESQ., of BURKE, MIELE, GOLDEN & NAUGHTON, LLP, Attorneys for the City of Newburgh, and the intervenor-respondent having appeared by MARC E. SHARFF, ESQ. of SHAW PERELSON MAY

& LAMBERT, LLP, and the parties having made their settlement, it is

ORDERED, that the assessments on the above-referenced property be and the same are hereby reduced, corrected and fixed for the assessment years as follows:

Assessment Year	Original Assessed Value	Reduction	Corrected Assessed Value
2018	\$880,000	\$16,400	\$863,600
2019	\$880,000	\$11,600	\$868,400
2020	\$880,000	\$4,000	\$876,000
2021	\$880,000	\$-0-	\$880,000

and so reduced and confirmed, it is further

ORDERED, ADJUDGED AND DECREED that the officer or officers having custody of the assessment rolls upon which the above-mentioned assessments and any taxes levied thereon are entered shall correct the said entries in conformity with this Order and shall note upon the margin of said rolls, opposite said entries, that the same have been corrected by the authority of this Order, and it is further

ORDERED, that there shall be audited, allowed and paid to the petitioner by the Newburgh Enlarged City School District, the amount of School taxes paid by the petitioner as taxes against the said erroneous assessments in excess of what the taxes would have been if the said assessments made in the aforesaid years had been determined by this Order, together with interest from the date of payment thereof as provided by statute, and it is further

ORDERED AND DIRECTED that the Commissioner of Finance of the County of Orange, State of New York, be and are hereby directed and authorized to audit, allow and to pay to the petitioner the amount, if any, of State, County, City, Town, Judiciary, Sewer District and any special taxes paid by the petitioner as taxes against said erroneous assessments in excess of what the taxes would have been if the said assessments had been determined by this Order, together with interest thereon from

the date of payment thereof as provided by statute, and it is further

ORDERED AND DIRECTED, that all tax refunds are to be paid with interest pursuant to §726 of the Real Property Tax Law of the State of New York; except that in the event the refund of taxes is paid within ninety (90) days from the date of service of a copy of this judgment with Notice of Entry, then interest is waived; together with the amounts of interest and penalties, if any, paid on the excess of any of the aforesaid taxes by reason of delinquent payment, and it is further

ORDERED AND DIRECTED, that all tax refunds hereinabove directed to be made by respondent, the City of Newburgh, and/or any of the various taxing authorities, be made by check or draft payable to the order of HERMAN KATZ CANGEMI WILKES & CLYNE, LLP, as attorneys for the petitioner, who are to hold the proceeds as trust funds for appropriate distribution, and who are to remain subject to the further jurisdiction of this Court in regard to their attorney's lien, pursuant to Judiciary Law §475, and it is further

ORDERED, that in the event that the taxes are unpaid and have already been billed for the City of Newburgh in accordance with the original assessed valuation, the officer or officers having custody of said assessment rolls are hereby directed to forward to petitioner, care of HERMAN KATZ CANGEMI WILKES & CLYNE, LLP, taxing said petitioners on the basis of the final total assessed valuation as herein provided, as well as recalculating any and all interest and penalties that might be due, and it is further

ORDERED, that this Order hereby constitutes and represents full settlement of each of the tax review proceedings herein, and there are no costs or allowances awarded to, by or against any of the parties, and that upon compliance with the terms of this Order, the above-entitled proceedings be and the same are settled and discontinued.

E N T E R,

A.J.S.C.

**SIGNING AND ENTRY OF THE WITHIN
ORDER IS HEREBY CONSENTED TO:**

BURKE, MIELE, GOLDEN & NAUGHTON, LLP

By: KELLY M. NAUGHTON, ESQ.
Attorneys for Respondents
40 Matthews Street, Suite 209
P.O. Box 216
Goshen, NY 10924
knaughton@bmglawyers.com

HERMAN KATZ CANGEMI WILKES & CLYNE, LLP

By: NICHOLAS J. CONNOLLY, ESQ.
Attorneys for Petitioner
538 Broadhollow Road, Suite 307
Melville, NY 11747
nconnolly@hermankatz.com

SHAW PERELSON MAY & LAMBERT, LLP

By: MARC E. SHARFF, ESQ.
Attorneys for Respondent-Intervenor
115 Stevens Avenue
Valhalla, NY 10595
msharff@shawperelson.com

HON. TODD VENNING
City Manager
Dated: _____

HON. JOANNE MAJEWSKI
Assessor
Dated: _____

ORDINANCE NO.: 2 - 2022

OF

MAY 9, 2022

AN ORDINANCE AMENDING CHAPTER 190, ARTICLE XIII ENTITLED
“RESPONSIBILITIES OF OWNERS AND OCCUPANTS” OF THE
CODE OF ORDINANCES OF THE CITY OF NEWBURGH
INCREASING THE PENALTIES FOR VIOLATIONS

BE IT ORDAINED by the City Council of the City of Newburgh, New York that Chapter 190, Article XIII, entitled “Responsibilities of Owners and Occupants” of the Code of Ordinances is amended as follows:

SECTION 1. Article XIII. Responsibilities of Owners and Occupants

§190-116. Penalties for offenses.

- A. Any person who shall violate any of the provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder shall be punished ~~as provided in § 1-12 for violation of this chapter of the Code of Ordinances of the City of Newburgh~~ by a fine of not less than \$1,000 or by imprisonment for a period not exceeding 15 days, or both such fine and imprisonment.
- B. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects. Each day that prohibited conditions exist shall constitute a separate offense.
- C. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

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,

~~Strikethrough~~ denotes deletions

Underlining denotes additions

invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Ordinance or part here of is held inapplicable had been specifically exempt therefrom.

SECTION 3. Codification.

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

SECTION 4. Validity

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance that can be given effect without such invalid provision.

SECTION 5. This ordinance shall take effect immediately.

~~Strikethrough~~ denotes deletions
Underlining denotes additions

ORDINANCE NO.: 3 - 2022

OF

MAY 9, 2022

AN ORDINANCE AMENDING CHAPTER 249, SIDEWALK CAFES,
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO ESTABLISH A TIME PERIOD FOR SIDEWALK CAFÉ PERMITS

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 249 of the Code of the City of Newburgh is hereby amended as follows:

SECTION 1. Amendment

§ 249-3. Conditions for issuance of permit.

G. Permits may be issued only during the period from April 1 ~~April 13, 2021~~ to November 30 ~~November 26, 2021~~ and shall be for such duration, within the time provided herein, as the applicant may request.

SECTION 2. Severability.

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

SECTION 3. Codification.

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

SECTION 4. Validity

The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance that can be given effect without such invalid provision.

Underlining denotes additions

~~Strikethrough~~ denote deletions

SECTION 5. This ordinance shall take effect immediately.

Underlining denotes additions
~~Strikethrough~~ denote deletions

Chapter 249

SIDEWALK CAFES

GENERAL REFERENCES

Alcoholic beverages — See Ch. 105.

Streets and sidewalks — See Ch. 263.

Fees — See Ch. 163.

Zoning — See Ch. 300.

Street musicians — See Ch. 260.

§ 249-1. Permit required.

Notwithstanding any inconsistent provision contained in Chapter 263, Streets and Sidewalks, sidewalk cafes for the sale to the public of food and beverages, and for no other purpose, shall be permitted, provided that a permit is obtained therefor from the Fire Chief.

§ 249-2. Application for permit. [Amended 6-22-2020 by Ord. No. 7-2020; 10-26-2020 by Ord. No. 9-2020]

Any person, firm or corporation desiring a permit shall make application to the Fire Chief on forms provided therefor. The form shall require a written, signed, and notarized statement of all owner(s) of the property and applicant(s) related to the proposed sidewalk cafe operation that consents to the submission of the application, releases 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 license granted pursuant to this chapter, and indemnifies, defends, and holds harmless the City of Newburgh and its employees and agents from the same. The applicant shall also submit a site plan of the proposed area to the Fire Chief.

§ 249-3. Conditions for issuance of permit.

A permit for a sidewalk cafe may only be issued to the owner or the tenant of a building occupied and used for the sale of cooked and prepared food, except fast-food restaurants, in a zoned district permitting such use and abutting the public sidewalk adjacent thereto, provided that the following requirements are met:

- A. The sidewalk abutting the property, from the property line to the curbline, must not be less than 10 feet in width.
- B. The area to be used for the sidewalk cafe must not encroach onto the sidewalk more than 10 feet from the property line abutting the sidewalk and must not extend beyond the extension of the side property lines onto the sidewalk.
- C. No permanent structures may be affixed to the sidewalk area used for the cafe or affixed to the building abutting the area for purposes of the cafe, and the area may be occupied only by chairs, tables, benches, umbrellas, movable railings, and

planters for the convenience of the patrons to be served in such area. Movable railings or planters shall be so arranged as to enclose the dining area, and the sidewalk shall be inconspicuously marked to delineate the approved position of such barriers.

- D. A clear, unoccupied space must be provided, not less than three feet in width, from all entrances of the building abutting the sidewalk to the unoccupied portion of the public sidewalk.
- E. Neither outdoor lighting nor live or mechanical music may be used on or for the cafe area, except that in such cases where streetlighting is insufficient to so illuminate the dining area so that a hazard to those traveling the sidewalk may be created, the Fire Chief shall direct and the applicant shall provide such lighting for nighttime hours as the Fire Chief shall require.
- F. General comprehensive liability insurance naming the applicant and the City of Newburgh, its officers, agents and employees as named insureds must be provided, with limits of \$25,000/\$50,000 for property damage and \$1,000,000/\$2,000,000 for personal injury, effective for the duration of the permit.
- G. Permits may be issued only during the period from April 13, 2021, to November 26, 2021, and shall be for such duration, within the time provided herein, as the applicant may request. **[Amended 4-12-2021 by Ord. No. 3-2021]**
- H. There shall be a minimum clear distance of five feet, exclusive of the area occupied by the sidewalk cafe, free of all obstructions, such as trees, parking meters, utility poles, streetlights, benches, planters, and movable railings in order to allow for adequate and safe pedestrian movement.

§ 249-4. Operating restrictions.

- A. All sidewalk cafes shall cease operations by 10:00 p.m. Sunday through Thursday and 11:00 p.m. Friday and Saturday.
- B. All alcoholic beverages to be served at sidewalk cafes shall be prepared within the existing restaurant and shall only be served to patrons while seated at tables. The drinking of alcoholic beverages by a member of the public while a patron of the sidewalk cafe within the confines of the sidewalk cafe area shall not be construed to be a violation of any local law prohibiting the consumption of alcoholic beverages in a public place or area.¹ The operator of a sidewalk cafe should be in full compliance with the licensing requirements of the State Liquor Authority, as the same may exist, and shall comply with all other laws and regulations concerning the sale of alcoholic beverages in the state. In the event that said sidewalk cafe is not in full compliance with State Liquor Authority laws, rules and regulations concerning the sale of alcoholic beverages, then serving alcoholic beverages in the sidewalk cafe area shall be prohibited.
- C. The restaurant shall not serve food or beverages to a patron at a sidewalk cafe unless that patron is seated at a table.

1. Editor's Note: See Ch. 105, Alcoholic Beverages.

- D. Sidewalk cafes and the public property on which they are located shall be kept neat and clean at all times and free from any substance which might damage the sidewalk or cause injury to pedestrians.

§ 249-5. Fees and deposits.

- A. The fee for each permit shall be as set forth in Chapter 163, Fees, payable upon the issuance of the permit.
- B. The sum of \$100 shall be deposited, upon the issuance of the permit, to guarantee compliance with the terms of this chapter and the removal of such items as may be placed upon the public sidewalk upon the expiration date of the permit. In the event that the permittee should violate any of the provisions of this chapter, the Fire Chief may terminate the permit, after five days' notice in writing by certified mail, return receipt requested, mailed to the address shown in the application, effective on the date of mailing, with an opportunity to the permittee for a hearing and upon a finding by the Commissioner of such violation, or upon the default of the permittee to appear for the hearing at the time and date specified in such notice.

§ 249-6. City action upon failure to comply.

In the event that the permittee should fail to remove all items placed upon the public sidewalk, upon the expiration of the permit by lapse of time, or for violation of this chapter, the Fire Chief may have such items removed, forfeit the deposit for the cost and charge the permittee for any excess cost above the deposit, together with the cost for storage of such items until removed by the permittee from storage. In the event that the permittee should fail to pay the cost of storage and any excess cost of removal within 90 days after storage, the Fire Chief may sell the items at public auction, reimburse the City for all costs and, if any surplus moneys remain, pay them over to the permittee.

§ 249-7. Additional contents of permit.

The application provided in § 249-2 above shall contain the provisions of §§ 249-5 and 249-6 and shall require the consent of the permittee to its provisions.

§ 249-8. Penalties for offenses.

An offense against the provisions of this chapter shall be punishable by a fine of not more than \$250 or by imprisonment for not more than 15 days, or both.

§ 249-9. Sidewalk café operations in designated parking areas. [Added 6-22-2020 by Ord. No. 7-2020; amended 10-26-2020 by Ord. No. 9-2020]

- A. An applicant for a sidewalk cafe permit may apply to extend the sale of food and beverages as authorized in this chapter within certain designated public parking areas on a temporary basis, as provided herein.
- (1) No designated public parking area may be wider than the side property lines. The dimensions of the designated public parking area shall be determined by the Fire Chief, based on safety and traffic considerations near the proposed space.

- (2) The applicant may not place or erect any structures or enclosures that accommodate the storage of accumulated garbage in the designated public parking area or any areas adjacent to it. No application may interfere with any public service facility, including but not limited to, bus stops, lampposts, lighting fixtures, mailboxes, public benches, or telephone booths located on the sidewalk.
- B. The applicant shall comply with all other provisions of this chapter.
- C. In addition to the application and site plan of the proposed area, the applicant shall also provide additional information as required by the Fire Chief or the Police Chief as deemed necessary to protect the safety and welfare of pedestrians and patrons, including but not limited to:
- (1) A map showing the design and location of all structures within the designated public parking area, such as security barriers, planters, landscaping, tables, chairs, and umbrellas;
 - (2) The number of proposed tables;
 - (3) The linear square footage of the proposed space;
 - (4) Compliance with all requirements of the Americans with Disabilities Act;
 - (5) Compliance with COVID-19 social distancing guidance issued by either New York State, including but not limited to any agencies thereof, or the Orange County Department of Health;
 - (6) Sufficient barriers, such as planters or railings, that physically separate patrons from both pedestrian and vehicular traffic;
 - (7) Location of signage indicating that food and/or beverages can only be consumed while seated at a table, bar, counter; proof of submission of compliance with the New York State Food Service Guidelines for Employers and Employees, Interim Guidance for Outdoor and Take Out-Delivery Food Services During the COVID-19 Public Health Emergency, and Interim Guidance for Food Services During the COVID-19 Public Health Emergency.
- D. Upon meeting the requirements of § 249-9C, the Fire Chief shall approve the application. The Fire Chief shall then forward the application to the City Manager, with a copy of the application and the map of the designated parking area. The City Manager is authorized by § 288-3 to suspend parking in the proposed designated parking area up to and including November 30, 2020.
- E. The Fire Chief may deny the application and state the reasons for the denial in a letter to the applicant. The applicant may appeal the denial to the City Manager.
- F. The Fire Chief shall have authority to execute any forms prescribed by the New York State Liquor Authority ("SLA") granting jurisdiction to the SLA to monitor the conduct of the applicant in any sidewalk cafe and designated parking areas.
- G. There shall be no fee for a permit pursuant to this chapter for the year 2021. **[Amended 4-12-2021 by Ord. No. 3-2021]**

- H. This § 249-9, and any authority granted pursuant thereto, shall automatically expire on November 26, 2021, or when terminated earlier by state action. **[Amended 4-12-2021 by Ord. No. 3-2021]**
- I. Any permits previously issued pursuant to Ordinance No. 7-2020 of June 22, 2020, shall be automatically extended and now expire on November 30, 2020.