A regular meeting of the City Council of the City of Newburgh was held on Monday, August 12, 2024 at 7:00 PM in the third floor Council Chambers at City Hall, 83 Broadway, Newburgh, NY.

Moment of Silence / Momento de Silencio

Pledge of Allegiance / Juramento a la Alianza

Roll Call / Lista de Asistencia

PRESENT: Mayor Torrance Harvey, presiding; Councilmember Martinez, Councilmember McLymore, Councilmember Monteverde, Councilmember Shakur, Councilmember Sklarz, Councilmember Sofokles-7

Mayor Harvey pointed out there are communication devices available, in Spanish language, for anyone who needs to use them tonight.

COMMUNICATIONS

Approval of the minutes from the City Council meeting of July 22, 2024 / Aprovacion del Acta de la Reunion General del Consejal del 22 de Julio de 2024

Councilman Shakur moved and Councilwoman Sofokles seconded.
Ayes: Martinez, Mclymore, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7
Carried

City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

City Manager Todd Venning highlighted key points in city business.

PRESENTATIONS

Certificate of Recognition for Retiring City Clerk

A Certificate of Recognition was presented to recently retired City Clerk Lorene Vitek, who dedicated thirty-five years of exceptional service to the City of Newburgh. The council thanked Lorene and her family for being a part of our lives.

Lorene stated that it didn't feel like thirty-five years had passed, and she will truly miss her City Hall family. She is also looking forward to seeing what the next chapter of her life will bring.

Public Hearing - Local Law repealing and replacing Chapter 240 Article III Prohibition of Eviction without Good Cause

Mayor Harvey opened a public hearing to receive comments concerning a proposed Local Law repealing and replacing Chapter 240 "Rental Properties", Article III entitled "Prohibition of Eviction without Good Cause"

Daniel Atona, residing in Poughkeepsie, and speaking on behalf of For the Many, commented. He thanked the council for doing the people's work. The Cities of Albany, Kingston, Middletown and Ithaca have already passed Good Cause, so Newburgh should work quickly to pass it too. Newburgh showed us bold leadership when they passed Good Cause; but it ended up getting watered down by landlords and developers. Now you have explicit permission from New York State to pass it, and to opt-in, by defining a landlord as "1-Unit" and also setting the high threshold of 345% of fair market rent. There is no justifiable reason to water it down anymore. He trusts that the council will pass it on Monday, September 9th. He also hopes that tenants will use their newfound rights to organize. He stated that tenants' groups are safer in numbers.

Anthony Grice, residing in Washingtonville, commented. He sat on the council when it passed good cause. It was the right thing to do then and it is the right thing to do now. It was struck down because the State preempted us, not because it was illegal. Now that it is legal we can opt-in. He encouraged the council to go with the strongest definition to protect the majority of our residents, which are tenants. He also warned us not to fall into the misinformation that gets spread. He encouraged the council to stay strong. You got this! He has the utmost confidence in this city council.

Steve Pampinella, residing in City of Newburgh, commented. He thanked the council for passing ETPA previously. The council's commitment to protecting the working class is very clear. He hopes that we support Good Cause with the strongest possible protections, by defining the landlord threshold as "1-unit", as well as having the added protection of the 345 % threshold. It is important to make sure, as the economy puts more and more stress on residents, that we keep Newburgh affordable for ordinary people. Working people need a place to live with dignity and respect. They also need to feel that they are not going to lose their homes. This bill makes that possible for families in Newburgh, despite whatever the economy does in the Hudson Valley.

Mark Sanchez Potter, resident, commented. He is here to voice his support of good cause, and the strongest form of it, which includes the landlord and fair market rent thresholds. The council did an incredible job on it previously, but it was struck down. Now it is completely legal to do it. Governor Hochul signed it into law. Potter thanked the council, particularly Councilmember Martinez for championing good cause in the City of Newburgh. It is what we need in our city for the working class. It is a good thing for our city, and he hopes the council passes it into law.

Cynthia Gilchristen, residing in City of Newburgh, commented. She wants good cause to be passed, because she has a personal housing story to tell. One of her patients is disabled, and was hospitalized. Now her housing complex says that she can't come back to her

apartment. She has to go to a lawyer so that she retains her rights. The woman is disabled and elderly, and she feels the company is trying to take advantage of her. It is for this reason that we need things, such as good cause, in place. People need a safe place to live. She prays that this passes and that the council does the right thing for Newburgh.

Gabrielle Hill, lifelong resident of Newburgh, commented. We sometimes get caught up in numbers, but let's remember we are talking about families. When a family is facing eviction, the housing instability affects our children too. Hill has rented apartments in the City of Newburgh. She recalled that it is important for landlords to have communication with their tenants. Give them adequate notice to find a new place, especially for those renters who are on fixed incomes. Let's find a way to get Good Cause passed. We always talk about the children being our future; but, if their present is rocky and shaky, then what kind of future are we giving our children now?

Elizabeth, City of Newburgh resident, commented. She implored the city council to pass the strongest version of good cause eviction. This council has shown consistency, and it shows that it cares about its residents. Displacement has had a terrible history in Newburgh. You need to have community members that are building roots in Newburgh, without them having to feel as though they could be uprooted at any given time. If landlords have hardworking tenants, then why do they feel they have to look for new tenants? We are not asking for free handouts; but there are crafty landlords who hide behind LLCs. As a former real estate agent, she knows these tactics very well. We need to define small landlord, as someone who owns one rental unit. You passed more complex resolutions in the past, so this should be a piece of cake.

Andre Nyles, resident of City of Newburgh, commented. He implored the council to pass good cause with the strongest protections possible for tenants. He also asked that we clearly define a small landlord as someone with one unit.

Andrew Hiller, resident of Rosendale, and speaking on behalf of Mid-Hudson Valley DSA Working Group, commented. He is thrilled to see that Newburgh is considering good cause again. He knows the courts haven't made it easy to protect tenants; but the housing crisis continues. Between 2021 and 2024 rents increased over 25% faster than the rate of inflation. Tenants have to earn over 80K in income in order to be able to afford rent. Landlords that treat their tenants fairly will have nothing to worry about. Hiller encouraged the council to continue to stand with tenants to make sure as many of them are covered by good cause, by defining a small landlord as one unit, and setting the high rent exemption rate at 345% of area fair market rent.

Bridget McMillian, resident of City of Newburgh, commented. She missed the first time this council passed good cause. She is very excited about it coming up again. She has read about the LLC loopholes that exist, and it is extremely difficult and convoluted to discover owners of some properties. She has been lucky to live in a wonderful landlord-tenant situation in Newburgh. But we can't rely on luck. When someone purchases a building with multiple units, legislating and regulating that process means that it is one more thing that business owners have to take into account in their business plans. Her neighbor was evicted because the owner wanted to turn the building into an Air BnB, not because she did not pay her rent. She thanked the council for considering the strongest possible version of good cause.

Jason Eachman, residing in Middletown, and speaking on behalf Access Supports for Living, commented. He thanked the council for its service to this city. Shelters are full in Orange County, and the hotels are overflowing. He helps people fill out shelter applications on a daily basis. There is a three to five-year waitlist on housing applications. Many homeless families are working class individuals that work above 40 hours per week. As someone who is involved in social work, it breaks his heart to see. It sucks to see landlords scheming to find loopholes. It is important that Newburgh defines a small landlord as someone who owns no more than one rental unit. Good cause eviction helps keep good tenants in their homes, so that we can continue to house the unsheltered. He implored the city to lead the way for other cities to follow.

Amanda Krum, residing in Middletown, and speaking on behalf of Fearless, commented. Good cause eviction is crucial. She has come across many individuals facing unreasonable evictions. Good cause will give renters a piece of mind, and allow them to be able to renew their leases. It is important that Newburgh defines a small landlord as one rental unit. Rent is going up locally, and people are being forced out of their homes. We need to protect our community and residents. Imagine someone working every day to provide for their family, and then one day when the lease is up, it is not renewed because the landlord wants to refurbish the building and turn it into and Air BnB for more money. Krum hopes Newburgh will join other communities and pass good cause eviction.

Naomi Dan, residing in Kingston, and speaking on behalf of Housing Justice for all, commented. This is the statewide coalition that led the fight to pass Good Cause at the State level. It took many years of organizing by tenants. The city's passage of this law helped us build the power we needed to get the State to finally pass Good Cause. It provides the right to a lease renewal and allows tenants to dispute high rent hikes without fear of retaliation. Passing a strong version of good cause is the right and next step for Newburgh. If you don't close the loophole, then 50 % of tenants won't have these protections. Also it is important to set the high rent exemption at 345 % of fair market rent. She is excited to see this council be a statewide leader in smart policies that help prevent displacement. Passing good cause can't be the last step though. As Newburgh faces pressure of speculation and inflation, rent stabilization is a critical tool to prevent rent gouging and displacement for tenants, while also balancing rising costs for landlords.

Murray Cox, residing on Courtney Avenue, commented. Even though he is a homeowner, he supports the majority of Newburgh residents, who are renters. He hopes we pass the strongest version of good cause. He runs a website that tracks housing data, and landlord corporations are now creating LLCs for their property portfolio. Without the exemptions only covering landlords with no more than one unit, these corporations will just create multiple LLCs just to hide the ownership.
Diamond Harris, residing in the City of Newburgh, moved to Newburgh for affordability and to escape high inflations costs. She works two jobs just to be able to afford rent. She would hate to come home, to find out her landlord wants her gone, so that he can rent out his apartment for higher rent. She thanked the council for all of the work it does for the community.

Pastor Rosie, residing in the City of Newburgh, commented. She supports communication. If you have a good landlord, then you need to talk to him. Insurance and water rates have tripled. She is able to keep her rents low because she doesn't have a mortgage. She has advocated for tenants; but communication is the most important thing. She implored the

council to sit down and do the math when they are contending with it. Some landlords are good landlords. Prices have gone off the charts. There are different rules for our historical buildings. Not all landlords are trying to slip and slide, because they, too, are trying to live in this economy. There are two sides of the coin, and a 90-day notice is not really that bad. She agrees with everything that has been said, and she will continue to advocate for anyone who is truly a good tenant. We want to be able to live together, because the economy is rising and we all have to help each other.

There being no one else wishing to speak, for or against this public hearing, this portion of the meeting was closed.

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

Gabrielle Hill commented. Since we are on the theme of communication, she requested that city staff put a sign on the door at City Hall whenever the meeting venue is changed in the future. Not everyone reads the newspapers, or has online access, and there a lot of residents that don't drive; so communication is important. To all the motorists driving in the city, "Slow Down!" Where are you going? We have children and elderly residents in our community. She hopes that when officers are patrolling, they will use that opportunity to help slow down traffic. The intersection of Liberty and Clinton Streets needs to be evaluated. Many children go to the store near that intersection for their grandparents. Also, Social Security just uprooted and left Newburgh. Again, we need better communication.

Andre Nyles, Ward 1, commented. He is a part of the Digital Navigators of the Hudson Valley, which is funded through the Ramapo Catskill Library System. They are offering free support for anyone who needs tech service (See flyer attached)
Dennis Grant, residing in Ward 1, commented. In 2024 we have reneged on the imagination and vision of having a police commissioner. The leadership has led our city out of financial ruin, and into financial stability, but he does not feel like we know how to make this city safer. The language of the community is safety. Grant believes that our current police chief would truly welcome a competent police commissioner. While we have hired more police officers, Grant doesn't feel like more cops mean the situation is better in Newburgh. He asked the council to stop gassing up the police chief to think he can do the job of two leadership positions.

Daniel Atona commented. He believed a landlord, who sat next to him, tried to intimidate him over his public comments. Atona stated that he would not be intimidated, and he will continue to speak and advocate for tenants.

Pastor Rosie commented. She attended the ZBA meeting concerning the development project by FD Water Streets Holding Development, across from Regal Bag. Newburgh wants investors who are going to be mindful of current residents. She owns property that overlooks that exact site. She has not received a letter from the city about the proposal. Water Street is our main street coming into our city, and it gives people a first impression of Newburgh. The traffic on Water Street is going to be a serious problem if that project occurs. She envisions a dog park instead. Further study is necessary, and whatever is built

there should be beautiful. Also there are a limited number of handicapped parking spots on Broadway.

Julie Nicholas, residing in the City of Newburgh, commented. Tenants are not fretting about a small rent increase. It is a problem when the landlord insists on an extreme increase in rent that presents a problem. Some people only have a small amount of monthly income. Any time a landlord goes up on the rent above and beyond, it makes it so difficult to afford that people have to move. Many younger and older people have limited incomes, and can't afford high rents. We have a lot of homelessness and hunger in Newburgh. In many cases, once people pay rent there is not enough money remaining for necessities. Let's be fair and think about everyone.

This portion of the meeting was closed.

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

Councilmember Martinez commented. Recently she started a new position with a non-profit legal firm that helps tenants who are facing eviction. Every day she hears from tenants on the verge of losing their homes. She has learned a lot about landlord-tenant law, and she discovered that a lot of procedures employed by some landlords are not legal. Up until recently, she could not afford to live on her own. We have to do better to protect tenants on limited incomes. She wants to be considerate of everyone's story. She stated that she and her colleagues are fully aware of the LLC loopholes. She appreciates everyone that spoke tonight.

Councilmember McLymore commented. Growing up in Newburgh, he remembered his family renting apartments until they could afford to buy their own home. His position on good cause has not changed, and he will continue to support it; however, communication between landlord and tenants is necessary. He is pleased with the city manager's Part 1 Crime Report, and the fact that crime in Newburgh is down overall. Speaking of crime, he reminded everyone to attend National Night Out, which also falls on the same night as the next school board meeting. He implored the community to try to attend both events. He is pleased to see that the Johnston Street Sewer Repair work is completed. McLymore pointed out that it is important that we come together to understand the vision. Some of us work in different fields of law enforcement, so we have different perspectives and experiences concerning issues. It is important that we come together and uplift our community and talk about issues. The Police Commissioner position is something that we've talked about for a long time. He hopes we can continue to have a dialogue instead of attacking each other.

Councilmember Monteverde commented. She thanked everyone for coming out to speak about good cause. We passed it a while ago, and it was challenged in court. She believes that a stronger version of good cause will be passed this time. While we all know which class of people are making money in this country, nobody is talking to the working class who are struggling to make ends meet. Monteverde stated that we have to go to the polls in November if we are going to change our situation; otherwise we are giving up on our democracy. She thanked the police department and city manager for working hard to

reduce crime in our city. She thanked DPW for paving, and she would like to see a lot more paving done before winter arrives. She shouted out the water department for doing a great job on the lead line replacements. It is our right to have clean drinking water.

Councilmember Shakur deferred comment at this time.

Councilmember Sklarz commented. A couple weeks ago he attended a baseball games at Dutchess Stadium. The Hudson Valley Renegades honored the Newburgh Arms, and Mayor Harvey threw out the first pitch. Although it was a miserable and rainy evening, it was a nice night for Newburgh. He reminded everyone about a 3-day event at North High during Aug 16th – Aug 18th, to help guide people on the path to homeownership. Pre-registration for the event is necessary. We always talk about rental issues in the city; but we surely need more home ownership too. He urged anyone to contact him, so he could send them more information about the event.

Councilmember Sofokles commented. She has been coming to council meetings since the 1980s. She thanked the community for being involved. She hopes to see everyone at National Night Out tomorrow. She also thanked the police department and water department for all it does in the community.

Mayor Harvey commented. He thanked everyone that came out and spoke about good cause eviction. It takes a lot of courage to speak about what is right and what is necessary and needed. When he first got on city council the ratio of renters to homeowners was 70-30. The ratio is closer to 65-35 now. He mentioned Donte Jackson of NACA will be here to promote homeownership, even for those who are on Section 8 Housing. You've got good landlords and then you have slumlords. Slumlords and landlords are two different things, and he is sick of the slumlords. This council will continue to unite for marginalized people in this community. We currently have six development projects, and we want to build Newburgh back better. Governor Hochul declared a housing crisis in Newburgh. Renters are not the only ones suffering in these inflationary times, the entire country is going through difficult times. As his colleagues have stated, we need to get out and vote. Historically, Newburgh has low turnout when it comes to voting.

This portion of the meeting was closed.

CITY MANAGER'S REPORT

Resolution No. 165 - 2024 - Change Order 1G with Giacorp Contracting, Inc. on the Automated Gate at the Wastewater Treatment Plant Project

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

Resolution No. 166 - 2024 - CFA Application for Construction of the LTCP Phase-V South Interceptor Sewer Improvements Project

Councilwoman Sofokles moved and Councilwoman Martinez seconded.
Ayes: Martinez, Mclymore, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7

Adopted

Resolution No. 167 - 2024 - Contract with ARCADIS for Professional Services on the Lead Water Service Inventory

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

Resolution No. 168 - 2024 - International Festival - Award of RFP No. 15-24 for carnival rides, concessions, and amusements

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

Resolution No. 169 - 2024 - Thrive - E-mail Licensing Annual Renewal

Councilwoman Sofokles moved and Councilwoman Monteverde seconded.
Ayes: Martinez, Mclymore, Monteverde, Shakur, Sklarz, Sofokles, Harvey - 7
Adopted

Resolution No. 170 - 2024 - Purchase of 42 Bridge Street

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

Resolution No. 171 - 2024 - Purchase of 57 Hasbrouck Street and 57 Hasbrouck Street Rear

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

Resolution No. 172 - 2024 - 279 Grand Street - Release of Restrictive Covenants

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

Resolution No. 173 - 2024 - 83 Ann Street - Release of Restrictive Covenants

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

Resolution No. 174 - 2024 - Orange County Municipal Tourism Grant - Newburgh Brewing Co. & Downtown District Alliance

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

Resolution No. 175 - 2024 - GIVE FY2024-2025 - Anti-Violence Coordinator subrecipient grant agreement

Councilwoman Sofokles moved and Councilman Sklarz seconded.
Ayes: Martinez, Mclymore, Monteverde, Sklarz, Sofokles, Harvey - 6
Nays: Shakur-1
Adopted

Resolution No. 176 - 2024 - 2024 Personnel Book Amendment for the Police Department

Councilman Mclymore moved and Councilwoman Sofokles seconded.
Ayes: Martinez, Mclymore, Monteverde, Sklarz, Sofokles, Harvey - 6
Nays: Shakur-1
Adopted

Resolution No. 177 - 2024 - 2024 Personnel Book Amendment for Code Compliance

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

Resolution No. 178 - 2024 - Conservation Advisory Council - Website Development Agreement for Climate Smart Communities Taskforce

Councilwoman Sofokles moved and Councilman Sklarz seconded.
Ayes: Martinez, Mclymore, Monteverde, Sklarz, Sofokles, Harvey - 6
Nays: Shakur-1
Adopted

Resolution No. 179 - 2024 - Chapter 93 - Amendment to "Repurchase of In Rem Properties"

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

Resolution No. 180 - 2024 - Execute a Payment of Claim with Yameliz Quinonez

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

Resolution No. 181 - 2024 - To Authorize the Settlement of Litigation Regarding the Foreclosure of Tax Liens in Rem for 2021 of 20 Pierces Road

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

Resolution No. 182 - 2024 - To Authorize the Settlement of Litigation Regarding the Foreclosure of Tax Liens in Rem for 2021 of 54 Fowler Avenue and 88 Maple Street

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

Resolution No. 183 - 2024 - To Authorize the Settlement of Litigation Regarding the Foreclosure of

Tax Liens in Rem for 2021 of 25 Carpenter Avenue

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

NEW BUSINESS

Councilmember Shakur commented. The Newburgh Steeler's football season is coming up soon. He does not foresee that the building will be ready in time. The children need a place to change into their uniforms and he would like to discuss some alternatives for the youth.

Mayor Harvey stated that the executive team is aware of it, and they will discuss it at the next work session.

There was no other new business to discuss.

OLD BUSINESS

Mayor Harvey requested an update on the Colored Burial Ground project. He is aware that there is some signage they need to do at the courthouse.

Councilmember Martinez requested an update on ETPA for the next work session.

There was no other old business to discuss.

FURTHER COMMENTS FROM THE COUNCIL

Councilmember Martinez commented. She thanked everyone voicing their concerns this evening. Their voices matter to her. She shouted out the dpw, water and engineering departments for working hard to maintain this city. She receives a lot of complaints about roads being closed; but you can't have it both ways. Roads have to be closed to be able to repair the potholes.

Councilmember McLymore commented. He thanked Ms. Gabrielle Hill for hosting the 5th Annual Frederick Douglas event he attended yesterday. It was the first time he attended, and it was awesome, educational, inspirational and motivational. Even though a lot of people attended, he feels there should've been more people present. He reminded everyone that his cousin, Donte Jackson, will be here this week, representing the company that he works for (NACA). The organization works with people interested in attaining homeownership regardless of their income. McLymore also reminded everyone about National Night Out tomorrow. Come out and let's interact with others in the community. Last, he remarked that Newburgh is a great city. He has lived here for forty-seven years, and he has never left.
We are working hard to have a safe and better city. Let's all work together to get what we

need to be able to lead successful lives in Newburgh.

Councilmember Monteverde thanked Ms. Hill for the wonderful event. It was the third time she attended. She loved the venue and she looks forward to attending it yearly. Monteverde commended the work dpw is doing with the paving. Many constituents ask her when their roads are going to be paved. She always refers them to the city's paving plan. It is available on the website. She thanked everyone for coming out to speak tonight.

Councilmember Shakur thanked For the Many for coming out and doing the work it does for good cause. He is getting frustrated though, because a larger portion of the community are not coming out for the meetings. He receives roughly fifty calls per week from people who complain about their landlords. If it wasn't for *For the Many*, then nobody would've been here speak in support of good cause. He feels that if the community is going to remain silent about issues, then he is going to remain silent about them too.

Councilmember Sklarz thanked everyone for coming out to speak tonight.

Councilmember Sofokles commented. It is always good to hear from everyone. You have spoken out about something you feel passionate about, and that is a great thing. She loves Newburgh, and has lived here all her life. Being on the council has opened her eyes to a lot of good things, and it is rewarding to see the condition our city is in. Just drive around Newburgh; there is so much happening now than there has ever happened before.

Mayor Harvey thanked the residents in the City of Newburgh. He has been here thirty-three years, and raised his children in Newburgh. It has always been a tough city, but there is a lot of love here too. He thanked Gabrielle Hill for an amazing evening commemorating Frederick Douglas' visit to the City of Newburgh on August 11, 1970. He thanked her for instilling that energy into her daughter too. Her daughter is following her mother's leadership and has amazing shoes to fill. This is what we mean by 'Legacy'. Newburgh was on the chests of every one of the baseball players at Dutchess Stadium. Even though the skies were gray, he stated, "Rain and storms don't stop Newburgh." Although the game was delayed for two hours, it still occurred. This is the type of willpower that the people of Newburgh have for our city, and he was proud to be a part of it. He also attended a basketball tournament at Beacon High School against Poughkeepsie. Even though Poughkeepsie is his hometown, he is proud to say that his heart bleeds Blue and Gold. Sitting on the side of Newburgh, he stated that he has taught at Newburgh Free Academy far longer than any student has ever matriculated.

This portion of the meeting was closed.

ADJOURNMENT

There being no further business to come before the council, the meeting adjourned at 8:45 P.M.

Submitted,

KATRINA COTTEN

CITY CLERK

RESOLUTION NO.: 154 - 2024

OF

JULY 22, 2024

RESOLUTION SCHEDULING A PUBLIC HEARING FOR AUGUST 12, 2024 TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW REPEALING AND REPLACING CHAPTER 240 "RENTAL PROPERTIES", ARTICLE III ENTITLED "PROHIBITION OF EVICTION WITHOUT GOOD CAUSE" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Repealing and Replacing Chapter 240, Article III entitled 'Prohibition of Eviction without Good Cause' of the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the regular meeting of the Council to be held at 7:00 p.m. on the 12th day of August, 2024, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

I, Lorene Vitek, City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held July 22, 2024 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 23 day of July 2024

City Clerk

LOCAL LAW NO.: ________ - 2024

OF

________________________, 2024

A LOCAL LAW REPEALING AND REPLACING CHAPTER 240 "RENTAL PROPERTIES", ARTICLE III ENTITLED "PROHIBITION OF EVICTION WITHOUT GOOD CAUSE" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Repealing and Replacing Chapter 240, Article III entitled 'Prohibition of Eviction without Good Cause' of the Code of Ordinances of the City of Newburgh".

SECTION 2 – PURPOSE AND INTENT

The Council of the City of Newburgh commissioned and completed a Housing Needs Assessment to evaluate current housing needs in the City of Newburgh and to promote the development of long-term housing policies. The Housing Needs Assessment found housing cost burden rates for renter-occupied homes at significantly higher rates for City of Newburgh renters than for those in Orange County and all City of Newburgh census tracts had cost burden rates for renters over 50%. Renters in the City of Newburgh, especially, low- and moderate-income renters increasingly are faced with the refusal of landlords to continue to rent to otherwise credit-worthy tenants and tenants who are otherwise following all applicable laws. Increased real estate prices in the City is leading to gentrification and the displacement of tenants who cannot afford increasing rents. The Housing Needs Assessment produced the Newburgh Housing Report which outlined policy themes, goals and actions that could assist the City in developing a long-term strategy for meeting local housing needs. Strengthening and expanding eviction prevention programs, including adopting a "just cause" eviction law was identified as an action item to reduce incidents of eviction leading to homelessness. The primary purpose of this Article is to implement a policy recommendation of the City of Newburgh Housing Needs Assessment and Newburgh Housing Report intended to protect tenants from exorbitant and predatory rent increases that could result in a significant increase in homelessness in the City of Newburgh.

This local law repeals the original version of Good Cause Eviction enacted by the City Council by Local Law No. 6-2021 and exercises the City of Newburgh's option to adopt the provisions of Article 6A of the Real Property Law, enacted on April 20, 2024 by New York State, and which supersedes and preempts Local Law No. 6-2021.

SECTION 3 – AMENDMENT

Chapter 240, Article III of the Code of Ordinances of the City of Newburgh is hereby repealed and replaced as follows:

§ 240-30. Protections established; legislative authority.

The City of Newburgh hereby adopts and establishes a Prohibition of Eviction without Good Cause pursuant to the provisions of section 213 of Article 6-A of the Real Property Law of the State of New York.

§ 240-31. Local Options.

A. Pursuant to section 213-2(a) of Article 6-A of the Real Property Law of the State of New York, the City of Newburgh provides that any unit on or within a housing accommodation shall be exempt from the provisions of this article if it has a monthly rate above three hundred forty-five percent of fair market rent as published by the United States Department of Housing and Urban Development and as shall be published for the County of Orange by the New York State Division of Housing and Community Renewal.

B. Pursuant to section 213-2(b) of Article 6-A of the Real Property Law of the State of New York, the City of Newburgh defines "small landlord," for purposes of this Article, to mean a landlord of no more than one unit anywhere in the State of New York.

SECTION 4 – SEVERABILITY

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

SECTION 5 – CODIFICATION

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

SECTION 6 – VALIDITY

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

SECTION 7 – EFFECTIVE DATE

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

§ 3. This act shall take effect immediately and shall apply to assessment rolls based on taxable status dates occurring on or after such effective date.

PART HH

Section 1. The real property law is amended by adding a new article 6–A to read as follows:

Ch. 50, Art. 6–A, prec. 210

ARTICLE 6–A

GOOD CAUSE EVICTION LAW

<< NY REAL PROP § 210 >>

§ 210. Short title

This article shall be cited as the “good cause eviction law”.

<< NY REAL PROP § 211 >>

§ 211. Definition

1. The term “housing accommodation”, as used in this article shall mean any residential premises, including any residential premises located within a mixed-use residential premises.

2. The term “landlord” as used in this article shall mean any fee owner, lessor, sublessor, assignor, court appointed receiver, or any other person or entity receiving or entitled to receive rent for the occupancy of any housing accommodation or an agent of any of the foregoing.

3. (a) The term “small landlord” as used in this article shall mean a landlord of no more than (i) ten units in the state, or (ii) such other number of units in the state designated by local law pursuant to paragraph (b) of subdivision two of section two hundred thirteen of this article.

(b) If a landlord is a single natural person, then that landlord is a small landlord if they own or are a beneficial owner of, directly or indirectly, in whole or in part, no more than the number of units established pursuant to paragraph (a) of this subdivision; if there is more than one natural person owner, then no one person may own or be a beneficial owner of, directly or indirectly, in whole or in part, more than the number of units established pursuant to paragraph (a) of this subdivision.

(c) If a landlord is an entity, organized under the laws of this state or of any other jurisdiction, then that landlord is a small landlord if each natural person with a direct or indirect ownership interest in the entity or any affiliated entity owns no more than the number of units established pursuant to paragraph (a) of this subdivision. If an entity cannot provide the names of all natural persons with a direct or indirect ownership interest in the entity, such entity shall not qualify as a small landlord.

4. The term “tenant” as used in this article shall mean a tenant, sub-tenant, lessee, sublessee, or any other person entitled to the lawful possession, use or occupancy of any housing accommodation. An individual shall not be considered a tenant for the purposes of this article if:

(a) no landlord-tenant relationship exists, as established pursuant to any of the grounds set forth in section seven hundred thirteen of the real property actions and proceedings law; or

(b) the individual is an occupant, as defined in paragraph (b) of subdivision one of section two hundred thirty-five-f of this chapter, who has not received the landlord's express or implied consent to use the housing accommodation as their primary residence in exchange for payment of rent.

5. The term “rent” as used in this article shall mean any consideration, including any bonus, benefit or gratuity demanded or received for or in connection with the possession, use or occupancy of housing accommodations or the execution or transfer of a lease for such housing accommodations. The term “rent” shall not include any separate charges for services, amenities or facilities which the tenant pays in addition to rent, including but not limited to charges for fitness centers, parking, storage, or facility rentals, provided that such charges are not imposed or increased for the purposes of circumventing this article.

6. The term “disabled person” as used in this article shall mean a person who has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which substantially limit one or more of such person's major life activities.

7. The term “inflation index” shall mean five percent plus the annual percentage change in the consumer price index for all urban consumers for all items as published by the United States bureau of labor statistics for the region in which the housing accommodation is located, as established for the most recent preceding calendar year as shall be published by the division of housing and community renewal no later than the first of August in any given year, provided further that for New York city and any village, town, or city that adopts the provisions of this article by local law pursuant to subdivision one of section two hundred thirteen of this article in the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, and Westchester, such consumer price index shall be the New York–Newark–Jersey City, NY–NJ–PA consumer price index, and provided further that for any other village, town, or city that adopts the provisions of this article by local law pursuant to subdivision one of section two hundred thirteen of this article, such consumer price index shall be the Northeast Region consumer price index.

8. The term “local rent standard” shall mean a rent increase equal to the inflation index or ten percent, whichever is lower.

<< NY REAL PROP § 212 >>

§ 212. Applicability in the city of New York

Upon the effective date of this section, this article shall apply to the city of New York.

<< NY REAL PROP § 213 >>

§ 213. Voluntary participation by local governments outside the city of New York

1. Applicability. This article shall apply in any village, town, or a city, other than the city of New York, that, acting through its local legislative body, adopts the provisions of this article by local law.

2. Opt-in by a village, town, or city, other than the city of New York. A village, town, or city that adopts the provisions of this article by local law pursuant to subdivision one of this section may:

(a) provide that any unit on or within a housing accommodation shall be exempt from the provisions of this article if such unit has a monthly rent above a percent of fair market rent, as published by the United States department of housing and urban development and as shall be published for each county in the state by the division of housing and community renewal pursuant to subdivision fifteen of section two hundred fourteen of this article, that shall be established in the local law adopted pursuant to subdivision one of this section, provided that if such local law does not establish such percent of fair market rent, any unit on or within a housing accommodation with a monthly rent greater than two hundred forty-five percent of such fair market rent shall be exempt from the provisions of this article; and/or

(b) define "small landlord" as a landlord of no more than any number of units in the state that the village, town, or city enacts by local law, provided that if such local law does not define "small landlord," a "small landlord" shall mean a landlord of no more than ten units in the state.

3. Notwithstanding the foregoing provisions of this section, if a town and a village within such town both adopt the provisions of this article by local law pursuant to subdivision one of this section, the local law adopted by such town shall not apply within the territorial limits of a village within such town.

4. Nothing in this section shall permit a village, town, or city to which this article applies to preempt or alter the terms and provisions of this article within such village, town or city.

5. Within thirty days of receipt of a local law adopted pursuant to subdivision one of this section, and filed with the department of state pursuant to section twenty-seven of the municipal home rule law, the department of state shall notify the division of housing and community renewal of such adoption.

6. The division of housing and community renewal shall include in the annual publication required pursuant to subdivision seven of section two hundred eleven of this article a list including any village, town, or city, other than the city of New York, as to which the division of housing and community renewal has received the notice from the department of state required pursuant to subdivision five of this section indicating that such village, town, or city has adopted a local law pursuant to subdivision one of this section to apply the provisions of this article within such village, town, or city. Such list shall include the name of each village, town, or city that has adopted such a local law, the applicable fair market rent threshold within such village, town, or city for exemption from the provisions of this article established pursuant to paragraph (a) of subdivision two of this section, and the applicable definition of small landlord within such village, town, or city established pursuant to paragraph (b) of subdivision two of this section.

<< NY REAL PROP § 214 >>

§ 214. Covered housing accommodations

Where this article applies, it shall apply to all housing accommodations except a:

1. premises owned by a small landlord provided that in connection with any eviction proceeding in which the landlord claims an exemption from the provisions of this article on the basis of being a small landlord, such landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person who owns or is a beneficial owner of, directly or indirectly, in whole or in part, the housing accommodation at issue in the proceeding, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence; provided further that if the landlord is an entity, organized under the laws of this state or of any other jurisdiction, then such landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person with a direct or indirect ownership interest in such entity or any affiliated entity, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence;

2. owner-occupied housing accommodation with no more then ten units;

3. unit on or within a housing accommodation where such unit is sublet pursuant to section two hundred twenty-six-b of this chapter, or otherwise, where the sublessor seeks in good faith to recover possession of such housing accommodation for their own personal use and occupancy;

4. unit on or within a housing accommodation where the possession, use or occupancy of which is solely incident to employment and such employment is being or has been lawfully terminated;

5. unit on or within a housing accommodation where such unit is otherwise subject to regulation of rents or evictions pursuant to local, state or federal law, rule, or regulation;

6. unit on or within a housing accommodation where such unit must be affordable to tenants at a specific income level pursuant to statute, regulation, restrictive declaration, or pursuant to a regulatory agreement with a local, state, or federal government entity;

7. unit on or within a housing accommodation owned as a condominium or cooperative, or a unit on or within a housing accommodation subject to an offering plan submitted to the office of the attorney general, provided that nothing herein shall abrogate or otherwise limit any rights or obligations a tenant residing in a unit within a condominium or cooperative or a purchaser, owner, or offeror of a condominium or cooperative unit has pursuant to any other state law;

8. housing accommodation for which a temporary or permanent certificate of occupancy was issued on or after the first of January, two thousand nine, for a period of time of thirty years following issuance of such certificate;

9. unit on or within a housing accommodation that qualifies as a seasonal use dwelling unit pursuant to subdivisions four and five of section 7–108 of the general obligations law;

10. housing accommodation in a hospital as defined in subdivision one of section twenty-eight hundred one of the public health law, continuing care retirement community licensed pursuant to article forty-six or forty-six-A of the public health law, assisted living residence licensed pursuant to article forty-six-B of the public health law, adult care facility licensed pursuant to article seven of the social services law, senior residential community that have submitted an offering plan to the attorney general, and not-for-profit independent retirement community that offer personal emergency response, housekeeping, transportation and meals to their residents;

11. manufactured home located on or in a manufactured home park as defined in section two hundred thirty-three of the real property law;

12. hotel room or other transient use covered by the definition of a class B multiple dwelling under subdivision nine of section four of the multiple dwelling law, regardless of whether such use is located in a jurisdiction in which the multiple dwelling law applies;

13. dormitory owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school;

14. housing accommodation within and for use by a religious facility or institution; and

15. unit on or within a housing accommodation where the monthly rent is greater than the percent of fair market rent established pursuant to paragraph (a) of subdivision two of section two hundred thirteen of this article in a local law of a village, town, or city, other than the city of New York, adopting the provisions of this article pursuant to subdivision one of section two hundred thirteen of this article, or two hundred forty-five percent of the fair market rent, provided that fair market rent shall refer to the figure published by the United States department of housing and urban development, for the county in which the housing accommodation is located, as shall be published by the division of housing and community renewal no later than the first of August in any given year. The division of housing and community renewal shall publish the fair market rent and two hundred forty-five percent of the fair market rent for each unit type for which such fair market rent is published by the United States department of housing and urban development for each county in New York state in the annual publication required pursuant to subdivision seven of section two hundred eleven of this article.

<< NY REAL PROP § 215 >>

§ 215. Necessity for good cause

No landlord shall, by action to evict or to recover possession, by exclusion from possession, by failure to renew any lease, or otherwise, remove any tenant from housing accommodations covered by section two hundred fourteen of this article except for good cause as defined in section two hundred sixteen of this article.

<< NY REAL PROP § 216 >>

§ 216. Grounds for removal of tenants

1. No landlord shall remove a tenant from any housing accommodation covered by section two hundred fourteen of this article, or attempt such removal or exclusion from possession, notwithstanding that the tenant has no written lease or that the lease or other rental agreement has expired or otherwise terminated, except upon order of a court of competent jurisdiction entered in an appropriate judicial action or proceeding in which the petitioner or plaintiff has established one of the following grounds as good cause for removal or eviction:

(a)(i) The tenant has failed to pay rent due and owing, provided however that the rent due and owing, or any part thereof, did not result from a rent increase which is unreasonable. In determining whether all or part of the rent due and owing is the result of an unreasonable rent increase, it shall be a rebuttable presumption that the rent for a dwelling not protected by rent regulation is unreasonable if said rent has been increased in any calendar year, after the effective date of this article, or after the effective date of the local law in any village, town, or city that enacts such local law to apply this article to such village, town, or city pursuant to subdivision one of section two hundred thirteen of this article, by an

amount greater than the local rent standard, provided further that no rent increase less than or equal to the local rent standard shall be deemed unreasonable.

(ii) Whenever a court considers whether a rent increase is unreasonable, the court may consider all relevant facts, including but not limited to a landlord's costs for fuel and other utilities, insurance, and maintenance; but in all cases, the court shall consider the landlord's property tax expenses and any recent increases thereto; such relevant facts also shall include whether the landlord, other than in circumstances governed by paragraph (d) of this subdivision, seeks in good faith to raise the rent upon a renewal lease to reflect completed significant repairs to the housing accommodation, or to any other part of the building or real property in which the housing accommodation is located, provided that the landlord can establish that the repairs constituted significant repairs and that such repairs did not result from the landlord's failure to properly maintain the building or housing accommodation, and provided further that for the purposes of this subparagraph, “significantly repair” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or abatement of hazardous materials, including lead-based paint, mold, or asbestos in accordance with applicable federal, state, and local laws, and provided further cosmetic improvements alone, including painting, decorating, and minor repairs, do not qualify as significant repairs;

(b) The tenant is violating a substantial obligation of their tenancy or breaching any of the landlord's rules and regulations governing said premises, other than the obligation to surrender possession, and has failed to cure such violation after written notice that the violation cease within ten days of receipt of such written notice, provided however, that the obligation of tenancy for which violation is claimed was not imposed for the purpose of circumventing the intent of this article and provided such rules or regulations are reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term;

(c) The tenant is committing or permitting a nuisance in such housing accommodation, or elsewhere in the building or on the real property in which the housing accommodation is located, or is maliciously or by reason of gross negligence substantially damaging the housing accommodation, or causing substantial damage elsewhere in the building or on the real property in which the housing accommodation is located; or the tenant's conduct is such as to interfere with the comfort and safety of the landlord or other tenants or occupants of the same or another adjacent building or structure;

(d) Occupancy of the housing accommodation by the tenant is in violation of or causes a violation of law and the landlord is subject to civil or criminal penalties therefor; provided however that an agency of the state or municipality having jurisdiction has issued an order requiring the tenant to vacate the housing accommodation. No tenant shall be removed from possession of a housing accommodation on such ground unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not through neglect or deliberate action or failure to act create the condition necessitating the vacate order. In instances where the landlord does not undertake to cure conditions of the housing accommodation causing such violation of the law, the tenant shall have the right to pay or secure payment in a manner satisfactory to the court, to cure such violation provided that any tenant expenditures shall be applied against rent to which the landlord is entitled. In instances where removal of a tenant is absolutely essential to such tenant's health and safety, the removal of the tenant shall be without prejudice to any leasehold interest or other right of occupancy the tenant may have and the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. Nothing herein shall abrogate or otherwise limit the right of a tenant to bring an action for monetary damages against the landlord or to otherwise compel compliance by the landlord with all applicable state or municipal housing codes;

(e) The tenant is using or permitting the housing accommodation, or elsewhere in the building or on the real property in which the housing accommodation is located, to be used for an illegal purpose;

(f) The tenant has unreasonably refused the landlord access to the housing accommodation for the purpose of making necessary repairs or improvements required by law or for the purpose of showing the housing accommodation to a prospective purchaser, mortgagee or other person having a legitimate interest therein;

(g) The landlord seeks in good faith to recover possession of a housing accommodation for the landlord's own personal use and occupancy as the landlord's principal residence, or the personal use and occupancy as principal residence of the landlord's spouse, domestic partner, child, stepchild, parent, stepparent, sibling, grandparent, grandchild, parent-in-law or siblingin-law, when no other suitable housing accommodation in such building is available, provided that no judgment in favor of the landlord may be granted pursuant to this paragraph unless the landlord establishes good faith to recover possession of a housing accommodation for the landlord's own personal use and occupancy as the landlord's principal residence, or the personal use and occupancy as a principal residence of the landlord's spouse, domestic partner, child, stepchild, parent, stepparent, sibling, grandparent, grandchild, parent-in-law or sibling-in-law, by clear and convincing evidence. This paragraph shall not apply to a housing accommodation occupied by a tenant who is sixty-five years of age or older or who is a disabled person;

(h) The landlord in good faith seeks to demolish the housing accommodation, provided that no judgment in favor of the landlord may be granted pursuant to this paragraph unless the landlord establishes good faith to demolish the housing accommodation by clear and convincing evidence;

(i) The landlord seeks in good faith to withdraw a housing accommodation from the housing rental market, provided that no judgment in favor of the landlord may be granted pursuant to this paragraph unless the landlord establishes good faith to withdraw the housing accommodation from the housing rental market by clear and convincing evidence; or

(j) The tenant fails to agree to reasonable changes to a lease at renewal, including increases in rent that are not unreasonable as defined in paragraph (a) of this subdivision, as long as written notice of the changes to the lease were provided to the tenant at least thirty days, but no more than ninety days, prior to the expiration of the current lease.

2. A tenant required to surrender a housing accommodation by virtue of the operation of paragraph (g), (h), or (i) of subdivision one of this section shall have a cause of action in any court of competent jurisdiction for damages, declaratory, and injunctive relief against a landlord or purchaser of the premises who makes a fraudulent statement regarding a proposed use, removal from the rental housing market, or demolition of the housing accommodation. In any action or proceeding brought pursuant to this subdivision a prevailing tenant shall be entitled to recovery of actual damages, and reasonable attorneys' fees. Except as provided in this subdivision, nothing in this article shall create a civil claim or cause of action by a tenant against a landlord.

3. Nothing in this section shall abrogate or limit the tenant's right pursuant to section seven hundred fifty-one of the real property actions and proceedings law to permanently stay the issuance or execution of a warrant or eviction in a summary proceeding, whether characterized as a nonpayment, objectionable tenancy, or holdover proceeding, the underlying basis of which is the nonpayment of rent, so long as the tenant complies with the procedural requirements of section seven hundred fifty-one of the real property actions and proceedings law where applicable.

<< NY REAL PROP § 217 >>

§ 217. Preservation of existing requirements of law

No action shall be maintainable and no judgment of possession shall be entered for housing accommodations pursuant to section two hundred sixteen of this article, unless the landlord has complied with any and all applicable laws governing such action or proceeding and has complied with any and all applicable laws governing notice to tenants, including without limitation the manner and the time of service of such notice and the contents of such notice.

<< NY REAL PROP § 218 >>

§ 218. Waiver of rights void

Any agreement by a tenant heretofore or hereinafter entered into in a written lease or other rental agreement waiving or modifying their rights as set forth in this article shall be void as contrary to public policy.

§ 2. Paragraph (a) of subdivision 1 of section 226–c of the real property law, as amended by chapter 789 of the laws of 2021, is amended to read as follows:

<< NY REAL PROP § 226–c >>

(a) Whenever a landlord intends to offer to renew the tenancy of an occupant in a residential dwelling unit with a rent increase equal to or greater than five percent above the current rent, or the landlord does not intend to renew the tenancy, the landlord shall provide written notice as required in subdivision two of this section. **The notice shall append or contain the notice required pursuant to section two hundred thirty-one-c of this article, which shall state the following: (i) if the unit is or is not subject to article six-A of this chapter, the "good cause eviction law", and if the unit is exempt, such notice shall state why the unit is exempt from such law; (ii) if the landlord is not renewing the lease for a unit subject to article six-A of this chapter, the lawful basis for such nonrenewal; and (iii) if the landlord is increasing the rent upon an existing lease of a unit subject to article six-A of this chapter above the applicable local rent standard, as defined in subdivision eight of section two hundred eleven of this chapter, the justification for such increase.** If the landlord fails to provide timely notice, the occupant's lawful tenancy shall continue under the existing terms of the tenancy from the date on which the landlord gave actual written notice until the notice period has expired, notwithstanding any provision of a lease or other tenancy agreement to the contrary.

§ 3. The real property law is amended by adding a new section 231–c to read as follows:

<< NY REAL PROP § 231–c >>

§ 231–c. Good cause eviction law notice

1. A landlord as defined in subdivision two of section two hundred eleven of this chapter shall append to or incorporate into any initial lease, renewal lease, notice required pursuant to paragraph (a) of subdivision one of section two hundred twenty-six-c of this article, notice required pursuant to subdivision two of section seven hundred eleven of the real property actions and proceedings law, or petition pursuant to section seven hundred forty one of the real property actions and proceedings law, the following notice:

NOTICE TO TENANT OF APPLICABILITY OR INAPPLICABILITY OF THE NEW YORK STATE GOOD CAUSE EVICTION LAW

This notice from your landlord serves to inform you of whether or not your unit/apartment/home is covered by the New York State Good Cause Eviction Law (Article 6–A of the Real Property Law) and, if applicable, the reason permitted under the New York State Good Cause Eviction Law that your landlord is not renewing your lease. Even if your apartment is not protected by Article 6–A, known as the New York State Good Cause Eviction Law, you may have other rights under other local, state, or federal laws and regulations concerning rents and evictions. This notice, which your landlord is required to fill out and give to you, does not constitute legal advice. You may wish to consult a lawyer if you have any questions about your rights under the New York State Good Cause Eviction Law or about this notice.

NOTICE (THIS SHOULD BE FILLED OUT BY YOUR LANDLORD)

UNIT INFORMATION

STREET:

..

UNIT OR APARTMENT NUMBER:

..

CITY/TOWN/VILLAGE:

..

STATE:

..

ZIP CODE:

..

1. IS THIS UNIT SUBJECT TO ARTICLE 6–A OF THE REAL PROPERTY LAW, KNOWN AS THE NEW YORK STATE GOOD CAUSE EVICTION LAW? (PLEASE MARK APPLICABLE ANSWER)

YES _____

NO _____

2. IF THE UNIT IS EXEMPT FROM ARTICLE 6–A OF THE REAL PROPERTY LAW, KNOWN AS THE NEW YORK STATE GOOD CAUSE EVICTION LAW, WHY IS IT EXEMPT FROM THAT LAW? (PLEASE MARK ALL APPLICABLE EXEMPTIONS)

A. Village/Town/City outside of New York City has not adopted good cause eviction under section 213 of the Real Property Law ___;

B. Unit is owned by a "small landlord," as defined in subdivision 3 of section 211 of the Real Property Law, who owns no more than 10 units for small landlords located in New York City or the number of units established as the maximum amount a "small landlord" can own in the state by a local law of a village, town, or city, other than New York City, adopting the provisions of Article 6–A of the Real Property Law, known as the New York State Good Cause Eviction Law, or no more than 10 units, as applicable. In connection with any eviction proceeding in which the landlord claims an exemption from the provisions of Article 6–A of the Real Property Law, known as the New York State Good Cause Eviction Law, on the basis of being a small landlord, the landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person who owns or is a beneficial owner of, directly or indirectly, in whole or in part, the housing accommodation at issue in the proceeding, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence. If the landlord is an entity, organized under the laws of this state or of any other jurisdiction, then such landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person with a direct or indirect ownership interest in such entity or any affiliated entity, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence (exemption under subdivision 1 of section 214 of the Real Property Law) _____;

C. Unit is located in an owner-occupied housing accommodation with no more than 10 units (exemption under subdivision 2 of section 214 of the Real Property Law) _____;

D. Unit is subject to regulation of rents or evictions pursuant to local, state, or federal law (exemption under subdivision 5 of section 214 of the Real Property Law) _____;

E. Unit must be affordable to tenants at a specific income level pursuant to statute, regulation, restrictive declaration, or pursuant to a regulatory agreement with a local, state, or federal government entity (exemption under subdivision 6 of section 214 of the Real Property Law) _____;

F. Unit is on or within a housing accommodation owned as a condominium or cooperative, or unit is on or within a housing accommodation subject to an offering plan submitted to the office of the attorney general (exemption under subdivision 7 of section 214 of the Real Property Law) _____;

G. Unit is in a housing accommodation that was issued a temporary or permanent certificate of occupancy within the past 30 years (only if building received the certificate on or after January 1st, 2009) (exemption under subdivision 8 of section 214 of the Real Property Law) _____;

H. Unit is a seasonal use dwelling unit under subdivisions 4 and 5 of section 7–108 of the General Obligations Law (exemption under subdivision 9 of section 214 of the Real Property Law) _____;

I. Unit is in a hospital as defined in subdivision 1 of section 2801 of the Public Health Law, continuing care retirement community licensed pursuant to Article 46 or 46–A of the Public Health Law, assisted living residence licensed pursuant to Article 46–B of the Public Health Law, adult care facility licensed pursuant to Article 7 of the Social Services Law, senior residential community that has submitted an offering plan to the attorney general, or not-for-profit independent retirement community that offers personal emergency response, housekeeping, transportation and meals to their residents (exemption under subdivision 10 of section 214 of the Real Property Law) _____;

J. Unit is a manufactured home located on or in a manufactured home park as defined in section 233 of the Real Property Law (exemption under subdivision 11 of section 214 of the Real Property Law) _____;

K. Unit is a hotel room or other transient use covered by the definition of a class B multiple dwelling under subdivision 9 of section 4 of the Multiple Dwelling Law (exemption under subdivision 12 of section 214 of the Real Property Law) _____;

L. Unit is a dormitory owned and operated by an institution of higher education or a school (exemption under subdivision 13 of section 214 of the Real Property Law) _____;

M. Unit is within and for use by a religious facility or institution (exemption under subdivision 14 of section 214 of the Real Property Law) _____;

N. Unit has a monthly rent that is greater than the percent of fair market rent established in a local law of a village, town, or city, other than New York City, adopting the provisions of Article 6–A of the Real Property Law, known as the New York Good Cause Eviction Law, or 245 percent of the fair market rent, as applicable. Fair market rent refers to the figure published by the United States Department of Housing and Urban Development, for the county in which the housing accommodation is located, as shall be published by the Division of Housing and Community Renewal no later than August 1st in any given year. The Division of Housing and Community Renewal shall publish the fair market rent and 245 percent of the fair market rent for each unit type for which such fair market rent is published by the United States Department of Housing and Urban Development for each county in New York State in the annual publication required pursuant to subdivision 7 of section 211 of the Real Property Law (exemption under subdivision 15 of section 214 of the Real Property Law) _____;

3. IF THIS UNIT IS SUBJECT TO ARTICLE 6–A OF THE REAL PROPERTY LAW, KNOWN AS THE NEW YORK STATE GOOD CAUSE EVICTION LAW, AND THIS NOTICE SERVES TO INFORM A TENANT THAT THE LANDLORD IS INCREASING THE RENT ABOVE THE THRESHOLD FOR PRESUMPTIVELY

UNREASONABLE RENT INCREASES, WHAT IS THE LANDLORD'S JUSTIFICATION FOR INCREASING THE RENT ABOVE THE THRESHOLD FOR PRESUMPTIVELY UNREASONABLE RENT INCREASES? (A rent increase is presumptively unreasonable if the increase from the prior rent is greater than the lower of: (a) 5 percent plus the annual percentage change in the consumer price index for all urban consumers for all items as published by the United States Bureau of Labor Statistics for the region in which the housing accommodation is located, as published not later than August 1st of each year by the Division of Housing and Community Renewal; or (b) 10 percent.) (PLEASE MARK AND FILL OUT THE APPLICABLE RESPONSE)

A. The rent is not being increased above the threshold for presumptively unreasonable rent increases described above: _____;

B. The rent is being increased above the threshold for presumptively unreasonable rent increases described above: _____;

B–1: If the rent is being increased above the threshold for presumptively unreasonable rent increases described above, what is the justification for the increase: ....

..

..

..
..

4. IF THIS UNIT IS SUBJECT TO ARTICLE 6–A OF THE REAL PROPERTY LAW, KNOWN AS THE NEW YORK STATE GOOD CAUSE EVICTION LAW, AND THIS NOTICE SERVES TO INFORM A TENANT THAT THE LANDLORD IS NOT RENEWING A LEASE, WHAT IS THE GOOD CAUSE FOR NOT RENEWING THE LEASE? (PLEASE MARK ALL APPLICABLE REASONS)

A. This unit is exempt from Article 6–A of the Real Property Law, known as the New York State Good Cause Eviction Law, for the reasons stated in response to question 2, above (IF THIS ANSWER IS CHECKED, NO OTHER ANSWERS TO THIS QUESTION SHOULD BE CHECKED): _____;

B. The tenant is receiving this notice in connection with a first lease or a renewal lease, so the landlord does not need to check any of the lawful reasons listed below for not renewing a lease under Article 6–A of the Real Property Law, known as the New York State Good Cause Eviction Law (IF THIS ANSWER IS CHECKED, NO OTHER ANSWERS TO THIS QUESTION SHOULD BE CHECKED) ;

C. The landlord is not renewing the lease because the unit is sublet and the sublessor seeks in good faith to recover possession of the unit for their own personal use and occupancy (exemption under subdivision 3 of section 214 of the Real Property Law): ;

D. The landlord is not renewing the lease because the possession, use or occupancy of the unit is solely incident to employment and the employment is being or has been lawfully terminated (exemption under subdivision 4 of section 214 of the Real Property Law): _____;

E. The landlord is not renewing the lease because the tenant has failed to pay rent due and owing, and the rent due or owing, or any part there-of, did not result from a rent increase which is unreasonable. A rent increase is presumptively unreasonable if the increase from the prior rent is greater than the lower of: (a) 5 percent plus the annual percentage change in the consumer price index for all urban consumers for all items as published by the United States Bureau of Labor Statistics for the region in which the housing accommodation is located, as published not later than August 1st of each year by the Division of Housing and Community Renewal; or (b) 10 percent (good cause for eviction under paragraph a of subdivision 1 of section 216 of the Real Property Law): _____;

F. The landlord is not renewing the lease because the tenant is violating a substantial obligation of their tenancy or breaching any of the landlord's rules and regulations governing the premises, other than the obligation to surrender possession of the premises, and the tenant has failed to cure the violation after written notice that the violation must cease within 10 days of receipt of the written notice. For this good cause to apply, the obligation the tenant violated cannot be an obligation that was imposed for the purpose of circumventing the intent of Article 6–A of the Real Property Law, known as the New York State Good Cause Eviction Law. The landlord's rules or regulations that the tenant has violated also must be reasonable and have been accepted in writing by the tenant or made a part of the lease at the beginning of the lease term (good cause for eviction under paragraph b of subdivision 1 of section 216 of the Real Property Law): _____;

G. The landlord is not renewing the lease because the tenant is either (a) committing or permitting a nuisance on the unit or the premises; (b) maliciously or grossly negligently causing substantial damage to the unit or the premises; (c) interfering with the landlord's, another tenant's, or occupants of the same or an adjacent building or structure's comfort and safety (good cause for eviction under paragraph c of subdivision 1 of section 216 of the Real Property Law): _____;

H. The landlord is not renewing the lease because the tenant's occupancy of the unit violates law and the landlord is subject to civil or criminal penalties for continuing to let the tenant occupy the unit. For this good cause to apply, a state or municipal agency having jurisdiction must have issued an order requiring the tenant to vacate the unit. No tenant shall be removed from possession of a unit on this basis unless the court finds that the cure of the violation of law requires the removal of the tenant and that the landlord did not, through neglect or deliberate action or failure to act, create the condition necessitating the vacate order. If the landlord does not try to cure the conditions causing the violation of the law, the tenant has the right to pay or secure payment, in a manner satisfactory to the court, to cure the violation. Any tenant expenditures to cure the violation shall be applied against rent owed to the landlord. Even if removal of a tenant is absolutely essential to the tenant's health and safety, the tenant shall be entitled to resume possession at such time as the dangerous conditions have been removed. The tenant also retains the right to bring an action for monetary damages against the landlord or to otherwise compel the landlord to comply with all applicable state or municipal housing codes (good cause for eviction under paragraph d of subdivision 1 of section 216 of the Real Property Law): _____;

I. The landlord is not renewing the lease because the tenant is using or permitting the unit or premises to be used for an illegal purpose (good cause for eviction under paragraph e of subdivision 1 of section 216 of the Real Property Law): _____;

J. The landlord is not renewing the lease because the tenant has unreasonably refused the landlord access to the unit for the purposes of making necessary repairs or improvements required by law or for the purposes of showing the premises to a prospective purchaser, mortgagee, or other person with a legitimate interest in the premises (good cause for eviction under paragraph f of subdivision 1 of section 216 of the Real Property Law): _____;

K. The landlord is not renewing the lease because the landlord seeks in good faith to recover possession of the unit for the landlord's personal use and occupancy as the landlord's principal residence, or for the personal use and occupancy as a principal residence by the landlord's spouse, domestic partner, child, stepchild, parent, stepparent, sibling, grandparent, grandchild, parent-in-law, or sibling-in-law. The landlord can only recover the unit for these purposes if there is no other suitable housing accommodation in the building that is available. Under no circumstances can the landlord recover the unit for these purposes if the tenant is (a) 65 years old or older; or (b) a "disabled person" as defined in subdivision 6 of section 211 of the Real Property Law. To establish this good cause in an eviction proceeding, the landlord must establish good faith to recover possession of a housing accommodation for the uses described herein by clear and convincing evidence (good cause for eviction under paragraph g of subdivision 1 of section 216 of the Real Property Law): _____;

L. The landlord is not renewing the lease because the landlord in good faith seeks to demolish the housing accommodation. To establish this good cause in an eviction proceeding, the landlord must establish good faith to demolish the housing accommodation by clear and convincing evidence (good cause for eviction under paragraph h of subdivision 1 of section 216 of the Real Property Law): _____;

M. The landlord is not renewing the lease because the landlord seeks in good faith to withdraw the unit from the housing rental market. To establish this good cause in an eviction proceeding, the landlord must establish good faith to withdraw the unit from the rental housing market by clear and convincing evidence (good cause for eviction under paragraph i of subdivision 1 of section 216 of the Real Property Law): _____;

N. The landlord is not renewing the lease because the tenant has failed to agree to reasonable changes at lease renewal, including reasonable increases in rent, and the landlord gave written notice of the changes to the lease to the tenant at least 30 days, but no more than 90 days, before the current lease expired. A rent increase is presumptively unreasonable if the increase from the prior rent is greater than the lower of: (a) 5 percent plus the annual percentage change in the consumer price index for all urban consumers for all items as published by the United States Bureau of Labor Statistics for the region in which the housing accommodation is located, as published by August 1st of each year by the Division of Housing and Community Renewal; or (b) 10 percent (good cause for eviction under paragraph j of subdivision 1 of section 216 of the Real Property Law): _____.

§ 4. Subdivision 2 of section 711 of the real property actions and proceedings law, as amended by section 12 of part M of chapter 36 of the laws of 2019, is amended to read as follows:

<< NY RP ACT & PRO § 711 >>

2. The tenant has defaulted in the payment of rent, pursuant to the agreement under which the premises are held, and a written demand of the rent has been made with at least fourteen days' notice requiring, in the alternative, the payment of the rent, or the possession of the premises, has been served upon ~~him~~ **the tenant** as prescribed in section seven hundred thirty-five of this article. **The fourteen-day notice shall append or contain the notice required pursuant to section two hundred thirty-one-c of the real property law, which shall state the following: (i) if the premises are or are not subject to article six-A of the real property law, the "good cause eviction law", and if the premises are exempt, such notice shall state why the premises are exempt from such law; (ii) if the landlord is not renewing the lease for a unit subject to article six-A of the real property law, the lawful basis for such nonrenewal; and (iii) if the landlord is increasing the rent upon an existing lease of a unit subject to article six-A of the real property law above the applicable local rent standard, as defined in subdivision eight of section two hundred eleven of the real property law, the justification for such increase.** Any person succeeding to the landlord's interest in the premises may proceed under this subdivision for rent due ~~his~~ **such person's** predecessor in interest if ~~he has~~ **such person has** a right thereto. Where a tenant dies during the term of the lease and rent due has not been paid and the apartment is occupied by a person with a claim to possession, a proceeding may be commenced naming the occupants of the apartment seeking a possessory judgment only as against the estate. Entry of such a judgment shall be without prejudice to the possessory claims of the occupants, and any warrant issued shall not be effective as against the occupants.

§ 5. Section 741 of the real property actions and proceedings law is amended by adding two new subdivisions 5–a and 5–b to read as follows:

<< NY RP ACT & PRO § 741 >>

5–a. Append or incorporate the notice required pursuant to section two hundred thirty-one-c of the real property law, which shall state the following: (i) if the premises are or are not subject to article six-A of the real property law, the "good cause eviction law", and if the premises are exempt, such petition shall state why the premises are exempt from such law; (ii) if the landlord is not renewing the lease for a unit subject to article six-A of the real property law, the lawful basis for such nonrenewal; and (iii) if the landlord is increasing the rent upon an existing lease of a unit subject to article six-A of the real property law above the applicable local rent standard, as defined in subdivision eight of section two hundred eleven of the real property law, the justification for such increase.

5–b. If the petitioner claims exemption from the provisions of article six-A of the real property law pursuant to subdivision one of section two hundred fourteen of the real property law, append or incorporate the information required pursuant to subdivision one of section two hundred fourteen of the real property law.

§ 6. Severability. If any provision of this act, or any application of any provision of this act, is held to be invalid, that shall not affect the validity or effectiveness of any other provision of this act, or of any other application of any provision of this act, which can be given effect without that provision or application; and to that end, the provisions and applications of this act are severable.

<< Note: NY REAL PROP § 226–c >>

<< Note: NY REAL PROP §§ 210, 211, 212, 213, 214, 215, 216, 217, 218, 231–c >>

<< Note: NY RP ACT & PRO §§ 711, 741 >>

§ 7. This act shall take effect immediately and shall apply to actions and proceedings commenced on or after such effective

date; provided, however, that:
(a) sections two, three, four, and five of this act shall take effect on the one hundred twentieth day after this act shall have become a law;

(b) this act shall expire and be deemed repealed on June 15, 2034; and

(c) any local law as may be enacted pursuant to subdivision 1 of 213 of article 6–A of the real property law established by section one of this act shall remain in full force and effect only until June 15, 2034.

Effective immediately, the addition, amendment, and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.

PART II

Section 1. The opening paragraph of section 711 of the real property actions and proceedings law, as amended by section 12 of part M of chapter 36 of the laws of 2019, is amended to read as follows:

<< NY RP ACT & PRO § 711 >>

A tenant shall include an occupant of one or more rooms in a rooming house or a resident, not including a transient occupant, of one or more rooms in a hotel who has been in possession for thirty consecutive days or longer. **A tenant shall not include a squatter. For the purposes of this section, a squatter is a person who enters onto or intrudes upon real property without the permission of the person entitled to possession, and continues to occupy the property without title, right or permission of the owner or owner's agent or a person entitled to possession. In the event of a conflict between the provisions regarding squatters of this section and the provisions of subdivision three of section seven hundred thirteen of this article, the provisions of section seven hundred thirteen of this article shall be controlling.** No tenant or lawful occupant of a dwelling or housing accommodation shall be removed from possession except in a special proceeding. A special proceeding may be maintained under this article upon the following grounds:

§ 2. This act shall take effect immediately.

PART JJ

FY 2024 Fair Market Rent Documentation System

The FY 2024 Poughkeepsie-Newburgh-Middletown, NY MSA FMRs for All Bedroom Sizes

Final FY 2024 & Final FY 2023 FMRs By Unit Bedrooms					
Year	**Efficiency**	**One-Bedroom**	**Two-Bedroom**	**Three-Bedroom**	**Four-Bedroom**
FY 2024 FMR	$1,237	$1,419	$1,825	$2,315	$2,560
FY 2023 FMR	$1,126	$1,233	$1,583	$2,016	$2,238

Orange County, NY is part of the Poughkeepsie-Newburgh-Middletown, NY MSA, which consists of the following counties: Dutchess County, NY; and Orange County, NY. All information here applies to the entirety of the Poughkeepsie-Newburgh-Middletown, NY MSA.

Fair Market Rent Calculation Methodology

Show/Hide Methodology Narrative

Fair Market Rents for metropolitan areas and non-metropolitan FMR areas are developed as follows:

1. **Calculate the Base Rent**: HUD uses 2017-2021 5-year American Community Survey (ACS) estimates of 2-bedroom adjusted standard quality gross rents calculated for each FMR area as the new basis for FY2024, provided the estimate is statistically reliable. For FY2024, the test for reliability is whether the margin of error for the estimate is less than 50% of the estimate itself and whether the ACS estimate is based on at least 100 survey cases. HUD does not receive the exact number of survey cases, but rather a categorical variable known as the count indicator indicating a range of cases. An estimate based on at least 100 cases corresponds to a count indicator of 4 or higher.

   If an area does not have a reliable 2017-2021 5-year estimate, HUD checks whether the area has had at least 2 minimally reliable estimates in the past 3 years, or estimates that meet the 50% margin of error test described above. If so, the FY2024 base rent is the average of the inflated ACS estimates.

If an area has not had a minimally reliable estimate in the past 3 years, HUD uses the estimate for the area's corresponding metropolitan area (if applicable) or State non-metropolitan area as the basis for FY2024.

2. **Calculate the Basis for Recent Mover Adjustment Factor**: HUD calculates a recent mover adjustment factor by comparing an ACS 2021 1-year 40th percentile recent mover 2-bedroom rent to the ACS 2017-2021 5-year 40th percentile adjusted standard quality gross rent. If either the recent mover and non-recent mover rent estimates are not reliable, HUD uses the recent mover adjustment for a larger geography. For metropolitan areas, the order of geographies examined is: FMR Area, Entire Metropolitan Area (for Metropolitan Sub-Areas), State Metropolitan Portion, Entire State, and Entire US; for non-metropolitan areas, the order of geographies examined is: FMR Area, State Non-Metropolitan Portion, Entire State, and Entire US. The recent mover adjustment factor is floored at one.

   HUD has traditionally defined recent movers as those who have moved into their residence within the current year or preceding year of the ACS survey. Newly for FY2024, HUD is electing to first examine recent movers who have moved within the current year of the ACS. Upon determining a reliable recent mover estimate, HUD calculates the appropriate recent mover adjustment factor between the 5-year data and the 1-year data.

3. **Adjust for Inflation**: In order to calculate rents that are "as of" 2022, HUD applies a gross rent inflation adjustment factor using data from commercial rent data sources and the Consumer Price Index. HUD uses a local measure of private rent inflation for markets that are covered by at least three of the six available sources of private rent data. HUD combines this local measure of rent inflation with either the local metropolitan area CPI rent of primary residence for the 23 areas where such data exist, or the regional CPI rent in areas without a local index.

   Unlike in FY 2023, for areas without at least three of the six private rent data sources available, HUD uses a regional average of private rent inflation factors alongside the regional CPI rent of primary residence. HUD constructs the regional average by taking the rental unit weighted average of the change in rents of each area in a region that does have private rent data coverage. HUD averages the private and CPI shelter rent data with the year-to-year change in the CPI housing fuels and utilities index for the area in order to make the resulting inflation measure reflective of gross rents.

   The private and CPI gross rent update factors are then combined using a weighting scheme which controls the national weighted average of the private and CPI gross rent factors to the national change in the ACS recent mover gross rent. The resulting weights assigned are as follows: $\mathbf{W}_{2022}$ = 0.558 assigned to the private gross rent factor and (1-$\mathbf{W}_{2022}$) = 0.442 assigned to the CPI gross rent factor.

4. **Calculate the Trend Factor**: To further inflate rents from CY2022 to FY2024, HUD uses a "trend factor" based on the forecast of CPI gross rent changes through FY2024.

5. **Multiply the Factors**: HUD multiplies the base rent by the recent mover factor, the gross rent inflation factor, and the trend factor to produce a rent that is "as of" the current fiscal year.

6. **Compare to the State minimum**: FY2024 FMRs are then compared to a State minimum rent, and any area whose preliminary FMR falls below this value is raised to the level of the State minimum.

7. **Calculate Bedroom Ratios**: HUD calculates "bedroom ratios" and multiplies these by the two-bedroom rent to produce preliminary FMRs for unit sizes other than two bedrooms.

8. **Compare to Last Year's FMR**: FY2024 FMRs may not be less than 90% of FY2023 FMRs. Therefore, HUD applies "floors" based on the prior year's FMRs.

The results of the Fair Market Rent Step-by-Step Process

1. **Base Rent Calculation**
   The following are the 2021 American Community Survey 5-year 2-Bedroom Adjusted Standard Quality Gross Rent estimates and margins of error for Poughkeepsie-Newburgh-Middletown, NY MSA.

Area	ACS_{2021} 5-Year 2-Bedroom Adjusted Standard Quality Gross Rent	ACS_{2021} 5-Year 2-Bedroom Adjusted Standard Quality Gross Rent Margin of Error	Ratio	Sample Size Category	Result
Poughkeepsie-Newburgh-Middletown, NY MSA	$1,377	$27	$27 / $1,377=0.01961	6	0.01961 < .5 6 ≥ 4 Use ACS_{2021} 5-Year Poughkeepsie-Newburgh-Middletown, NY MSA 2-Bedroom

	Adjusted Standard Quality Gross Rent

Since the ACS_{2021} Margin of Error Ratio is less than .5, HUD uses the ACS_{2021} Poughkeepsie-Newburgh-Middletown, NY MSA value for the estimate of 2-Bedroom Adjusted Standard Quality Gross Rent (Base Rent).

Area	FY2024 Base Rent
Poughkeepsie-Newburgh-Middletown, NY MSA	$1,377

2. **Recent Mover Adjustment Factor Calculation**
A recent mover adjustment factor is applied based on the smallest area of geography containing Poughkeepsie-Newburgh-Middletown, NY MSA that has an ACS_{2021} 1-year Adjusted Standard Quality Recent-Mover estimate with a Margin of Error Ratio that is less than .5 and a sufficient number of sample cases.

Area	ACS_{2021} 1-Year Adjusted Standard Quality Recent-Mover Gross Rent	ACS_{2021} 1-Year Adjusted Standard Quality Recent-Mover Gross Rent Margin of Error	Ratio	Sample Size Category	Result
Poughkeepsie-Newburgh-Middletown, NY MSA – ACS 1-year 2 Bedroom	$1,755	$229	0.13	1	1 < 4 Do Not Use ACS_{2021} 1-Year Poughkeepsie-Newburgh-Middletown, NY MSA 2-Bedroom Adjusted Standard Quality Recent-Mover Gross Rent
Poughkeepsie-Newburgh-Middletown, NY MSA – ACS 1-year All Bedroom	$1,520	$170	0.112	2	2 < 4 Do Not Use ACS_{2021} 1-Year Poughkeepsie-Newburgh-Middletown, NY MSA All Bedroom Adjusted Standard

Area	ACS_{2021} 1-Year Adjusted Standard Quality Recent-Mover Gross Rent	ACS_{2021} 1-Year Adjusted Standard Quality Recent-Mover Gross Rent Margin of Error	Ratio	Sample Size Category	Result
					Quality Recent-Mover Gross Rent
Poughkeepsie-Newburgh-Middletown, NY MSA – ACS 2-year 2 Bedroom	$1,668	$191	0.115	2	2 < 4 Do Not Use ACS_{2021} 1-Year Poughkeepsie-Newburgh-Middletown, NY MSA 2 Bedroom Adjusted Standard Quality Recent-Mover Gross Rent
Poughkeepsie-Newburgh-Middletown, NY MSA – ACS 2-year All Bedroom	$1,448	$122	0.084	4	0.084 < .5 4 ≥ 4 Use ACS_{2021} 1-Year Poughkeepsie-Newburgh-Middletown, NY MSA All Bedroom Adjusted Standard Quality Recent-Mover Gross Rent

The calculation of the relevant Recent-Mover Adjustment Factor for Poughkeepsie-Newburgh-Middletown, NY MSA is as follows:

ACS_{2021} 5-Year Area	ACS_{2021} 5-Year 40th Percentile Adjusted Standard Quality Gross Rent	ACS_{2021} 1-Year 40th Percentile Adjusted Standard Quality Recent-Mover Gross Rent
Poughkeepsie-Newburgh-Middletown, NY MSA – All Bedroom	$1,277	$1,448

Area	Ratio	Recent-Mover Adjustment Factor
Poughkeepsie-Newburgh-Middletown, NY MSA	\$1,448 / \$1,277 =1.134	1.1339 ≥ 1.0 Use calculated Recent-Mover Adjustment Factor of 1.1339

3. **Inflation Adjustment Factor Calculation**
   A gross rent inflation adjustment factor is applied based on a weighted average of a private source gross rent inflation factor and a Consumer Price Index gross rent inflation factor. Since Poughkeepsie-Newburgh-Middletown, NY MSA is covered by at least 3 private data sources, a local-based private rent factor is applied. Furthermore, since Poughkeepsie-Newburgh-Middletown, NY MSA is covered by a local-CPI rent area, a Local-based CPI gross rent factor is applied.

Components of 2022 Inflation Adjustment Factor for Poughkeepsie-Newburgh-Middletown, NY MSA					
	R_{2022}= Shelter Rent Change, 2021 to 2022	U_{2022} = CPI Annual Utilities Change, 2021 to 2022	C_{2022} = ACS Utility Cost as a Percent of Gross Rent	Gross Rent Inflation Factor Calculation = (R_{2022} x (1-C_{2022}) + U_{2022} x C_{2022})	Inflation Factor Type
P$_{2022}$= Private Inflation Factor	1.1004	1.18213	0.1575	(1.10040 * 0.84250) + (1.182125 * 0.1575)= 1.11327	Local
CPI$_{2022}$= CPI Inflation Factor	1.01141	1.18213	0.1575	(1.01141 * 0.8425) + (1.18213 * 0.1575)= 1.0383	Local

The 2022 Gross Rent Inflation Factor for Poughkeepsie-Newburgh-Middletown, NY MSA is computed as follows:

= **CPI**$_{2022}$ x (1-**W**$_{2022}$) + **P**$_{2022}$ x **W**$_{2022}$

= (1.0383 x 0.442) + (1.11327 x 0.558)

= (0.458929) + (0.621205)

= **1.08016**

4. **Trend Factor Adjustment**
   The calculation of the Trend Factor is as follows: HUD forecasts the change in gross rents from 2022 to 2024 for each CPI area and Census Region. This makes Fair Market Rents "as of" FY2024.

	Trend Factor	Trend Factor Type
Trend Factor	1.08202	Local

5. **Combination of Factors**
   The FY 2024 2-Bedroom Fair Market Rent for Poughkeepsie-Newburgh-Middletown, NY MSA is calculated as follows:

Area	Base Rent		Recent-Mover Adjustment Factor		Annual 2021 to 2022 Gross Rent Inflation Adjustment		Trending 2022 to FY2024		FY 2024 2-Bedroom FMR
Poughkeepsie-Newburgh-Middletown, NY MSA	$1,377	*	1.1339	*	1.08016	*	1.08202	=	$1,825

6. **State Minimum Comparison**
   In keeping with HUD policy, the preliminary FY 2024 FMR is checked to ensure that it does not fall below the state minimum.

Area	Preliminary FY2024 2-Bedroom FMR	FY 2024 New York State Minimum	Final FY2024 2-Bedroom FMR
Poughkeepsie-Newburgh-Middletown, NY MSA	$1,825	$905	$1,825 ≥ $905 Use Poughkeepsie-Newburgh-Middletown, NY MSA FMR of $1,825

7. **Bedroom Ratios Application**
   Bedroom ratios are applied to calculate FMRs for unit sizes other than two bedrooms.

   Click on the links in the table to see how the bedroom ratios are calculated.

FY 2024 FMRs By Unit Bedrooms

	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2024 FMR	$1,237	$1,419	$1,825	$2,315	$2,560

8. **Comparison to Previous Year**
   The FY2024 FMRs for each bedroom size must not be below 90% of the FY2023 FMRs.

	Efficiency	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY2023 FMR	$1,126	$1,233	$1,583	$2,016	$2,238
FY2023 floor	$1,014	$1,110	$1,425	$1,815	$2,015
FY 2024 FMR	$1,237	$1,419	$1,825	$2,315	$2,560
Use FY2023 floor for FY2024?	No	No	No	No	No

Final FY2024 Rents for All Bedroom Sizes for Poughkeepsie-Newburgh-Middletown, NY MSA

Final FY 2024 FMRs By Unit Bedrooms					
	Efficiency	**One-Bedroom**	**Two-Bedroom**	**Three-Bedroom**	**Four-Bedroom**
Final FY 2024 FMR	$1,237	$1,419	$1,825	$2,315	$2,560

The FMRs for unit sizes larger than four bedrooms are calculated by adding 15 percent to the four bedroom FMR, for each extra bedroom. For example, the FMR for a five bedroom unit is 1.15 times the four bedroom FMR, and the FMR for a six bedroom unit is 1.30 times the four bedroom FMR. FMRs for single-room occupancy units are 0.75 times the zero bedroom (efficiency) FMR.

Permanent link to this page:
http://www.huduser.gov/portal/datasets/fmr/fmrs/FY2024_code/2024summary.odn?&year=2024&fmrtype=Final&selection_type=county&fips=3607199999

Select a different area

Press below to select a different county within the same state (same primary state for metropolitan areas):

Albany County, NY
Allegany County, NY
Bronx County, NY
Broome County, NY
Cattaraugus County, NY

Select a new county

Press below to select a different state:

Select a new state

Select a Final FY 2024 Metropolitan FMR Area:

Poughkeepsie-Newburgh-Middletown, NY MSA

Select Metropolitan FMR Area

RESOLUTION NO.: 165 - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING CHANGE ORDER NO. 1G TO THE CONSTRUCTION CONTRACT WITH GIACORP CONTRACTING, INC. FOR THE WASTEWATER TREATMENT PLANT AUTOMATIC GATE PROJECT

WHEREAS, by Resolution No. 48-2024 of March 25, 2024, the City Council of the City of Newburgh, New York awarded a bid to and approved a contract with Giacorp Contracting, Inc. in the amount of $94,600.00, for the construction of the automatic gate entrance to the Sludge Facility at the Wastewater Treatment Plant; and

WHEREAS, additional wiring and connection work in the amount of $14,875.00 and a time extension for substantial completion from July 23, 2024 to September 23, 2024 is required, and Giacorp Contracting, Inc. has submitted Change Order No. 1G; and

WHEREAS, funding for the additional work shall be derived from G.8130.0200 Equipment/Infrastructure; the same being in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute Change Order No. 1G with Giacorp Contracting, Inc., increasing the overall contract price by $14,875.00 from $94,600.00 to $109,475.00, and extending the time for substantial completion from July 23, 2024 to September 23, 2024 in the Wastewater Treatment Plant Automatic Gate Project.

EJCDC
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

Change Order No. 1-G

Date of Issuance:	Effective Date:
Owner: City of Newburgh	Owner's Contract No.: Bid No. 3.24
Contractor: Giacorp Contracting Inc	Contractor's Project No.:
Engineer: CJS Engineering, PC	Engineer's Project No.:
Project: Installation of an Automatted Gate at the City of Newburgh WWTP	Contract Name:

The Contract is modified as follows upon execution of this Change Order:

Description: Provide additional terminal pole and hardwire to connect existing fence. Provide dual pedistal. Provide SG3DMR phone unit. Provide necessary wiring for later connection.

Attachments: *[List documents supporting change]* Quote

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ $94,600.00	Original Contract Times: 60 Days Substantial Completion: July 23, 2024 Ready for Final Payment: 30 days days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: $	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: Ready for Final Payment: days
Contract Price prior to this Change Order: $ $94,600.00	Contract Times prior to this Change Order: Substantial Completion: July 23, 2024 Ready for Final Payment: 30 days days or dates
[Increase] [Decrease] of this Change Order: $ 14,875.00	[Increase] [Decrease] of this Change Order: Substantial Completion: September 23, 2024 Ready for Final Payment: 30 Days days or dates
Contract Price incorporating this Change Order: $ 109,475.00	Contract Times with all approved Change Orders: Substantial Completion: September 23, 2024 Ready for Final Payment: 30 days days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title:	Title	Title President
Date:	Date	Date 7/25/2024

Approved by Funding Agency (if applicable)

By: Date:

Title:

RESOLUTION NO.: 48 - 2024

OF

MARCH 25, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD BID #3.24 TO GIACORP CONTRACTING, INC. IN THE AMOUNT OF $94,600.00 FOR THE AUTOMATIC GATE ENTRANCE CONSTRUCTION TO THE SLUDGE FACLITY AT THE WASTEWATER TREATMENT PLANT

WHEREAS, the City of Newburgh has duly advertised for bids for the construction of the automatic gate entrance to the Sludge Facility at the City of Newburgh Wastewater Treatment Plant (the "Project"); and

WHEREAS, 2 bids have been duly received and opened and Giacorp Contracting, Inc. is the low bidder, having submitted a bid amount of $94,600.00; and

WHEREAS, the funding for the Project shall be derived from the 2024 Budget Line G.8130.0200 Equipment/Infrastructure;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the bid for the construction of the automatic gate entrance to the Sludge Facility at the City of Newburgh Wastewater Treatment Plant be and is hereby is awarded to Giacorp Contracting, Inc. in the amount of $94,600.00; and that the City Manager be and he is hereby authorized to enter into a contract for such work in these amounts.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 3/25/24 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 26th day of M 20 24

Deputy City Clerk

RESOLUTION NO.: ___166____ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED A NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION WATER QUALITY IMPROVEMENT PROJECT GRANT NOT TO EXCEED $10,000,000.00 WITH A 25% MATCH FOR THE CONSTRUCTION OF THE LONG TERM CONTROL PLAN PHASE V SOUTH INTERCEPTOR SEWER IMPROVEMENTS PROJECT

WHEREAS, the Water Quality Improvement Project (WQIP) program is a competitive, statewide reimbursement grant program open to local governments and not-for-profit corporations to implement projects that directly improve water quality; and

WHEREAS, eligible project examples include but are not limited to Wastewater Treatment Improvement; and

WHEREAS, the City of Newburgh proposes to apply for and accept if awarded a New York State Department of Environmental Conservation Water Quality Improvement Project (WQIP) grant to fund the construction of the Long Term Control Plan Phase V South Interceptor Sewer Improvements Project; and

WHEREAS, such grant funds shall be in an amount not to exceed $10,000,000.00 with a 25% match to be provided through other funding options, including grants and low interest loans;

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 Department of Environmental Conservation Water Quality Improvement Project (WQIP) grant in an amount not to exceed $10,000,000.00 with a 25% match to fund the Long Term Control Plan Phase V South Interceptor Sewer Improvements Project; and that the City Manager be and he is hereby authorized to execute all such grant application forms, contracts and documentation and take such further action as may be appropriate and necessary to accept such grant and administer the program funded thereby.

Water Quality Improvement Project (WQIP)

2024 PROGRAM OVERVIEW

FUNDING AVAILABLE: AT LEAST $75 MILLION

Kathy Hochul, Governor | Sean Mahar, Interim Commissioner

DESCRIPTION

The Water Quality Improvement Project (WQIP) program is a competitive, statewide reimbursement grant program open to local governments and not-for-profit corporations to implement projects that directly improve water quality or habitat, promote flood risk reduction, restoration, and enhanced flood and climate resiliency, or protect a drinking water source. This funding is for construction/implementation projects, not projects that are exclusively for planning.

It is highly recommended that all potential WQIP applicants read the WQIP Program Overview, particularly the section for their project type, in its entirety before applying for WQIP funding.

TABLE OF CONTENTS

PROJECT TYPES SUMMARY TABLE

Funding is available for the following project types (see project type sections for all information):

Project Type	Maximum Award	Required Match	Eligible Applicants[1]	Required Attachments
Wastewater Treatment Improvement	$1,000,000 to $15,000,000 depending on project subtype and population	25% of award amount (all subtypes including general wastewater)	Municipalities	Budget worksheet Engineering report Project map Floodplain map Sexual Harassment Prevention Certification Form Executive Order 16 Form
Non-Agricultural Nonpoint Source Abatement and Control	$100,000 to $10,000,000 depending on project subtype and population	25% of award amount	Municipalities Soil and Water Conservation Districts	Budget worksheet Project map Floodplain map for certain project subtypes Best Management Practice Detail Form (projects only) See Nonpoint Source section for attachments required for certain project subtypes Sexual Harassment Prevention Certification Form Executive Order 16 Form
Vacuum Trucks in Municipal Separate Storm Sewer System (MS4) Areas	$325,000	25% of award amount	Municipality Regulated by the MS4 General Permit Soil and Water Conservation Districts on behalf of regulated MS4 Operators	Budget worksheet Project map Floodplain Map Comprehensive Mapping Worksheet Catch basin clean-out plan and procedures Sexual Harassment Prevention Certification Form Executive Order 16 Form
Land Acquisition for Source Water Protection	$5,000,000	25% of award amount	Municipalities Soil and Water Conservation Districts	Budget worksheet Monitoring and enforcement protocol Project map Floodplain map

[1] The applicant's name must exactly match the name of the eligible entity registered in the NYS Statewide Financial System Grants Management System. It may not be the name of an individual.

RESOLUTION NO.: ___167________ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND ENTER INTO A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH ARCADIS OF NEW YORK INC. FOR THE LEAD SERVICE LINE INVENTORY PROJECT IN AN AMOUNT NOT TO EXCEED $292,000.00

WHEREAS, by Resolution No. 144-2023 of August 14, 2023, the City Council accepted a Federal Fiscal Year 2022 Bipartisan Infrastructure Law Lead Service Line Replacement funding award through the Drinking Water State Revolving Fund from the New York State Department of Health and Environmental Facilities Corporation for the City of Newburgh Lead Line Inventory Project; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for professional engineering services to complete the preparation of a compliant service line inventory to meet regulatory compliance requirements; and

WHEREAS, the scope of services will include field surveys, database development, modeling, and project and funding management; and

WHEREAS, funding for the cost of the services an amount not to exceed $292,000.00 shall be derived from a Federal Fiscal Year (FFY) 2022 Bipartisan Infrastructure Law Lead Service Line Replacement (BIL-LSLR) funding award through the Drinking Water State Revolving Fund; 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 a professional engineering services agreement with Arcadis of New York, Inc. in an amount not to exceed $292,000.00 to complete the preparation of a compliant service line inventory to meet regulatory compliance requirements in the Lead Line Inventory Project; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the Environmental Facilities Corporation Certification for Architectural/Engineering Services Procurement for Federally Funded Projects under NYSDOH/NYSEFC DWSRF Project No. 19365.

Jason C. Morris, PE
Commissioner of Public Works & City Engineer
City of Newburgh
83 Broadway
Newburgh, New York 12550

Arcadis of New York, Inc.
855 Route 146
Suite 2101
Albany
New York 12203
Phone: 518 250 7300
Fax: 518 371 2757
www.arcadis.com

Date: July 30, 2024
Subject: City of Newburgh, NY – Lead and Copper Rule Revisions Support and Service Line Inventory Development

Dear Mr. Morris,

We are pleased to provide you with this scope of services to provide Lead and Copper Rule Revisions (LCRR) compliance support to the City of Newburgh (the City). Services focus on the preparation of an LCRR compliant service line inventory (SLI), support for field work to verify service line materials, and outreach and education to support the City in publishing the SLI. An initial SLI prepared in the New York State Department of Health (NYS DOH) template will be prepared ahead of the first compliance deadline of October 16, 2024. Additional field work and predictive modeling work to further reduce unknowns will continue beyond the first compliance deadline.

Scope of Services

As part of the LCRR, it is required that an inventory identifying the material of all service lines within a system be created and maintained by all public water systems prior to October 16, 2024. This inventory must include both public- and private-side service line materials. To develop a compliant service line inventory and customer outreach materials, a summary of recommended actions to improve data management, LSL identification, and education materials is provided in the following sections.

Task 1 – Service Line Inventory Development

Under this task Arcadis will prepare an LCRR compliant lead service line inventory based on historical records, publicly available information, and previous field investigations completed by the City.

Establish a Unique Identifier for each SL

To identify and track service lines in the City water system and combine related datasets using a one-to-one relationship, establishing a unique identifier is required. Potential identifiers that will be discussed as part of the project include:

- Curb Stop ID
- Account Number
- Meter Number (not generally recommended)
- Parcel Number

The unique identifier for each service will allow related information to be connected on both the public and customer side of the service line and to other datasets (i.e., billing data, asset management, etc.). This also addresses situations where multiple private-side services are connected to a single public side service line (i.e., manifold private side services).

Review Additional Data Sources

A review of additional data sources to supplement the current inventory will be reviewed. These will be used both to determine specific materials as well as to determine non-lead status based on factors such as service line diameter and age of the service line. At a minimum the following will be reviewed:

- Historical service logs (documenting replacements, if available)
- Parcel information – parcel number, latitude, longitude, home build date, zoning classification, property classification, assessment
- Water main data – water main material, size, install date, renewal (or abandonment) date
- Service line data – status (active, abandoned, renewed), service line material (utility and customer), install date, length, renewal (or abandonment) date, size/diameter, unique identifier
- Hydrant data – date installed, material, size, renewal date
- Meters – date installed, material, size, replaced date
- Census information – Median income levels, diversity, senior exemption.
- Customer Database including unique identifier (if available), address, meter number, meter type, service type, size
- Ordinances, Plumbing Codes and/or Tariffs indicating required materials, acceptable materials and/or prohibited materials including historical versions and revisions
- Asset Management / Field Data Collection – Many entities are either collecting service line material information through regular maintenance calls, meter replacement projects. These can be in Work Order/Maintenance Management Systems or in ad hoc records/lists (including hand written). Excel file documentation of test pits completed to date will be reviewed as part of this step.

A memo documenting the data sources used and hierarchy adopted for the service line inventory will be prepared and shared with City staff including a summary of potential strategies to continue identifying unknown service line materials. The framework developed for the inventory will be flexible to allow for revisions for compliance with future regulations related to LCRR/LCRI.

Deliverables:

- Service line inventory in excel/csv format which meets the requirements of the template and guidance shared as of July 29th, 2024 by New York State Department of Health (NYS DOH)
- Shapefile of inventory showing parcel number, customer, utility, and regulatory materials for each service line
- Service Line Inventory Development Memo (draft and final)

Assumptions:

- Current inventory of materials including account / meter numbers / address will be provided in excel
- No scanning or digitization of records is included in this task but may be added as an additional task based on discussions with the City.
- The public facing component of the inventory is being developed under Task 2.
- All meetings will be held virtually

Task 2 – Public Facing Inventory and Notifications

Arcadis will use the initial inventory developed in Task 1 to prepare a public facing inventory (PFI) in ESRI GIS for publication to the City's website ahead of October 16, 2024. The PFI will include the following components:

- Disclaimer language (examples provided by Arcadis, require review by the City's legal counsel prior to implementation)
- Searchable by address and account number
- A pop up box showing both the customer and utility material
- Material designations on the map will be based on the regulatory material designation for each site

The following categories be used to identify individual service lines on the public-facing inventory:

- Lead service lines
- Galvanized requiring replacement (GRR) service lines
- Non-lead service lines (material verified or service line attribute information indicates lead was a banned material at the time of installation)
- Unknown service lines

A standard operating procedure (SOP) will be developed to guide periodic inventory updates which should be completed regularly as new information becomes available. Both the PFI and corresponding SOP will be developed with terminology for service line materials that is compliant with the LCRR, current draft LCRI, and industry best practices.

Arcadis will also provide the City with three template letters for notifying customers of their service line materials (which must be completed within 30 days of the October 16, 2024 compliance date). A health information sheet will also be prepared and must be mailed by the City with notification letters.

Deliverables:

- PFI in GIS
- PFI update SOP
- Three template service line inventory notification letters (lead, non-lead, and Galvanized Requiring Replacement) (docx)
- SL material notification health information sheet (pdf)

Assumptions:

- Notification letters and health information sheets will be provided in English for draft review, final pdfs will be provided in English and Spanish
- Preparation of the populated SL material notification letters and corresponding mailing (by USPS) will be completed by the City

Task 3 – Customer Self Reporting

Previous experience with community outreach around SL inventorying and replacement has shown that customers can be proactive and engaged in identifying their own service line material. Creating a customer self-reporting option can allow customers who have not been selected for an inspection as part of the initial inventory development or whose service line material is unknown to report their service line material identified at the meter inside the home, including a photo that can be reviewed by City staff to confirm the results submitted by the customer and identify any questions or discrepancies in the information collected. The following activities are included within this task to support the City in developing a customer self reporting program:

- Provide branded customer instructions for self-identification of service line materials (which will be included in the Survey123 reporting form, can be posted online, emailed to customers, or delivered as bill inserts, etc.)
- Develop one page program introduction letter / flyer for use in customer communications
- Identify additional strategies to communicate this approach to the boarder community (e.g., post cards with QR codes, door hangers, targeted letters or mailing, social media blasts, etc.)
- Provide industry best practices for minimum required fields and response options for the customer-self reporting form to collect the required data for the SLI (and to inform future field work); examples include:
    - Account Number
    - Name, Address, Phone Number
    - Photo Attachment Required
- Develop QA/QC protocols with the City for reviewing customer-provided data and recommended next steps for validation and addition to the service line inventory
- Coordinate with City IT for implementation of the Survey123 form on the City's existing website

Deliverables:

- Customer self reporting for in ESRI's Survey123
- SL Material Self Identification Instructions (pdf and jpg)

Assumptions:

- Self-reporting form will be hosted on the existing City website
- Implementation of the recommended fields/questions on City's website will be completed by City staff with review and guidance from Arcadis
- City staff will be responsible for QA/QC activities for customer-provided data once protocols are developed. Arcadis could provide this service under the allowance included here if requested by the City.

Task 4 – Predictive Modeling

Arcadis will work with a subconsultant (Blue Conduit) to develop a statistical model that will predict the likelihood of lead for service lines of unknown material on both the utility and customer-owned portions of each individual service line. This effort will assist in estimating how many lead service lines and galvanized service lines downstream of lead service lines (i.e. galvanized requiring replacement) may be in the distribution system, where they are most likely to be located, and help prioritize where to begin service line verification and replacements, if needed. The process of developing and running the predictive model is broken down into the following workflow items:

1. Gather SLI Data and Perform a Data QA/QC

The initial inventory developed in Task 1 will be reviewed with Blue Conduit including the data sources, historical replacements completed, and current status of the inventory. A detailed list of additional questions will be prepared and reviewed with the City specific to the modeling process.

2. Prepare List of Field Inspections

A list of sites that need to be field verified for service line materials to both validate the historical data used to build the model and calibrate the model to the appropriate system specifics will be developed (including alternate sites which may be required due to conditions in the field).

Field verification to support the predictive model could include potholing/excavation or basement inspections within customer homes. Since basement inspections are limited to collecting only customer side SL material information, we recommend the City complete inspections performed through excavation of the service line at the curb stop where both the utility and customer side materials can be confirmed. The field verification could be performed by City staff or a combination of City staff, Arcadis staff, or a third-party contractor. For the purpose of this scope of fee and estimated engineering hours, we have included an allowance for Arcadis staff to assist with the required field verification (see Optional Services).

3. Update Model with Field Information and Generate Ranked Lists

Following the collection of quality control verified field information (customer, utility, or both), the model is updated to reflect the actual conditions documented in the field. The quality control verified field information is used by the predictive model in conjunction with the service line inventory to perform an initial model run and generate service line material predictions, identifying those most likely to be lead service lines based on the system characteristics and field verified information. Model results will be provided in a shapefile for use in the ESRI LSL Inventory solution and for prioritization of additional field work. A Predictive Modeling Memo documenting the process, model quality metrics, and model results will be prepared by Blue Conduit and reviewed by Arcadis prior to being shared with the City for review and comment.

Deliverables:

- List of field verification sites (excel and shapefile)
- Model outputs (shapefile)

Assumptions:

- Field work to support the predictive will be performed by the City

Task 5 - Update SLI with Model Predictions and DOH Coordination

Under this task, Arcadis will work with the City to develop data workflows for the new service line material data sources (customer self-reporting and predictive modeling). These new sources will be added to City's inventory and included in the dashboard updates (internal to the City). An additional dashboard will be developed to display the results of the customer-self reporting efforts for use internally. Work on this task will include coordination with the NYS DOH to review the results of the predictive model and present recommendations for inclusion of model results in the next inventory update in order to reduce the number of remaining unknowns in the SLI (and therefore future SL material notifications). A summary letter including these recommendations will be prepared, reviewed by the City, and submitted to the NYS DOH following the workshop to present the results and recommendations.

Deliverables:

- Up to 2 virtual workshops with regulators (local and state DOH) to review the results of the predictive model and present recommendations for incorporation into the inventory
- Predictive Modeling DOH presentation slides (pdf)
- Updated SLI including modeling results pending DOH comment (shapefile)

Assumptions:

- DOH Coordination will be limited to the predictive model and initial service line inventory

Task 6 – Field Investigation Support

Arcadis will work with the City to develop a Field Maps application that can be used to complete document the field results of both basement investigation and test pits to determine service line materials on both the utility and customer sides of the curb stop. Recommended fields for inclusion in the application to support future LCRR and LCRI compliance (such as home type, SL diameter, etc.) will also be reviewed with the City and included in the application. A live dashboard showing work completed to date (one for each type of inspection, basement and test pit), will be created and shared with the City for review and comment. The dashboard can be updated in real time if mobile devices with service are used to collect field data, or updated periodically when devices not connected to the internet are synced (for example at the end of the work day or week). An allowance for field supplies has been included in this task to support the City in collecting high quality data consistent with the NYS DOH SLI guidance issued in April 2023 and to support the development of the predictive model.

Deliverables:

- Field Maps Application and Dashboard
- SL Material identification cards (pdf, in English and Spanish)
- Homeowner’s Guide to Lead (pdf, in English and Spanish)

Assumptions:

- The City shall provide their own ESRI Field Worker accounts for use in accessing the Field Maps application and dashboard
- No physical materials will be printed as part of this task

Task 7 – Funding Management

New York’s Clean Water Infrastructure Act of 2017 (Act) amended Public Health Law to require the New York State Department of Health to implement a Lead Service Line Replacement Program (LSLRP). Grant opportunities were further enhanced by the Bipartisan Infrastructure Law (BIL) for LSL inventories and Arcadis secured an award of $968,000 for the City of Newburgh. Arcadis will assist the City in administering the grant to pay for the inventory activities including our fees and in kind services performed by City staff. We will develop a tracking spreadsheet that the City will have access to upload hours and materials utilized for potholing or other activities to identify service line materials. We will review paperwork for the City to submit to NYS DOH for reimbursement on a monthly basis.

Deliverables:

- In kind services tracking system
- Monthly submittals to NYS DOH, including requesting reimbursement for Vac-Truck purchase

Assumptions:

- A total of 18 months of funding management is required to complete the inventory.

Task 8 - Project Management and Ongoing Assistance

Arcadis will conduct monthly calls and schedule periodic status update meetings to discuss progress of the work, regulatory updates and their implications, and funding updates with the City. Coordination with DOH (outside of the predictive model specific workshops) and funding agencies will also be covered by this task on an as needed basis.

Deliverables:

- Six Monthly Program Meetings
- Up to 2 virtual meetings with NYS DOH

Assumptions:

- Meetings will be held virtually through Microsoft Teams

Optional Services

Task A1 – Optional Field Staffing

Arcadis has included an allowance here for 3 weeks (40 hours per week) of two personnel on site with the City to complete basement inspections or oversee excavation work to determine service line materials to either support the predictive modeling effort, confirm suspected lead service line sites, or continue to identify unknowns following the initial compliance date.

Assumptions:

- Staff on site to complete basement inspections will be deployed in teams of two, or paired with City staff to complete the inspections
- Staff on site to oversee SL excavation work may be deployed alone.

Estimated Engineering Fee and Schedule

Our estimated engineering cost to complete the scope of services outlined herein is shown in Table 1 for a total estimated fee as shown; note costs have been rounded to the nearest $1,000 at the task level. Arcadis proposes to perform the engineering services described in this scope letter in accordance with our existing master services agreement.

Table 1. Estimated Engineering Costs

Project Task	Estimated Fee
Task 1 – Service Line Inventory Development	$31,000
Task 2 – Public Facing Inventory and Notifications	$27,000
Task 3 – Predictive Modeling	$90,000
Task 4 – Customer Self Reporting	$15,000
Task 5 – Update SLI with Model Predictions and DOH Coordination	$35,000
Task 6 – Field Investigation Support	$20,000
Task 7 – Funding Management	$18,000
Task 8 – Project Management and Ongoing Assistance	$16,000
Task A1 – Optional Field Staffing	$40,000
Total Estimated Fee	$292,000

Project Schedule

Arcadis is prepared to initiate activities immediately upon contract execution. We anticipate the following duration for each task. Many of these can overlap in the project schedule in order to move the City towards preparation for compliance with the October 16, 2024 deadline.

Arcadis will complete Tasks 1 and 2 ahead of the LCRR compliance date of October 16, 2024 to support the City in their overall regulatory compliance.

Table 2. Anticipated Project Task Durations

Project Task	Duration
Task 1 – Service Line Inventory Development	2 months
Task 2 – Public Facing Inventory and Notifications	2 months
Task 3 – Predictive Modeling	7 months
Task 4 – Customer Self Reporting	1 month
Task 5 – Update SLI with Model Predictions and DOH Coordination	3 months
Task 6 – Field Investigation Support	2 months
Task 7 – Funding Management	N/A
Task 8 – Project Management and Ongoing Assistance	N/A
Task A1 – Optional Field Staffing	N/A

Sincerely,
Arcadis of New York, Inc.

Senior Vice President

Email: Robert.Ostapczuk@arcadis.com
Direct Line: 518.250.7305

CC. Hannah Rockwell, PE, Arcadis
AJ Brooks, PE, Arcadis

This proposal and its contents shall not be duplicated, used or disclosed — in whole or in part — for any purpose other than to evaluate the proposal. This proposal is not intended to be binding or form the terms of a contract. The scope and price of this proposal will be superseded by the contract. If this proposal is accepted and a contract is awarded to Arcadis as a result of — or in connection with — the submission of this proposal, Arcadis and/or the client shall have the right to make appropriate revisions of its terms, including scope and price, for purposes of the contract. Further, client shall have the right to duplicate, use or disclose the data contained in this proposal only to the extent provided in the resulting contract.

Between City of Newburgh and Arcadis of New York, Inc.

This is an **Agreement** effective as of August ________, 2024 [“**Effective Date**”] City of Newburgh [“**Client**”], a corporation chartered under the laws of the State of New York, having its principal place of business at 83 Broadway, Newburgh, New York 12550, and Arcadis of New York, Inc., [“**Arcadis’**] a corporation chartered under the laws of the State of New York, having its principal place of business at 110 West Fayette Street, Suite 300, Syracuse, New York 13202 and an office at 201 Fuller Road, Suite 201, Albany, New York 12203.

The Client intends to develop a NYS DOH compliant Lead Service Line Inventory [“**Project**”].

Client engages ARCADIS to provide professional engineering services in support of its Project [“**Services**”].

The location of the Project is in the City of Newburgh [“**Site**”], New York [“**State**”].

ARCADIS’s Services for the Project are described generally as follows: Develop an initial NYS DOH compliant lead service line inventory by October 16, 2024 and then subsequent services to refine the inventory.

In consideration of the mutual promises herein, Client and ARCADIS agree that the terms and conditions of this Agreement are the following:

1 BASIC SERVICES

1.1 Scope. ARCADIS shall provide the Basic Services described in Schedule A. ARCADIS intends to perform the scope of services/work contemplated herein and in the contract documents through a combination of its own employees and employees of its affiliates, and the use of such affiliate labor shall not be deemed a subcontract for purposes of this Agreement. ARCADIS' obligations under this Agreement are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder.

1.2 Standard of Care. ARCADIS shall perform the Services under this Agreement at the level customary for competent and prudent engineers performing such services at the time and place where the Services are provided [“**Standard of Care**”]. These Services will be provided by licensed engineers and other professionals and individuals skilled in other technical disciplines, as appropriate.

1.3 Instruments of Service. ARCADIS is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all instruments of its Services including designs, drawings, specifications, reports [“**Service Instruments**”] and other services provided under this Agreement.

1.4 Indemnification. ARCADIS agrees to indemnify and hold Client harmless from all losses and damages resulting from ARCADIS's failure to meet the Standard of Care.

1.5 Subcontractors. Any subcontractors and outside associates or consultants to be engaged by ARCADIS under this Agreement are limited to those identified in Schedules A and B, or as Client specifically approves during the performance of this Agreement.

2 ADDITIONAL SERVICES

2.1 Scope. ARCADIS will provide the **Additional Services** described in Schedule B when authorized in writing by Client.

2.2 Excluded Services. Client acknowledges the Services provided by Arcadis hereunder do not and shall not include: (1) serving as a “municipal advisor” for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services; (4) nor any form of professional accounting or insurance advisory services.

3 SECTION 3 -- CLIENT'S RESPONSIBILITIES

Unless stated otherwise in Section 8, Client shall do the following in a timely manner:

3.1 Client's Representative. Designate a representative having authority to give instructions, receive information, define Client's policies, and make decisions with respect to the Services.

3.2 **Services Criteria**. Provide all criteria and information as to Client's requirements for the Services, including objectives, concepts, constraints, and performance requirements, and any budgetary limitations.

3.3 **Data**. Give ARCADIS all available information, including previous reports and any other data in the possession of Client relative to the Services. These data may include (1) data prepared by others, including borings, subsurface explorations, hydrographic surveys, and laboratory tests and inspections of samples, materials and equipment, (2) appropriate professional interpretations of such data, (3) environmental assessments and impact statements, (4) property, boundary, easement, right-of-way, topographic and utility surveys, (5) property descriptions, zoning, deed and other land use restrictions, and (6) other necessary special data or consultations. ARCADIS may rely on the accuracy and completeness of the supplied data.

3.4 **Access**. Arrange for ARCADIS to enter upon public and private property as necessary.

3.5 **Review**. Examine the Service Instruments and obtain the advice of attorneys, insurance counselors or other consultants as Client thinks appropriate. Render written decisions concerning the Service Instruments within a reasonable time. Client expressly acknowledges and agrees that the Services provided do not and shall not include: (1) serving as a "municipal advisor" for purposes of the registration requirements of Section 975 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (2010) or the municipal advisor registration rules issued by the Securities and Exchange Commission; (2) advising Client, or any municipal entity or other person or entity, regarding municipal financial products or the issuance of municipal securities, including advice with respect to the structure, timing, terms, or other similar matters concerning such products or issuances; (3) the practice of law or other legal services, nor any form of insurance advisory services.

3.6 **Expert Advice**. Provide legal, accounting, insurance or other necessary advisory services for the Services. Client expressly acknowledges and agrees that the Services provided do not and shall not include the practice of law or other legal services, nor any form of professional accounting or insurance advisory services.

3.7 **Permits.** Furnish approvals and permits from governmental authorities or other entities having jurisdiction over the Services and approvals from others as may be necessary for the timely completion of the Services.

3.8 **Services Developments**. Give prompt written notice to ARCADIS whenever Client observes or otherwise becomes aware of any development that affects the scope or timing of ARCADIS's services.

4 PERIODS OF SERVICE

4.1 **Time of Performance**. Sections 4 and 5 anticipate the orderly and continuous progress of the Services. The time of performance contemplated is the period which should reasonably be required for the completion of the Services.

4.2 **Delays**. If Schedule A specifies periods of time for performance of services or specific dates by which services are to be completed and if such periods or dates are exceeded through no fault of ARCADIS, the compensation specified under Section 5 shall be subject to equitable adjustment.

4.3 **Start of Performance**. ARCADIS will start the Basic Services upon authorization by Client. Unless otherwise stated in this Agreement, signing of this Agreement by both Client and ARCADIS will constitute such authorization. If Client elects to authorize ARCADIS to proceed before signing this Agreement, ARCADIS shall be paid as if the services had been performed after both parties signed the Agreement.

4.4 **Completion of Performance**. For the purposes of final payment under Section 5, completion of ARCADIS's services will occur upon delivery of the final report as specified in Schedule A or B, as appropriate.

4.5 **Force Majeure**. If a force, event, or circumstance beyond ARCADIS's control interrupts or delays ARCADIS's performance, the time of performance of the Basic or Additional Services shall be equitably adjusted.

5 COMPENSATION

5.1 **Basic Services**. Client shall pay ARCADIS the Amount stated in invoices issued in accordance with Schedule C **[Pricing Schedule]** for actual work performed and Reimbursable Expenses incurred during the period covered by the invoice. ARCADIS shall be entitled to invoice for affiliate labor in the same manner as it invoices its own employees. Invoices are due and payable within 30 days after receipt by Client. Client's payments shall be in the form and shall be sent to the ARCADIS address as described in the invoices.

5.2 **Additional Services**. Client shall pay ARCADIS for Additional Services actually performed pursuant to Client's authorization and invoiced in accordance with the Pricing Schedule.

5.3 **Litigation Services**. If Client requires ARCADIS' services either as a witness in, or support of, litigation or other dispute resolution procedures between Client and a third party, ARCADIS will provide such services in accordance with a Pricing Schedule for litigation services. In addition Client will promptly reimburse ARCADIS for its reasonable fees and expenses (including without limitation attorney's fees and other legal costs incurred by ARCADIS in response to a subpoena, or request for the production of documents, for any appearance at a deposition, trial or other legal proceeding) – provided ARCADIS is not a named party to such legal proceeding.

5.4 Delay or Termination.

5.4.1 If Client delays the performance of, or payment for, services under this Agreement for more than 3 months for a reason(s) other than ARCADIS's fault, ARCADIS may suspend performance until it receives payment in full for services rendered and expenses incurred to the date of suspension.

5.4.2 If Client terminates this Agreement prior to completion of the Basic Services, ARCADIS shall be paid in full for services rendered and expenses incurred to the date of termination, including reasonable demobilization and termination expenses.

5.5 Disputed Amounts. Notwithstanding the provisions of Section 7, if Client disputes an item(s) or amount(s) contained in an invoice, Client agrees to pay the balance of the undisputed invoiced amounts to ARCADIS in accordance with Schedule C.

5.6 Collection. Any reasonable attorneys' fees or other reasonable costs incurred by ARCADIS in collection of delinquent amounts shall be paid by Client.

6 OPINIONS OF CONSTRUCTION COST

6.1 Construction Cost. If the Service Instruments includes an estimate of the cost of constructing a facility [**Construction Cost**], that cost includes the total cost to Client of those portions of the Project described in the Service Instruments. Construction Cost will not include ARCADIS's compensation and expenses, the cost of land, rights of way, or compensation for properties. Construction Cost will also not include Client's legal, accounting, or insurance counseling services, or interest and financing charges incurred in connection with the Project, or the cost of services to be provided by others under paragraph 3.6 unless otherwise specified in Schedule A.

6.2 Opinions of Cost. ARCADIS's opinion of probable Construction Cost is made on the basis of ARCADIS's experience and qualifications and represents ARCADIS's judgment as an experienced and qualified professional engineering firm, familiar with the construction industry. ARCADIS does not guarantee that proposals, bids or actual Project cost will not vary from ARCADIS's opinions of probable Construction Cost.

7 GENERAL CONSIDERATIONS

7.1 Changes. By written notice at any time, Client may change the Basic Services, provided such changes are within the general scope of the services contemplated by this Agreement. In such event, an equitable adjustment both in the compensation for and time of performance of the Agreement shall be made in writing prior to ARCADIS's performing the changed services.

7.2 Confidentiality. ARCADIS will hold secret and confidential all information designated by Client as confidential [**Confidential Information**]. ARCADIS will not reveal Confidential Information to a third party unless:

7.2.1 Client consents in writing;
7.2.2 the information is or becomes part of the public domain;
7.2.3 ARCADIS lawfully possessed the information before receipt from Client;
7.2.4 applicable law, regulation, court order or an agency of competent jurisdiction requires its disclosure; or
7.2.5 failure to disclose the information would pose an imminent and substantial threat to human health or the environment.

7.3 Professional Service. The Service Instruments furnished under this Agreement are the tangible results of ARCADIS's professional services for the Services and ARCADIS shall have the right to use or reuse and retain the copyright of the Service Instruments for its purposes and at its sole risk, without liability to Client

7.3.1 **Reuse**. ARCADIS does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Services or on any other project. Any reuse without written verification or adaptation by ARCADIS for the specific purpose intended is at Client's sole risk, without liability to ARCADIS. Any such verification or adaptation will entitle ARCADIS to compensation at rates to be agreed on by Client and ARCADIS.

7.3.2 **CADD**. ARCADIS may provide information related to the Service Instruments in computer-assisted design and drafting format [**CADD**] to Client. CADD is derived in part from computer software for which ARCADIS is licensed. These licenses are not transferable. Any unlicensed reuse of CADD may subject the user to liabilities to the software licensor.

7.3.3 **Electronic Media.** Either party to this Agreement may rely on the data or information set forth on paper (also known as "hard copies") that the party receives from the sending party by mail, hand delivery, or facsimile as items the sending party intended to send. Data or information send in electronic media format by one party to the other party are furnished only for the convenience of the receiving party and shall not be relied upon by the receiving party. If there is a discrepancy between the data received in electronic media format and the hard copies, the hard copies govern. Any conclusion or information obtained or derived from the data in electronic media format shall be at the user's sole risk. When transferring documents in electronic media format, the sending party makes no representations as to the long term compatibility, usability, or readability of such documents resulting from the use of software, application packages, operating systems or computer hardware differing from those used by the document's creator.

7.4 Insurance. ARCADIS will maintain **insurance** against the following risks during the term of the Agreement:

7.4.1 workers compensation in statutory amounts and employer's liability for ARCADIS's employees' Services-related injuries or disease;

7.4.2 general liability and automobile liability each in the amount of $1,000,000 for personal injury or property damage to third parties which arises from ARCADIS's performance under this Agreement; and

7.4.3 professional liability in the amount of $1,000,000 for legal obligations arising out of ARCADIS's failure to meet the Standard of Care.

7.5 Interpretation. This Agreement shall be interpreted in accordance with the laws of the State.

7.6 Successors. This Agreement is binding on the successors and assigns of Client and ARCADIS. The Agreement may not be assigned in whole or in part to any third parties without the written consent of both Client and ARCADIS.

7.7 Independent Contractor. ARCADIS represents that it is an independent contractor and is not an employee of Client.

7.8 Disputes. If any dispute arises out of or relates to this Agreement, or the breach thereof, then in the first instance, representatives of both parties shall endeavor in good faith to negotiate a settlement of the dispute. If such dispute cannot be settled through direct discussions by such representatives of the parties, then higher level representatives of both parties shall endeavor in good faith to negotiate a settlement of such dispute. If such dispute cannot be settled through direct discussion by such higher level representatives of the parties, then the parties agree to submit the matter to mediation before having recourse to a judicial forum. No written or oral representation made during the course of any settlement negotiations or mediation shall be deemed a party admission.

7.9 Notices. Written notices may be delivered in person or by certified mail, by facsimile, or by courier. Such notices shall be effective upon the date of receipt by the party. Notices shall be delivered or sent to the designated representative of the other party at the address given on the cover page of this Agreement. An address may only be changed by written notice.

7.10 Applicable Law. ARCADIS and Client shall comply with all applicable federal, state and local laws, regulations or orders issued under such laws prohibiting any form of kickback, bribery or corrupt practices as defined in the Anti-Kickback Act of 1986, the Foreign Corrupt Practices Act and all other applicable federal, state, local laws, regulations or orders issued under such laws regarding kickbacks, bribery or corrupt practices. If applicable to this Agreement, ARCADIS will comply with the requirements of:

7.10.1 the Equal Employment Opportunity clause in Section 202 of Executive Order 11246, as amended,

7.10.2 Utilization of Small and Disadvantaged Business Concerns (Public Law 95-507), and

7.10.3 all other federal, state and local laws and regulations or orders issued under such laws.

7.11 Entire Agreement. This Agreement, including any schedules, attachments and referenced documents, is the entire agreement between Client and the ARCADIS. Any prior or contemporaneous agreements, promises, negotiations or representations not expressly stated herein are of no force and effect. Any changes to this Agreement shall be in writing and signed by Client and ARCADIS.

7.12 Waivers and Severability. A waiver or breach of any term, condition, or covenant by a party shall not constitute a waiver or breach of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal, or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

7.13 Effective Date. Unless stated otherwise in Schedule A, this Agreement is effective on the date shown on the cover page.

8 SPECIAL PROVISIONS, EXHIBITS and SCHEDULES

8.1 Special Provisions. This Agreement is subject to the following special provisions:

8.1.1 Arcadis will make good faith efforts to generally comply with the requirements for projects funded by the New York State Clean Water State Revolving Loan Fund outlined in the Mandatory State Revolving Fund Terms and Conditions.

8.2 Schedules. The following **Schedules** are attached to and made a part of this Agreement:
8.2.1 **Schedule A** "Scope of Basic Engineering Services and Related Matters"
8.2.2 **Schedule B** "Additional or Optional Engineering Services"
8.2.3 **Schedule C** "Pricing Schedule"

Execution Authority. This Agreement is a valid and authorized undertaking of Client and ARCADIS. The representatives of Client and ARCADIS who have signed below have been authorized to do so.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year shown on the cover page.

City of Newburgh

By ____

Todd Venning *Per Res. _____ -2024

Title __________City Manager & CEO_______________

Witness _____________________________________

Date Signed:__________________________________

Address for Giving Notices:

City of Newburgh
83 Broadway
Newburgh, New York 1255
Attn: City Manager

Arcadis of New York, Inc.

By ____

Michael Kosier, PE

Title _________Vice President_______________

Witness _____________________________________

Date Signed:________________________________

Address for Giving Notices:

201 Fuller Road, Suite 201
Albany, New York 12203
Attn: Micheal Kosier, PE

Schedule A
Scope of Basic Engineering Services and Related Matters

Task 1 – Service Line Inventory Development

Arcadis will prepare an LCRR compliant lead service line inventory (LSI) based on historical records, publicly available information, and previous field investigations completed by Client. Arcadis will establish a Unique Identifier for each service line to identify and track service lines in Client's water system and combine related datasets using a one-to-one relationship, establishing a unique identifier is required. The unique identifier for each service will allow related information to be connected on both the public and customer side of the service line and to other datasets (i.e., billing data, asset management, etc.). This also addresses situations where multiple private-side services are connected to a single public side service line (i.e., manifold private side services). Potential identifiers include:

- Curb Stop ID
- Account Number
- Meter Number (not generally recommended)
- Parcel Number

Arcadis will review additional data sources to supplement the current inventory. These will be used both to determine specific materials as well as to determine non-lead status based on factors such as service line diameter and age of the service line. At a minimum the following will be reviewed:

- Historical service logs (documenting replacements, if available)
- Parcel information – parcel number, latitude, longitude, home build date, zoning classification, property classification, assessment
- Water main data – water main material, size, install date, renewal (or abandonment) date
- Service line data – status (active, abandoned, renewed), service line material (utility and customer), install date, length, renewal (or abandonment) date, size/diameter, unique identifier
- Hydrant data – date installed, material, size, renewal date
- Meters – date installed, material, size, replaced date
- Census information – Median income levels, diversity, senior exemption.
- Customer Database including unique identifier (if available), address, meter number, meter type, service type, size
- Ordinances, Plumbing Codes and/or Tariffs indicating required materials, acceptable materials and/or prohibited materials including historical versions and revisions
- Asset Management / Field Data Collection – Many entities are either collecting service line material information through regular maintenance calls, meter replacement projects. These can be in Work Order/Maintenance Management Systems or in ad hoc records/lists (including hand written). Excel file documentation of test pits completed to date will be reviewed as part of this step.

Arcadis will prepare a memo documenting the data sources used and hierarchy adopted for the service line inventory will be prepared and shared with Client staff including a summary of potential strategies to continue identifying unknown service line materials. The framework developed for the inventory will be flexible to allow for revisions for compliance with future regulations related to LCRR/LCRI.

Arcadis will provide the following deliverables under this task:

- Service line inventory in excel/csv format which meets the requirements of the template and guidance shared as of July 29th, 2024 by New York State Department of Health (NYS DOH)
- Shapefile of inventory showing parcel number, customer, utility, and regulatory materials for each service line
- Service Line Inventory Development Memo (draft and final)

Arcadis has made the following assumptions:

- Current inventory of materials including account / meter numbers / address will be provided in excel
- No scanning or digitization of records is included in this task but may be added as an additional task based on discussions with Client.
- The public facing component of the inventory is being developed under Task 2.
- All meetings will be held virtually

Task 2 – Public Facing Inventory and Notifications

Arcadis will use the initial inventory developed in Task 1 to prepare a public facing inventory (PFI) in ESRI GIS for publication to Client's website ahead of October 16, 2024. The PFI will include the following components:

- Disclaimer language (examples provided by Arcadis, require review by Client's legal counsel prior to implementation)
- Searchable by address and account number
- A pop up box showing both the customer and utility material
- Material designations on the map will be based on the regulatory material designation for each site

The following categories be used to identify individual service lines on the public-facing inventory:

- Lead service lines
- Galvanized requiring replacement
- Non-lead service lines (material verified or service line attribute information indicates lead was a banned material at the time of installation)
- Unknown service lines

A standard operating procedure (SOP) will be developed to guide periodic inventory updates which should be completed regularly as new information becomes available. Both the PFI and corresponding SOP will be developed with terminology for service line materials that is compliant with the LCRR, current draft LCRI, and industry best practices.

Arcadis will also provide Client with three template letters for notifying customers of their service line materials (which must be completed within 30 days of the October 16, 2024 compliance date). A health information sheet will also be prepared and must be mailed by Client with notification letters.

Arcadis will provide the following deliverables under this task:

- PFI in GIS
- PFI update SOP
- Three template service line inventory notification letters (lead, non-lead, and GRR) (docx)
- SL material notification health information sheet (pdf)

Arcadis has made the following assumptions:

- Notification letters and health information sheets will be provided in English for draft review, final pdfs will be provided in English and Spanish.
- Preparation of the populated SL material notification letters and corresponding mailing (by USPS) will be completed by Client.

Task 3 – Customer Self Reporting

Previous experience with community outreach around SL inventorying and replacement has shown that customers can be proactive and engaged in identifying their own service line material. Creating a customer self-reporting option can allow customers who have not been selected for an inspection as part of the initial inventory development or whose service line material is unknown to report their service line material identified at the meter inside the home, including a photo that can be reviewed by Client staff to confirm the results submitted by the customer and identify any questions or discrepancies in the information collected. The following activities are included within this task to support Client in developing a customer self reporting program:

- Provide branded customer instructions for self-identification of service line materials (which will be included in the Survey123 reporting form, can be posted online, emailed to customers, or delivered as bill inserts, etc.)
- Develop one page program introduction letter / flyer for use in customer communications
- Identify additional strategies to communicate this approach to the boarder community (e.g., post cards with QR codes, door hangers, targeted letters or mailing, social media blasts, etc.)
- Provide industry best practices for minimum required fields and response options for the customer-self reporting form to collect the required data for the SLI (and to inform future field work); examples include:
    - Account Number
    - Name, Address, Phone Number
    - Photo Attachment Required
- Develop QA/QC protocols with Client for reviewing customer-provided data and recommended next steps for validation and addition to the service line inventory
- Coordinate with Client's IT department for implementation of the Survey123 form on the Client's existing website

Arcadis will provide the following deliverables under this task:
- Customer self reporting for in ESRI's Survey123
- SL Material Self Identification Instructions (pdf and jpg)

Arcadis has made the following assumptions:
- Self-reporting form will be hosted on the existing Client website
- Implementation of the recommended fields/questions on Client's website will be completed by Client staff with review and guidance from Arcadis
- Client staff will be responsible for QA/QC activities for customer-provided data once protocols are developed. Arcadis could provide this service under the allowance included here if requested by Client.

Task 4 – Predictive Modeling

Arcadis will work with a subconsultant (Blue Conduit) to develop a statistical model that will predict the likelihood of lead for service lines of unknown material on both the utility and customer-owned portions of each individual service line. This effort will assist in estimating how many lead service lines and galvanized service lines downstream of lead service lines (i.e. galvanized requiring replacement) may be in the distribution system, where they are most likely to be located, and help prioritize where to begin service line verification and replacements, if needed. The process of developing and running the predictive model is broken down into the following workflow items:

1. Gather SLI Data and Perform a Data QA/QC: The initial inventory developed in Task 1 will be reviewed with Blue Conduit including the data sources, historical replacements completed, and current status of the inventory. A detailed list of additional questions will be prepared and reviewed with Client specific to the modeling process.
2. Prepare List of Field Inspections : A list of sites that need to be field verified for service line materials to both validate the historical data used to build the model and calibrate the model to the appropriate system specifics will be developed (including alternate sites which may be required due to conditions in the field). Field verification to support the predictive model could include potholing/excavation or basement inspections within customer homes. Since basement inspections are limited to collecting only customer side SL material information, it is recommended Client complete inspections performed through excavation of the service line at the curb stop where both the utility and customer side materials can be confirmed. The field verification could be performed by Client staff or a combination of Client staff, Arcadis staff, or a third-party contractor. For the purpose of this scope of fee and estimated engineering hours, an allowance for Arcadis staff to assist with the required field verification has been included (see Schedule B).
3. Update Model with Field Information and Generate Ranked Lists: Following the collection of quality control verified field information (customer, utility, or both), the model is updated to reflect the actual conditions documented in the field. The quality control verified field information is used by the predictive model in conjunction with the service line inventory to perform an initial model run and generate service line material predictions, identifying those most likely to be lead service lines based on the system characteristics and field verified information. Model results will be provided in a shapefile for use in the ESRI LSL Inventory solution and for prioritization of additional field work. A Predictive Modeling Memo documenting the process, model quality metrics, and model results will be prepared by Blue Conduit and reviewed by Arcadis prior to being shared with Client for review and comment.

Arcadis will provide the following deliverables under this task:
- • List of field verification sites (excel and shapefile)
- • Model outputs (shapefile)

Arcadis has made the following assumptions:
- • Field work to support the predictive will be performed by Client

Task 5 - Update SLI with Model Predictions and DOH Coordination

Arcadis will work with Client to develop data workflows for the new service line material data sources (customer self-reporting and predictive modeling). These new sources will be added to Client's inventory and included in the dashboard updates (internal to Client). An additional dashboard will be developed to display the results of the customer-self reporting efforts for use internally. Work on this task will include coordination with the NYS DOH to review the results of the predictive model and present recommendations for inclusion of model results in the next inventory update in order to reduce the number of remaining unknowns in the SLI (and therefore future SL material notifications). A summary letter including these recommendations will be prepared, reviewed by Client, and submitted to the NYS DOH following the workshop to present the results and recommendations.

Arcadis will provide the following deliverables under this task:

- Up to 2 virtual workshops with regulators (local and state DOH) to review the results of the predictive model and present recommendations for incorporation into the inventory
- Predictive Modeling DOH presentation slides (pdf)
- Updated SLI including modeling results pending DOH comment (shapefile)

Arcadis has made the following assumptions:

- DOH Coordination will be limited to the predictive model and initial service line inventory

Task 6 – Field Investigation Support

Arcadis will work with Client to develop a Field Maps application that can be used to complete document the field results of both basement investigation and test pits to determine service line materials on both the utility and customer sides of the curb stop. Recommended fields for inclusion in the application to support future LCRR and LCRI compliance (such as home type, SL diameter, etc.) will also be reviewed with Client and included in the application. A live dashboard showing work completed to date (one for each type of inspection, basement and test pit), will be created and shared with Client for review and comment. The dashboard can be updated in real time if mobile devices with service are used to collect field data, or updated periodically when devices not connected to the internet are synced (for example at the end of the work day or week). An allowance for field supplies has been included in this task to support Client in collecting high quality data consistent with the NYS DOH SLI guidance issued in April 2023 and to support the development of the predictive model.

Arcadis will provide the following deliverables under this task:

- Field Maps Application and Dashboard
- SL Material identification cards (pdf, in English and Spanish)
- Homeowner's Guide to Lead (pdf, in English and Spanish)

Arcadis has made the following assumptions:

- Client shall provide their own ESRI Field Worker accounts for use in accessing the Field Maps application and dashboard
- No physical materials will be printed as part of this task

Task 7 – Funding Management

New York's Clean Water Infrastructure Act of 2017 (Act) amended Public Health Law to require the New York State Department of Health to implement a Lead Service Line Replacement Program (LSLRP). Grant opportunities were further enhanced by the Bipartisan Infrastructure Law (BIL) for LSL inventories and Arcadis secured an award of $968,000 for the City of Newburgh. Arcadis will assist Client in administering the grant to pay for the inventory activities including our fees and in kind services performed by Client staff. Arcadis will develop a tracking spreadsheet that the Client will have access to upload hours and materials utilized for potholing or other activities to identify service line materials. Arcadis will review paperwork for Client to submit to NYS DOH for reimbursement on a monthly basis.

Arcadis will provide the following deliverables under this task:

- In kind services tracking system
- Monthly submittals to NYS DOH

Arcadis has made the following assumptions:

- A total of 18 months of funding management is required to complete the inventory.

Task 8 - Project Management and Ongoing Assistance

Arcadis will conduct monthly calls and schedule periodic status update meetings, held virtually through Microsoft Teams, to discuss progress of the work, regulatory updates and their implications, and funding updates with Client. Coordination with DOH (outside of the predictive model specific workshops) and funding agencies will also be covered by this task on an as needed basis.

Arcadis will provide the following deliverables under this task:

- Six Monthly Program Meetings
- Up to 2 virtual meetings with NYS DOH

Schedule B
Additional or Optional Engineering Services

B.1 The Scope of Additional or Optional Engineering Services consists this of page plus the following documents, attached and made part of this Agreement:

Arcadis has included an allowance here for 3 weeks (40 hours per week) of two personnel on site with Client to complete basement inspections or oversee excavation work to determine service line materials to either support the predictive modeling effort, confirm suspected lead service line sites, or continue to identify unknowns following the initial compliance date.

Arcadis has made the following assumptions:

- Staff on site to complete basement inspections will be deployed in teams of two, or paired with Client staff to complete the inspections
- Staff on site to oversee SL excavation work may be deployed alone.

Schedule C
Pricing Schedule

C.1 The Pricing Schedule consists of this page plus the following documents, attached and made part of this Agreement:

a. Summary of Charges

C.2 **Terms of Payment**

C.2.1 **Fixed Rates.** For Basic Services under Section 1, Client shall pay Arcadis on the basis of standard hourly rates for technical work actually performed.

The estimated cost of the Consultant's services under Section 1 is $292,000.

Hourly Rates: Charges for services provided will be in accordance with the following schedule:

Rate Schedule	
Grade 1 – Technician/Administrator I	$65
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$100
Grade 5 – Professional	$125
Grade 6 – Professional II	$135
Grade 7 – Staff Professional	$150
Grade 8 – Project Professional	$165
Grade 9 – Senior Professional	$190
Grade 10 – Principal	$220
Grade 11 – Associate VP or VP	$255
Grade 12 – VP or Senior VP	$285

All rates presented apply to services rendered during calendar year 2024, for this project, and are subject to adjustment on January 1 of each subsequent year.

In addition to these fees, clients will also be responsible for any sales or value-added taxes that may apply to engineering services performed.

C.3 **Reimbursable Expenses.** Except for certain in-house services, project expenses incurred with subcontractors and outside vendors will be invoiced at cost plus 10% to cover handling. These project expenses may include, but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; permits; and subcontracted services.

In-house services not subject to handling costs are:

Transportation:	Current IRS mileage reimbursement
Specialty Equipment:	In accordance with a usage rate schedule

C.4 **Invoices.** Arcadis will submit invoices to Client for each month during which services were performed. Invoices may include carrying charges at 1.5% per month for delinquent payments outstanding over 30 days and applicable sales or value-added taxes.

RESOLUTION NO.: 168 - 2024

OF

AUGUST 12, 2024

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

WHEREAS, the City of Newburgh's Annual International Festival is scheduled for Friday, August 30, 2024 through Monday, September 2, 2024, respectively, at the Delano-Hitch Recreation Park; and

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

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

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

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

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

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

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this ______ day of ____________________________, 2024, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the **"CITY,"** with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and **SHAMROCK SHOWS, INC.**, a firm with principal offices at 338 Willow Tree Road, Milton, New York 12547, hereinafter referred to as **"VENDOR."**

ARTICLE 1. SCOPE OF WORK

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning Friday, August 26, 2024, and ending September 6, 2024.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES and/or receipt of conforming goods or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule A, which is attached to and is part of this Agreement. VENDOR SHALL submit to the CITY a monthly itemized invoice for SERVICES rendered during the prior month, or as otherwise set forth in Schedule A, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within sixty (60) days after receipt of a CITY Claimant's Certification form, and if the Claimant's Certification form is objectionable, will notify VENDOR, in writing, of the CITY'S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

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

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

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

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

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

ARTICLE 13. INSURANCE

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

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

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

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

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

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

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

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

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

ARTICLE 14. INDEMNIFICATION

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

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

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

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

ARTICLE 16. TERMINATION

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

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

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

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

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

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

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

ARTICLE 17. GENERAL RELEASE

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

ARTICLE 18. SET-OFF RIGHTS

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

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. CURRENT OR FORMER CITY EMPLOYEES

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

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

RTICLE 22. ENTIRE AGREEMENT

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

ARTICLE 23. MODIFICATION

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

ARTICLE 24: CLOSE OUT & CLEAN UP

The parties agree that VENDOR shall remove all property and equipment from the site no later than 12:00 p.m. on September 4, 2024.

Remainder of this page intentionally left blank
Signature page to follow

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

THE CITY OF NEWBURGH	SHAMROCK SHOWS, INC.
BY: ______________________________	BY: _________________________
Todd Venning City Manager Pursuant to Resolution No.: ____-2024	Colin O'Keefe, CEO
DATE: ______________________________	DATE: ________________________

APPROVED AS TO FORM

______________________________ DATE: ________________________

MICHELLE KELSON
Corporation Counsel

APPROVED AS TO FORM AND
SUFFICIENCY OF ESCROW

______________________________ DATE: ________________________

JANICE GASTON
City Comptroller

SCHEDULE A – SCOPE OF SERVICES

The festival will be held at the Delano-Hitch Recreation Park ("Park") in the City of Newburgh. The rides, concessions, and amusements will be in an area of the Park that is approximately 120 yards x 65 yards (football field size). The area is grass and dirt. Entrance for equipment will be a gate on South William Street.

Vendor shall provide for the operation of all the carnival rides, concessions, and amusements supplying their own source of power, electricity, and all water (including potable water).

Vendor shall remove all food related oil and equipment, oil, and grease using its own disposal services and equipment. City of Newburgh garbage and trash receptacles are not acceptable for disposal of these materials.

Vendor shall provide 100 advertising posters at no cost to the City which shall be distributed by the City of Newburgh.

Vendor must supply tickets at no cost to the City of Newburgh.

Vendor shall be fully responsible for providing all personnel necessary to deliver the services.

Vendor shall be responsible for maintenance and cleanliness of the immediate ride, concession, and amusement areas at all times, including the areas after break-down.

Vendor shall provide the carnival rides, concessions, and amusements at no cost to the City of Newburgh.

Vendor shall pay the City of Newburgh 35 percent (35%) of its entire proceeds over the total and complete duration of the festival. Vendor shall submit proof of proceeds on forms required by the City of Newburgh. Vendor shall also describe its collection policies and procedures for receipt and accountability for payments for all proceeds. Vendor must provide a written accounting of the daily proceeds to the designated City of Newburgh representative (TBD) at the conclusion of festival operations each and every evening.

Vendor shall pay the City of Newburgh at the end of each festival evening the amount due to the City based on the accounting of proceeds and on the percentage proposed and awarded there from.

Vendor will provide rides, concessions, and amusements at no cost to the City of Newburgh.

Vendor may begin setting up at the Newburgh Recreation designated field, no earlier than Monday, August 26, 2024 at 12:00 p.m. The successful Ride Company must have all equipment removed from the said location no later than 12:00 p.m. on Wednesday, September 4, 2024.

Vendor must have all personnel, rides, concessions, and amusements ready to operate on the first day no later than 6:00 p.m. on Friday, August 30, 2024 and shall cease operations promptly at 11:00 p.m. that night.

Vendor shall cease operations promptly at 11:00 p.m. on Friday, August 30, 2024; Saturday, August 31, 2024; and, Sunday, September 1, 2024. Ride Company shall cease operations at the end of Festival on Monday, September 2, 2024 promptly at 10:00 p.m., unless otherwise directed by a City of Newburgh official or designated representative.

Vendor is responsible for all personnel, rides, concessions, and amusements to be ready for carnival operations commencing at 4:00 p.m. for each of the remaining days: Saturday, August 31, 2024; Sunday, September 1, 2024; and, Monday, September 2, 2024.

Tear-Down and all removal, including complete cleanup, must be done by 12:00 p.m. on Wednesday, September 4, 2024.

Vendor must provide insurance coverage as outlined in Section 2 of City of Newburgh RFP 15.24 and in Article 13 of this Agreement, naming the City of Newburgh as an additional insured.

Vendor must provide either: (1) a performance bond; or (2) a cash deposit, both in the amount of $1,500.00, to assure the adequate cleanup and restoration of City property back to its original condition prior to the event, reasonable wear and tear excepted. The City, in its sole discretion, reserves the right to determine whether City property has been adequately restored.

SHAMROCK SHOWS, INC.
338 Willow Tree Rd. • Milton, NY 12547
Phone:845-795-1263 • Fax:845-795-2345

Shamrock Shows and Amusements will bring 12-14 rides and 6-10 games and 3 concession trailers during the 2024 international festival.
Shamrock Shows and Amusements will provide proper insurance coverage,co listing city of Newburgh NY in scope and amount satisfactory to City, and will have proper permits for Orange County health dept.

A. Shamrock will provide amusement concessions and carnival rides at no cost to the city of Newburgh
B. Shamrock shows and amusements will pay the city of Newburgh 35% of the entire ticket proceeds over the total duration of festival
C. Shamrock shows and amusements shall provide electricity and water for all amusements concessions and carnival rides
D. Shamrock shows and amusements will provide 100 advertising posters at no cost to the city and will be distributed by the city
E. Shamrock shows will provide tickets at no cost to the city
F. Shamrock shows will be full responsible to provide personnel
G. Shamrock shows will clean and provide maintenance to all immediate concessions and amusement rides at all times and remove all cooking oil at end of event
H. Shamrock shows will provide a written account of the daily proceeds earned to the designated city of Newburgh representative at the conclusion of each and ever night
I. Shamrock shows will pay the city at the end of each evening the amount due to the city of Newburgh
J. Shamrock shows will set up no earlier than monday august 26th at 12::00 pm shamrock will have all rides removed from location no later than 12:00 pm on Wednesday sept 4th shamrock will have all personnel rides and concessions ready to operate first day no later than 6:00 pm on Friday august 30th and shall cease operations promptly at 11:00 pm that night shamrock will be fully operational at 4:00 pm for the remaining days and will cease operations each

night at 11:00 pm and on Monday night cease operations at 10:00 pm unless otherwise directed by a city representative

Gl O'K

colin O'Keeffe ceo

07/16/2024

Date

NON-COLLUSION BIDDING AFFIDAVIT

CITY OF NEWBURGH

STATE of New York)
) SS:
County of Orange)

I, Colin O'Keeffe of the (Town, Village, City) of milton in the County of ulster and the State of new york of full age, being duly sworn according to law on my oath depose and say that:

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

I further warrant that no person or selling agency has been employed or retained to solicit or secure contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bonafide employees or bonafide established commercial or selling agencies maintained by Shamrock Shows inc.
(Name of Contractor)

Subscribed and sworn to: Col O'Keeffe
(Signature of Affiant above in ***BLUE*** Ink*;* type or print name/title below)

Name: Colin O'Keeffe Title: CEO

Before me this 17 day
of July, 2024
Karen Barr
Notary Public of New York
My commission expires: 05/18/2027

AFFIX NOTARY SEAL OR STAMP IN THIS BOX

KAREN BARR
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 01BA0008200
Qualified in Sullivan County
Commission Expires May 18, 2027

THIS AFFIDAVIT MUST BE COMPLETED BY ALL BIDDERS

PROPOSER INFORMATION FORM

REQUEST FOR PROPOSALS RFP #15.24

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS

FOR THE 35th ANNUAL INTERNATIONAL FESTIVAL

CITY OF NEWBURGH, NEW YORK

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

COMPANY NAME Shamrock Shows Inc.

COMPANY ADDRESS 338 willowtree rd milton NY 12547

PHONE NO. 352-949-9644 EMAIL ADDRESS Shamrockshows@gmail.com

SUBMITTED BY/DATE [signature] 07/16/2024

(SIGNATURE IN BLUE INK)

PRINT NAME / TITLE Colin O'Keeffe 07/16/2024

PROPOSED PERCENTAGE (%) OF DAILY PROCEEDS FORM

REQUEST FOR PROPOSALS RFP #15.24

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS

FOR THE 35th ANNUAL INTERNATIONAL FESTIVAL

CITY OF NEWBURGH, NEW YORK

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

PROPOSED PERCENTAGE (%) OF DAILY PROCEEDS 35%

DESCRIBE THE COLLECTION POLICIES AND PROCEDURES FOR DAILY PROCEEDS

proceeds picked up nightly in locked bank bag previously provided by city

COMPANY NAME Shamrock Shows inc.

COMPANY ADDRESS 338 willowtree rd milton NY 12547

PHONE NO. 352-949-9644 EMAIL ADDRESS Shamrock shows@gmail.com

SUBMITTED BY/DATE

Col O'Keefe

(SIGNATURE IN BLUE INK)

PRINT NAME / TITLE Colin O'Keeffe 07/16/2024

SHAMROCK SHOWS, INC.

338 Willow Tree Rd. • Milton, NY 12547

Att: Robert Van Vlack

7/18/2024
1:19 p.m.
RVV

City of Newburgh
Orange County, New York

Solicitation # 15.24 - Request for Proposal (RFP)

CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS for the 35TH ANNUAL INTERNATIONAL FESTIVAL

Friday August 30 – September 2, 2024

Date of Submission: Friday, July 12, 2024

Proposals are to be received by 11:00 a.m.

Contents

1. Introduction

The City of Newburgh, New York is seeking proposals from qualified carnival ride, concession, and amusement companies (hereinafter referred to as “Ride Company”) to provide carnival rides, concessions, and amusement services for the 35th Annual International Festival. This year, the 35Th Annual International Festival will be held over the Labor Day weekend at the Delano-Hitch Recreation Park on Washington Street in the City of Newburgh. The festival typically draws several thousand people for the event.

The 2024 festival runs for four (4) consecutive days from Friday, August 30, 2024 through Monday, September 2, 2024. The festival will kick off Friday, August 30, 2024 beginning at 6:00 P.M. (Eastern Time) and end its operation at 10:00 P.M. on Labor Day, Monday, September 2, 2024.

Friday, August 30, 2024: 6 p.m. – 11 p.m.
Saturday, August 31, 2024: 4 p.m. – 11 p.m.
Sunday, September 1, 2024: 4 p.m. – 11 p.m. (Fireworks at 9 p.m.)
Monday, September 2, 2024: 4 p.m. – 10 p.m.

The festival will be held at the Delano-Hitch Recreation Park in the City of Newburgh. The Park is bounded by Washington Street, South William Street, and Robinson Avenue (Route 9W).

The rides, concessions, and amusements will be in an area of the Park that is approximately 120 yards X 65 yards (football field size). The area is grass and dirt.

Entrance for equipment will be a gate on South William Street.

The City of Newburgh is located about 60 miles north of New York City on the western side of the Hudson River in Orange County, New York. It is a small, densely settled community of 3.8 square miles bounded by the Town of Newburgh on the west and north, the Hudson River on the east and Town of New Windsor on the south. The population estimate as of July 2022 is 28,501.

2. Ride Company Proposal and Qualifications

Proposals must contain and indicate compliance with the following outlined information. The Proposer will acknowledge acceptance of compliance when signing and submitting the Proposer Information Form and Proposed Percentage (%) of Daily Proceeds Form.

The Ride Company will provide, in their proposal, a summary of its experience and qualifications for providing the services. Limit summary to three (3) pages.

The Ride Company shall provide the City with details outlining the number and type of carnival rides, concessions, and amusements to be provided during the 35th Annual International Festival. Limit details to three (3) pages.

The Ride Company must secure and maintain all proper policies of insurance coverage, co-insuring the City of Newburgh, NY, in scope and amount satisfactory to City, and must be properly permitted by the Orange County Health Department and otherwise as required by law.

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

The Ride Company must provide for the operation of all the carnival rides, concessions, and amusements supplying their own source of power, electricity, and all water (including potable water).

All food related oil and equipment oil and grease must be removed by the Ride Company.

The Ride Company shall provide a set number of advertising posters at no cost to the City which shall be distributed by the City of Newburgh. The Ride Company shall propose the set number of posters in said Proposal.

The Ride Company must supply tickets at no cost to the City of Newburgh.

The Ride Company shall be fully responsible for providing all personnel.

The Ride Company shall be responsible for maintenance and cleanliness of the immediate ride, concession, and amusement areas at all times.

The Ride Company shall provide the carnival rides, concessions, and amusements at no cost to the City of Newburgh.

The Ride Company shall propose to pay the City of Newburgh a set percentage of their entire proceeds over the total and complete duration of the Festival. The Ride Company must submit the completed Proposed Percentage (%) of Daily Proceeds Form.

The Ride Company shall describe the collection policies and procedures for receipt and accountability for payments for all proceeds. The description must be included on the Proposed Percentage (%) of Daily Proceeds Form.

The successful Ride Company must provide a written accounting of the daily proceeds to the designated City of Newburgh representative (To Be Determined) at the conclusion of festival operations each and every evening.

The successful Ride Company shall pay the City of Newburgh at the end of each festival evening the amount due to the City based on the accounting of proceeds and on the percentage proposed and awarded there from.

Completed forms signed in blue ink by an officer of the Ride Company as provided in this RFP: The Proposer Information Form, Proposed Percentage (%) of Daily Proceeds Form, and Non-Collusion Bidding Affidavit. These three (3) original documents must be included in the proposal when submitted. Proposals shall be appropriately marked original and copy prior to submission.

Failure to comply with any of the stipulations specified in this RFP shall remove the Ride Company from consideration of any or all future City of Newburgh events.

A Proposer, when submitting an offer, must be responsive. A responsive offer is defined as submitting a complete proposal as required by this solicitation.

A Proposer, when submitting an offer, must not be on a New York State or Federal Debarment list. This is defined as being a responsible vendor.

The following are the applicable Debarment Lists:

- New York State Debarment List
- Federal Debarment List – SAM.GOV

Any vendor that is included on these debarment lists is ineligible for an award.

3. Scope of Services/Performance

The successful Ride Company can begin setting up at the Newburgh Recreation designated field, no earlier than Monday, August 26, 2024 at 12:00 P.M. The successful Ride Company must have all equipment removed from the said location no later than 12:00 P.M. on Wednesday, September 4, 2024.

Hours of Festival Operations. The successful Ride Company must have all personnel, rides, concessions, and amusements ready to operate on the first day no later than 6:00 P.M. (Eastern Time) on Friday, August 30, 2024 and shall cease operations promptly at 11:00 P.M. that night.

The Ride Company is responsible for all personnel, rides, concessions, and amusements to be ready for carnival operations commencing at 4:00 P.M. for each of the remaining days: Saturday, August 31, 2024; Sunday, September 1, 2024; and, Monday, September 2, 2024.

The Ride Company shall provide carnival rides, concessions, and amusements with their own source of power, electricity, and all water (including potable water).

The Ride Company shall be responsible for maintenance and cleanliness of the immediate ride, concession, and amusement areas at all times, including the areas after Tear-Down.

The Ride Company shall cease operations promptly at 11:00 P.M. on Friday, August 30, 2024; Saturday, August 31, 2024; and, Sunday, September 1, 2024. Ride Company shall cease operations at the end of Festival on Monday, September 2, 2024 promptly at 10:00 P.M., unless otherwise directed by a City of Newburgh official or designated representative.

Tear-Down and all removal, including complete cleanup, must be done by 12:00 P.M. on Wednesday, September 4, 2024.

4. RFP Event Timelines

Event	Timeframe
1. RFP Publish	Monday, June 24, 2024
2. Question Period	Until Friday, July 5, 2024 at 11:00 a.m.
3. RFP Submission Date	Friday, July 12, 2024 at 11:00 a.m.
4. RFP Opening	Friday, July 12, 2024 at 11:15 a.m.
5. Proposal Review/Scoring Tabulation/Selection/Award	By Friday, August 16, 2024

5. Submission Requirements

Proposers are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of the RFP may cause a proposal to be rejected. Submission of a proposal in response to this RFP constitutes acceptance of all requirements outlined in the RFP.

The original proposal must be prepared on 8-1/2" x 11" paper using a font no smaller than 11-point with one-inch margins. Each page of the submission must be numbered in a manner so that it can be uniquely identified. Legibility, clarity, and completeness are required.

The proposal must be signed by each individual Ride Company or its authorized representative having the authority to legally bind the proposer.

Respondents must submit three (3) hard copies (original and two (2) copies) and one (1) digital copy (on a flash drive) of its proposal. Faxed or electronic submissions will not be considered.

The following is required when submitting a sealed proposal:

Ride Company Experience and Qualifications (Three page limit)
Proposed Number and Types of Rides, Amusements, and Concessions (Three page limit)
Completed Non-Collusion Bidding Affidavit (Signed and Notarized)
Completed Proposer Information Form (Signed)
Proposed Percentage (%) of Daily Proceeds Form (Signed)
Ride Company W-9
Proof of Insurance Coverage
One original and two copies of submitted proposal
One Digital Copy of Proposal (Flash Drive)
All submitted proposals must be clearly marked as "#15.24 – "35th Annual International Festival"

All Proposals are to be mailed or delivered to:

City of Newburgh
City Hall, Office of the Comptroller
Attn: Robert Van Vlack
83 Broadway
Newburgh, New York 12550

All proposals are to be submitted sealed.

The City will accept all sealed proposals, until the deadline, that either are received by hand delivery or mailed.

All received bids will be initialed, dated, and time recorded by Purchasing/Comptroller. Date and time will be recorded from an office computer or mobile (cell) phone.

Deadline for submission is Friday July 12, 2024 at 11:00 a.m.

Responses that miss the deadline will not be considered.

6. Question and Answer Period (Contacts)

The question submission period will be until Friday, July 5, 2024 at 11:00 a.m.

All questions regarding this Request for Proposal (RFP) must be submitted by email to the following:

Robert Van Vlack – City Purchasing Agent

rvanvlack@cityofnewburgh-ny.gov

Any impermissible contact with any other City officer or employee regarding the RFP during the procurement period shall result in the rejection of any such proposal. Proposers shall communicate in writing only.

The City Purchasing Agent will review and answer or direct questions to the proper department or person. The City Purchasing Agent will acknowledge and respond to all questions as quickly as possible.

Answers to all questions will be posted to bidnetdirect.com by Monday, July 8, 2024 at 4:00 p.m.

7. Proposal Opening

Proposal opening is Friday, July 12, 2024 at 11:15 a.m. No public opening will be held.

Purchasing (or designee) is the lead for all RFP openings. Other attendees will be requested by Purchasing.

The published Proposal Opening Document will contain the following information:

A. The Solicitation Number.
B. Date and time of opening.
C. Attendees.
D. Name of each bidder.

The Proposal Opening Document will be published on bidnetdirect.com. The City is a participant in the Empire State Purchasing Group.

8. Evaluation Criteria, Scoring, and Selection

The information requested through this RFP is necessary for the City of Newburgh to adequately evaluate any proposal. Applicants are urged to submit proposals as complete as possible on their initial submission. Failure to supply the requested information may result in the rejection of the proposal.

Each Proposer is responsible for carefully examining all RFP documents and thoroughly familiarizing themselves with each of the City's requirements prior to its submission of a proposal to ensure that its responses are following the RFP.

Weighted Factors:

50%

Provide an overall plan, detailing the number and types of Rides, Amusements, and Concessions.

The Proposer's experience and qualifications demonstrating the ability to fulfill the requirements of the proposal, technical ability, knowledge of laws and regulations as they apply to the services to be provided, references, and other factors, which the City may consider relevant.

50%

The Proposer collection policies and procedures for all receipts.

The Proposer percentage (%) of daily proceeds to the City.

TOTAL = 100%

Each proposal will be evaluated based on the information submitted. The proposals will be evaluated by a selected City team.

9. Payment Terms to the City

The successful Ride Company will provide rides, concessions, and amusements at no cost to the City of Newburgh.

The successful Ride Company will propose to pay the City of Newburgh a set percentage of their entire proceeds over the total and complete duration of the Festival.

The successful Ride Company must provide a written accounting of the daily proceeds to the designated City of Newburgh representative (To Be Determined) at the conclusion of festival operations each and every evening.

The successful Ride Company shall pay the City of Newburgh at the end of each festival evening the amount due to the City based on the accounting of proceeds and on the percentage proposed and awarded there from.

10. Contract and Term

The contract term will be for the 35th Annual International Festival. An additional extension for the next two Festivals will be included.

Successful Ride Company must sign the City of Newburgh "Agreement for Vendor Services".

The Successful Ride Company must provide insurance coverage as outlined in Section 2 of this RFP, naming the City of Newburgh as an additional insured.

The Successful Ride Company must provide either: (1) a performance bond; or (2) a cash deposit, both in the amount of $1,500.00, to assure the adequate cleanup and restoration of City property back to its original condition prior to the event, reasonable wear and tear excepted. The City, in its sole discretion, reserves the right to determine whether City property has been adequately restored.

The contract is subject to approval by the City Council of the City of Newburgh and City Manager signature.

11. Terms and Conditions

1. The City may, at its option, interview prospective proposers as part of this selection process. However, selection may take place without such interviews. Therefore, applicants are urged to present proposals that are as complete as possible upon initial submission.
2. The City reserves the right to amend its evaluation criteria at any point, at its sole discretion.

3. The City may terminate the RFP process at any time for any reason.
4. The City reserves the right to reject any and/or all proposals.
5. The City has no obligation to discuss its reasons for selecting, accepting, or rejecting any proposals with the proposer or representatives of said proposer, but will entertain such requests.
6. The issuance of the RFP does not obligate the City to select a proposal and/or enter into any agreement. Any submission does not constitute business terms under any eventual agreement.
7. This RFP does not in any way commit the City to reimburse respondents for any costs associated with the preparation and submission of proposals.
8. The proposal chosen will be one that represents the best value to the City. This may or may not be the highest percentage of daily proceeds proposal.
9. The Contract will need the approval of the Newburgh City Council and City Manager signature.

Iran Divestment Act: By submission of a proposal in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Proposer (or any assignee) certifies that it is not on the "Entities Determined To Be Non-Responsive Bidders/Vendors Pursuant to The New York State Iran Divestment Act of 2012" list ("Prohibited Entities List") posted on the OGS website at: http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf and further certifies that it will not utilize on such Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, the Proposer is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

12. Additional Considerations

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. Minority and Women-owned Business Enterprises ("MBW/WBE"), small and disadvantaged businesses are encouraged to apply.

13. Forms and Attachments

- Non-Collusion Bidding Affidavit
- Proposer Information Form
- Proposed Percentage (%) of Daily Proceeds Form

NON-COLLUSION BIDDING AFFIDAVIT

CITY OF NEWBURGH

STATE of)
) SS:
County of)

I, ________________________________ of the (Town, Village, City) of

__________________________in the County of___________________and the State of __________________________of full age, being duly sworn according to law on my oath depose and say that:

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

I further warrant that no person or selling agency has been employed or retained to solicit or secure contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bonafide employees or bonafide established commercial or selling agencies maintained by____.
(Name of Contractor)

Subscribed and sworn to: ____
(Signature of Affiant above in ***BLUE*** Ink***;*** type or print name/title below)

Name:_________________________Title: ______________________

Before me this_______day

of_________________________, 20__

____
Notary Public of

My commission expires: ___________

AFFIX NOTARY SEAL OR STAMP IN THIS BOX

THIS AFFIDAVIT MUST BE COMPLETED BY ALL BIDDERS

PROPOSER INFORMATION FORM

REQUEST FOR PROPOSALS RFP #15.24

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS

FOR THE 35th ANNUAL INTERNATIONAL FESTIVAL

CITY OF NEWBURGH, NEW YORK

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

COMPANY NAME ____

COMPANY ADDRESS ____

PHONE NO. ______________________ EMAIL ADDRESS ___________________________________

SUBMITTED BY/DATE ____

(SIGNATURE IN BLUE INK)

PRINT NAME / TITLE ____

PROPOSED PERCENTAGE (%) OF DAILY PROCEEDS FORM

REQUEST FOR PROPOSALS RFP #15.24

OPERATION OF CARNIVAL RIDES, CONCESSIONS AND AMUSEMENTS

FOR THE 35th ANNUAL INTERNATIONAL FESTIVAL

CITY OF NEWBURGH, NEW YORK

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

PROPOSED PERCENTAGE (%) OF DAILY PROCEEDS ____

DESCRIBE THE COLLECTION POLICIES AND PROCEDURES FOR DAILY PROCEEDS

____

____

COMPANY NAME ____

COMPANY ADDRESS ____

PHONE NO. _____________________ EMAIL ADDRESS __________________________________

SUBMITTED BY/DATE

____

(SIGNATURE IN BLUE INK)

PRINT NAME / TITLE ____

RESOLUTION NO.: ___169____ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THRIVE OPERATIONS, LLC FOR MICROSOFT OFFICE 365 EMAIL LICENSING AND RELATED SERVICES AT A TOTAL COST OF $119,592.00

WHEREAS, by Resolution No. 114-2024 of May 28, 2024, the City Council approved a contract with Thrive Operations, LLC for information technology services to support the migration of the City's information systems to cloud-based technology; and

WHEREAS, the City's Microsoft 365 Office license requires renewal and the City received a proposal from Thrive Operations, LLC to provide the license renewal at cost of $119,592.00 which represents a savings of $96,369.90 over the renewal through the previous vendor; and

WHEREAS, funding for the license renewal shall be derived from A.1680.0453; and

WHEREAS, this Council has reviewed the attached statement of work and has determined that executing a contract under the terms and conditions set forth therein is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute a contract with Thrive Operations, LLC to provide a Microsoft 365 Office license renewal and and related services to the City of Newburgh at a total cost of $119,592.00.

RESOLUTION NO.: ___170_________ - 2024

OF

AUGUST 12, 2024

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY KNOWN AS 42 BRIDGE STREET (SECTION 44, BLOCK 5, LOT 14) AT PRIVATE SALE TO SANJAY ARYA FOR THE AMOUNT OF $22,300.00

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real Property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell a parcel of real property identified as 42 Bridge Street, being more accurately described as Section 44, Block 5, Lot 14 on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH,** such sums are to be paid on or before November 12, 2024, being approximately ninety (90) days from the date of this resolution; and

Property address	Section, Block, Lot	Purchaser	Purchase Price
42 Bridge Street	44 – 5 – 14	Sanjay Arya	$22,300.00

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions of Sale
42 Bridge Street, City of Newburgh (SBL: 44-5-14)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number on the City of Newburgh Tax Map.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid City/County taxes for the year 2024, and school taxes for the tax years of **2023-2024, 2024-2025**, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any City/County taxes for the year 2024, and school taxes paid by the City for the tax year **2023-2024, 2024-2025**, and subsequent levies up to the date of the closing. Upon closing of title, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE**. **The deed will contain provisions stating that the purchaser is required to merge the subject property with the property known as 48 Bridge Street (Section 44, Block 5, Lot 16) into one (1) tax lot within twelve (12) months of the conveyance. If the purchaser has not complied with the deed provisions by that time, then title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before the lot merger is complete. A written request made to the City Manager for an extension of time to comply with this provision shall be accompanied by a non-refundable fee of $250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for its consideration**.
6. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
7. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
8. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing.

9. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept cash or credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.**
10. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of $250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
11. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall <u>not</u> be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
12. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
13. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
14. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
15. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City Engineer.
16. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the Closing Deadline date. If such conveyance occurs, purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts. This provision shall survive closing.

17. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.

ACKNOWLEDGED AND AGREED

Date: ______________________________

____
Sanjay Arya

RESOLUTION NO.: ____171____ - 2024

OF

AUGUST 12, 2024

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY KNOWN AS 57 HASBROUCK STREET (SECTION 38, BLOCK 4, LOT 9) AND 57 HASBROUCK STREET REAR (SECTION 38, BLOCK 4, LOT 8.2) AT PRIVATE SALE TO DELIA LUNA FOR THE AMOUNT OF $24,000.00

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by foreclosure *In Rem* pursuant of Article 11 Title 3 of the Real Property Tax Law of the State of New York; and

WHEREAS, pursuant to Section 1166 of the Real Property Tax Law the City may sell properties acquired by foreclosure *In Rem* at private sale; and

WHEREAS, the City of Newburgh desires to sell parcels of real property identified as 57 Hasbrouck Street and 57 Hasbrouck Street Rear, being more accurately described as Section 38, Block 4, Lots 9 and 8.2, respectively, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyer has offered to purchase this property at private sale; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH,** such sums are to be paid on or before November 12, 2024, being approximately ninety (90) days from the date of this resolution; and

Property address	Section, Block, Lot	Purchaser	Purchase Price
57 Hasbrouck Street	38 – 4 – 9	Delia Luna	$24,000.00
57 Hasbrouck Street Rear	38 – 4 – 8.2		(combined)

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the parcel is not required for public use.

Terms and Conditions of Sale
57 Hasbrouck Street, City of Newburgh (SBL: 38-4-9)
57 Hasbrouck Street Rear, City of Newburgh (SBL: 38-4-8.2)

STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number on the City of Newburgh Tax Map.
3. All real property, including any buildings thereon, is sold “AS IS” and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid City/County taxes for the year 2024, and school taxes for the tax years of **2023-2024, 2024-2025**, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any City/County taxes for the year 2024, and school taxes paid by the City for the tax year **2023-2024, 2024-2025**, and subsequent levies up to the date of the closing. Upon closing of title, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE. The deed will contain provisions stating that the purchaser is required to merge both subject properties with the property known as 59 Hasbrouck Street (Section 38, Block 4, Lot 8.1) into one (1) tax lot within twelve (12) months of the conveyance. If the purchaser has not complied with the deed provisions by that time, then title to the properties shall revert to the City of Newburgh. The deed shall also provide that the properties shall not be conveyed to any other person before the lot merger is complete. A written request made to the City Manager for an extension of time to comply with this provision shall be accompanied by a non-refundable fee of $250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for its consideration**.
6. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
7. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
8. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to

bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing.

9. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept cash or credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.**
10. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of $250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
11. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that he shall <u>not</u> be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
12. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
13. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
14. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
15. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City Engineer.
16. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the Closing Deadline date. If such conveyance occurs, purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts. This provision shall survive closing.

17. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.

ACKNOWLEDGED AND AGREED

Date: ________________________________

____
Delia Luna

RESOLUTION NO.: __172___-2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO DWELLSTEAD, INC. TO THE PREMISES KNOWN AS 279 GRAND STREET (SECTION 10, BLOCK 1, LOT 15)

WHEREAS, on July 9, 2015, the City of Newburgh conveyed property located at 279 Grand Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 10, Block 1, Lot 15, to Dwellstead, Inc.; and

WHEREAS, Michael Lebron, President of Dwellstead, Inc., has requested a release of the restrictive covenants contained in the deed from the City of Newburgh; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deed with respect to 279 Grand Street.

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 279 Grand Street, Section 10, Block 1, Lot 15 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated July 9, 2015, from THE CITY OF NEWBURGH to DWELLSTEAD, INC., recorded in the Orange County Clerk's Office on August 24, 2015, in Liber 13935, Page 1113 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: ______________________, 2024

THE CITY OF NEWBURGH

By: ______________________________________
Todd Venning, City Manager
Pursuant to Res. No.: _____-2024

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

On the ____ day of August in the year 2024, 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
Department of Code Compliance
123 Grand Street, Newburgh, New York 12550
Phone: (845) 569-7400 / Fax: (845) 569-0096

TO: Todd Venning, City Manager

CC: Alexandra Church, Director of Planning and Development
Jeremy Kaufman, Assistant Corporation Counsel

FROM: Francis J. Spinelli, Fire Chief

DATE: July 22, 2024

SUBJECT: 279 Grand Street, Release of Restrictive Covenants Inspection

I conducted an inspection of 279 Grand Street on July 1, 2024. I also reviewed the property file kept at the Department of Code Compliance. Below are my findings:

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

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

There are no open permits or open permit applications.

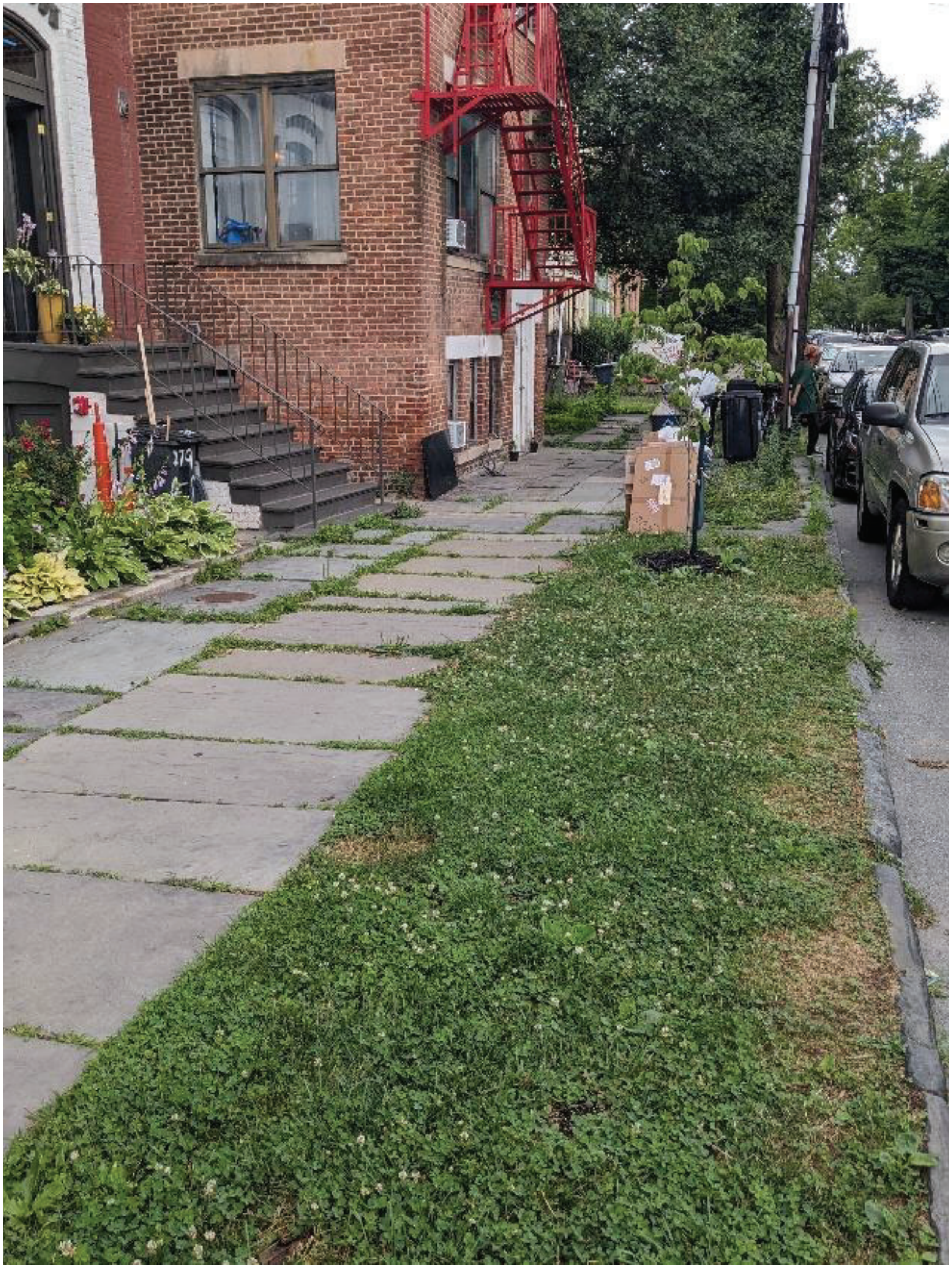
The property is an owner-occupied, two-family residence. There are three property owners of record. Two of the owners occupy one dwelling unit. The third owner occupies the other dwelling unit.

There is a valid Certificate of Occupancy in the property file dated July 1, 2024, for a two-family residence.

Thank you,

Francis J. Spinelli
Fire Chief


3
277
279


279

ORANGE COUNTY – STATE OF NEW YORK

KELLY A. ESKEW, COUNTY CLERK
255 MAIN STREET
GOSHEN, NEW YORK 10924

COUNTY CLERK'S RECORDING PAGE
THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH

BOOK/PAGE: 15438 / 779
INSTRUMENT #: 20230039886

Receipt#: 3175541
Clerk: AV
Rec Date: 06/28/2023 12:08:32 PM
Doc Grp: D
Descrip: DEED
Num Pgs: 4
Rec'd Frm: CATHERINE V. VENTRY, ESQ.

Party1: DWELLSTEAD AT 279 LLC
Party2: LEBRON MICHAEL A
Town: NEWBURGH (CITY)
10-1-15

Recording:

Recording Fee	40.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
Notice of Transfer of Sal	10.00
RP5217 Residential/Agricu	116.00
RP5217 - County	9.00
Sub Total:	200.00
Transfer Tax	
Transfer Tax - State	0.00
Sub Total:	0.00
Total:	200.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
Transfer Tax #: 9835
Transfer Tax
Consideration: 0.00

Total: 0.00

Payment Type: Check ___
Cash ___
Charge ___
No Fee ___

Comment: ________________

Kelly A. Eskew

Kelly A. Eskew
Orange County Clerk

Record and Return To:

CATHERINE V. VENTRY, ESQ
711 BROADWAY
NEWBURGH, NY 12550

Bargain and Sale Deed with covenants against Grantor's Acts

THIS INDENTURE, made on the 6th day of June, 2023

BETWEEN

Dwellstead @ 279 LLC, 284 Liberty St., Newburgh, NY 12550 ,

Party of the first part,

And

Michael A. Lebron, residing at 279 Grand Street, Newburgh, NY 12550
Elizabeth Vega-Lebron, residing at 279 Grand Street, Newburgh, NY 12550
Ana Vega Ovalle, residing at 153 Lander Street., Newburgh, NY 12550,

as Tenants in Common,

Party(parties) of the second part,

WITNESSETH, that the party of the first part in consideration of $10.00 (TEN DOLLARS) lawful money, paid by the party of the second part, does hereby grant and release unto the party of the second party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, with the buildings and appurtenances thereon erected, bing denominated as Section 10, Block 1, Lot 15 in the City of Newburgh, County of Orange, State of New York, as per Schedule A, annexed hereto

BEING THE SAME PREMISES, conveyed to the party of the first part by deed dated on or about March 1, 22019, by Dwellstead, Inc. 36 Cooper Square, New York NY and that same property having previously been conveyed to Dwellstead Inc. 36 Cooper Square, New York NY by the City of Newburgh, in a deed dated July 9th 2015 and recorded in the Orange County Clerk's office on 08/24/15 in Book 13935 Page 1113

TOGETHER with all right, title and interest, if any, of the party of the first part into and to any streets and roads abutting the above described property to the center of the street

SCHEDULE A DESCRIPTION

ALL that certain plot piece or parcel of land, situate, lying and being in the City of Newburgh, County of Orange and State of New York and being more particularly bounded and described as follows:

BEGINNING at the west side of Grand Street at the southeast corner of a lot of land granted by Henry E. McCoun to William Hilton by deed dated 1/28/1859 and running thence:

Westerly along the southerly line of the lot of land so granted by said Henry T. McCoun to William Hilton as aforesaid, 123.00 feet (more or less) to lands formerly of John Sneed;

Thence southerly along the lands formerly of said Sneed 25.00 feet to lands of John Hilton;

Thence easterly parallel with the southerly line of the lot of land so granted by said Henry T. McCoun to William Hilton as aforesaid and along lands of John Hilton 123.00 feet (more or less) to the west side of Grand Street aforesaid; and

Thence northerly along the west side of Grand Street 25.00 feet (more or less) to the place of BEGINNING.

Being a lot of land 25.00 feet front and rear and 123.00 feet (more or less) in depth and known as Number 270 Grand Street and being about one half of the lot granted to said John Hilton by Henry McCoun by deed dated January 28, 1859 and recorded in Orange County records of deeds in Liber 154, Page 12 and c.

The walls on the northerly and southerly sides of the building on the premises hereby granted are party walls and the northerly and southerly line of the lot hereby granted correspond with the centers of said party wall.

FOR INFORMATION ONLY:
Being and intended to be the same premises listed as In REM # 214, address of 279 Grand Street, as conveyed to the Grantor herein by deed dated 10/19/2012 recorded 10/24/2012 in Liber 13432 at Page 1152 In the Orange County Clerk's Office, which said deed conveyed multiple other lots.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; **TO HAVE AND TO HOLD** the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been incumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

X____________________________

Dwellstead @ 279 LL,C
by: Michael Lebron, Principal

ACKNOWLEDGMENT IN NEW YORK STATE (RPL 309-A)

State of New York County of ORANGE ss.:

On 6 June 2023 before me, the undersigned, personally appeared Michael A. Lebron personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

____
(signature and office of individual taking acknowledgment)

CATHERINE V. VENTRY
NOTARY PUBLIC, STATE OF NEW YORK
Registration No. 4908269
Qualified In Orange County
Commission Expires September 21, 20[illegible]

ACKNOWLEDGMENT IN NEW YORK STATE (RPL 309-A)

State of New York County of ss.:

On before me, the undersigned, personally appeared

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

____
(signature and office of individual taking acknowledgment)

INSTRUCTIONS(RP-5217-PDF-INS): www.orps.state.ny.us

FOR COUNTY USE ONLY

C1. SWIS Code 331100

C2. Date Deed Recorded 6 / 28 / 2023 (Month Day Year)

C3. Book 15438 C4. Page 779

New York State Department of Taxation and Finance

Office of Real Property Tax Services

RP- 5217-PDF

Real Property Transfer Report (8/10)

PROPERTY INFORMATION

1. Property Location 279 (* STREET NUMBER) Grand Street (* STREET NAME)

Newburgh (* CITY OR TOWN) (VILLAGE) 12550 (* ZIP CODE)

2. Buyer Name Lebron, Vega-Lebron (* LAST NAME/COMPANY) Michael A., Elizabeth (FIRST NAME)

Vega Ovalle (LAST NAME/COMPANY) Ana (FIRST NAME)

3. Tax Billing Address Indicate where future Tax Bills are to be sent if other than buyer address(at bottom of form) (LAST NAME/COMPANY) (FIRST NAME)

(STREET NUMBER AND NAME) (CITY OR TOWN) (STATE) (ZIP CODE)

4. Indicate the number of Assessment Roll parcels transferred on the deed 1 # of Parcels OR ☐ Part of a Parcel

(Only if Part of a Parcel) Check as they apply:

4A. Planning Board with Subdivision Authority Exists ☐

4B. Subdivision Approval was Required for Transfer ☐

4C. Parcel Approved for Subdivision with Map Provided ☐

5. Deed Property Size 25 (* FRONT FEET) X 123 (* DEPTH) OR 0.00 (*ACRES)

6. Seller Name Dwellstead@ 279 LLC (* LAST NAME/COMPANY) (FIRST NAME)

(LAST NAME/COMPANY) (FIRST NAME)

***7. Select the description which most accurately describes the use of the property at the time of sale:**

A. One Family Residential

Check the boxes below as they apply:

8. Ownership Type is Condominium ☐

9. New Construction on a Vacant Land ☐

10A. Property Located within an Agricultural District ☐

10B. Buyer received a disclosure notice indicating that the property is in an Agricultural District ☐

SALE INFORMATION

11. Sale Contract Date N/A

*** 12. Date of Sale/Transfer** 06/06/2023

***13. Full Sale Price** 0 .00

(Full Sale Price is the total amount paid for the property including personal property. This payment may be in the form of cash, other property or goods, or the assumption of mortgages or other obligations.) *Please round to the nearest whole dollar amount.*

14. Indicate the value of personal property included in the sale .00

15. Check one or more of these conditions as applicable to transfer:

- ☐ A. Sale Between Relatives or Former Relatives
- ☒ B. Sale between Related Companies or Partners in Business.
- ☒ C. One of the Buyers is also a Seller
- ☐ D. Buyer or Seller is Government Agency or Lending Institution
- ☐ E. Deed Type **not** Warranty or Bargain and Sale (Specify Below)
- ☐ F. Sale of Fractional or Less than Fee Interest (Specify Below)
- ☐ G. Significant Change in Property Between Taxable Status and Sale Dates
- ☐ H. Sale of Business is Included in Sale Price
- ☐ I. Other Unusual Factors Affecting Sale Price (Specify Below)
- ☐ J. None

***Comment(s) on Condition:**

ASSESSMENT INFORMATION - Data should reflect the latest Final Assessment Roll and Tax Bill

16. Year of Assessment Roll from which information taken(YY) 23

***17. Total Assessed Value** 88,100

***18. Property Class** 210

***19. School District Name** NECSD

***20. Tax Map Identifier(s)/Roll Identifier(s) (If more than four, attach sheet with additional identifier(s))**

10-1-15

CERTIFICATION

I Certify that all of the items of information entered on this form are true and correct (to the best of my knowledge and belief) and I understand that the making of any willful false statement of material fact herein subject me to the provisions of the penal law relative to the making and filing of false instruments.

SELLER SIGNATURE

06/06/2023

SELLER SIGNATURE DATE

BUYER SIGNATURE

Ana Vega Ovalle

06/06/2023

BUYER SIGNATURE DATE

BUYER CONTACT INFORMATION

(Enter information for the buyer. Note: If buyer is LLC,society, association, corporation, joint stock company, estate or entity that is not an individual agent or fiduciary, then a name and contact information of an individual/responsible party who can answer questions regarding the transfer must be entered. **Type or print clearly**.)

Lebron (* LAST NAME) Michael (FIRST NAME)

917 (*AREA CODE) 763 7568 (*TELEPHONE NUMBER (Ex. 9999999))

279 (* STREET NUMBER) Grand Street (* STREET NAME)

Newburgh (*CITY OR TOWN) NY (*STATE) 12550 (*ZIP CODE)

BUYER'S ATTORNEY

Ventry (LAST NAME) Catherine (FIRST NAME)

(845) (AREA CODE) 561-7050 (TELEPHONE NUMBER (Ex: 9999999))

RESOLUTION NO.: 173-2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO ORANGE COUNTY HOUSING DEVELOPMENT FUND CORPORATION TO THE PREMISES KNOWN AS 83 ANN STREET (SECTION 37, BLOCK 8, LOT 3)

WHEREAS, on September 20, 2010, the City of Newburgh conveyed property located at 83 Ann Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 37, Block 8, Lot 3, to Orange County Housing Development Fund Corporation; and

WHEREAS, the current owner, NSD 83 Ann Street LLC (by William Bollinger, managing member) has requested a release of the restrictive covenants contained in the deed from the City of Newburgh; and

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

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

**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 83 Ann Street, Section 37, Block 8, Lot 3 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated September 28, 2010, from THE CITY OF NEWBURGH to ORANGE COUNTY HOUSING DEVELOPMENT FUND CORPORATION, recorded in the Orange County Clerk's Office on October 8, 2010, in Book 13066, Page 950 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: ______________________, 2024

THE CITY OF NEWBURGH

By: ______________________________________
Todd Venning, City Manager
Pursuant to Res. No.: _____-2024

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

On the ____ day of August in the year 2024, 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

RESOLUTION NO.: ___174___ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBRECIPIENT GRANT AGREEMENT WITH NEWBURGH BREWING COMPANY, LLC IN CONNECTION WITH THE AWARD OF AN ORANGE COUNTY MUNICIPAL TOURISM GRANT IN THE AMOUNT OF $4,999.00 TO PROMOTE AND SUPPORT TOURISM AND LOCIAL BUSINESSES IN THE CITY OF NEWBURGH

WHEREAS, Orange County has launched a Municipal Tourism Grant Program to provide resources to municipalities as they plan and execute tourism events in Orange County; and

WHEREAS, the City of Newburgh expects to receive an award of $4,999.00 from the Orange County Municipal Tourism Grant Program; and

WHEREAS, Newburgh Brewing Company, LLC will serve as the fiscal agent for the Downtown District Alliance which will procure the design and manufacture of a wayfinding directional sign to promote tourism and local businesses; and

WHEREAS, the City Council of the City of Newburgh has determined that entering into a subrecipient grant agreement with Newburgh Brewing Company, LLC to apply Orange County Municipal Tourism Grant Program funding to promote and support City of Newburgh tourism and local businesses is in the best interests of the City and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute a subrecipient grant agreement with Newburgh Brewing Company, LLC for Orange County Municipal Tourism Grant Program funding to procure the design and manufacture of wayfinding directional sign to promote tourism and local businesses in the City of Newburgh.

SUBRECIPIENT AGREEMENT
ORANGE COUNTY MUNICIPAL TOURISM GRANT
CITY OF NEWBURGH, WITH NEWBURGH BREWING COMPANY, LLC

This subrecipient agreement ("Agreement"), by and among the City of Newburgh, New York, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and Newburgh Brewing Company, LLC, a domestic limited liability company, having its principal place of business at 88 South Colden Street, Newburgh, New York 12550 ("Subrecipient"), is made this dated as of _____________, 2024, as follows:

RECITALS

A. The City was awarded funds under the Municipal Tourism grant program ("Grant") from County of Orange, New York (referred to herein as "Grantor").

B. The City has been duly designated to carry out activities authorized by the terms of the Grant, specifically to promote a tourism event or activity that results in the attraction of visitors to Orange County.

C. Subrecipient has agreed to work with the City, as the Fiscal Agent for the Downtown District Alliance, to effectuate its specific goals and objectives of the Grant in a manner more specifically set forth in **Exhibit A**, attached hereto and made a part of this Agreement.

D. Subrecipient will submit an itemized report of expenses funded by the subaward consistent with the specific goals and objectives of the grant program.

E. In addition to the terms and conditions in this Agreement, Subrecipient has agreed to additional terms and conditions as required by the Grantor.

F. The City has identified Subrecipient as competent, willing, and able to carry out the objectives of the program as stated in the Grant, and now wishes to engage the Subrecipient as provided in this Agreement.

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

ARTICLE I AWARD

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

2. Subrecipient shall be solely responsible for securing goods, services, and any other accommodations necessary to complete the statement of work contemplated herein.

3. As consideration for the work provided, the City shall pay Subrecipient a sum of $4,999.00, said sum being the grant award to the City by Grantor.

ARTICLE II PAYMENT

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

2. Total payment under this Contract shall not exceed $4,999.00 as payment for all eligible services incurred by Subrecipient.

3. The City shall not reimburse Subrecipient or the Downtown District Alliance for sales tax and/or other taxes incurred in undertaking and completing the Project funded by the subaward.

4. The City may withhold any payment whenever the Subrecipient fails to achieve its program goals for the expenditure period.

ARTICLE III METHOD OF PAYMENT

1. Within fourteen (14) days of the receipt of the award from Grantor, the City shall disburse to Subrecipient a lump sum payment of 50% of the subaward and a second lump sum payment of 50% of the subaward after the selection of the Project design as set forth in Schedule A.

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

3. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4th Floor, Newburgh, New York 12550.

5. A final statement of cumulative costs incurred, including cost sharing, marked “FINAL,” must be submitted to the City’s Comptroller NOT LATER THAN sixty (60) days after the subaward end date of November 15, 2024. The final statement of costs shall constitute Subrecipient’s final financial report.

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

ARTICLE IV TERMINATION

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

If to City:

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

If to Subrecipient

Newburgh Brewing Company, LLC
[attn.: _______________]
88 South Colden Street
Newburgh, New York 12550

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

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

ARTICLE V NO ASSIGNMENT

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

ARTICLE VI BOOKS AND RECORDS; REPORTS

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

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

ARTICLE VII CONFIDENTIAL INFORMATION

1. In the event that Subrecipient, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Subrecipient shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City’s written permission. Subrecipient agrees for a period of six (6) years to hold

in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:

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

ARTICLE VIII INTEREST OF SUBRECIPIENT, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

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

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

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

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

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

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

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

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XII REPRESENTATIONS OF SUBGRANTEE

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

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

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

ARTICLE XIII EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

ARTICLE XIV FACILITIES AND PERSONNEL

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

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

ARTICLE XV INDEMNIFICATION

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

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

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

   a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.
   b. Liability and Property Damage Insurance with limits of not less than:

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

4. Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

SECTION XVI NOTICES

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

   If to City:

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

   If to Subrecipient

   Newburgh Brewing Company, LLC
   [attn.: ________________]
   88 South Colden Street
   Newburgh, New York 12550

SECTION XVII MISCELLANEOUS

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

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

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

4. Subrecipient has read, acknowledged, and agreed to the terms in this Agreement, and any exhibits annexed hereto, which are all incorporated by reference. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) required by Grantor, the term(s) required by Grantor shall control and prevail.

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

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

DATED: _______________, 2024

CITY OF NEWBURGH

By: ____________________________________
Name: Todd Venning
Title: City Manager

DATED: _______________, 2024

NEWBURGH BREWING COMPANY, LLC

By: ____________________________________
Name:
Title:

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

On this ____ day of _______________, in the year 2024, before me 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 person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

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

On this ____ day of _____________, in the year 2024, before me personally appeared _________________ 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

<u>**EXHIBIT A – SCOPE OF WORK**</u>

Subgrantee, as the fiscal agent of the Downtown District Alliance, will apply the subaward to promote tourism related events/activities in the form of a wayfinding directional sign to be installed in the area of Liberty Street and Leroy Place/North Street/NYS Route 980T or other location as approved by the City, Subgrantee and Downtown District Alliance (the "Project") as follows:

1. The Downtown District Alliance shall solicit three design alternatives for the Project;
2. The Downtown District Alliance will present the three design alternatives to the City's Director of Planning and Development for review and recommendation by City staff;
3. The Downtown District Alliance will have a final design drawing prepared, signed and sealed by a NYS Licensed Professional Engineer of the preferred alternative with its location clearly shown in a plan view, along with any necessary installation construction details;
4. The final drawing of the preferred alternative shall be submitted for review and approval to the City Council and agency(ies) having jurisdiction, including, but not limited to, the City and the New York State Department of Transportation (NYSDOT);
5. Any outside agency review or permit fees shall be paid by the Downtown District Alliance. The City agrees to waive all City-related review fees.
6. Upon receipt of approval from all involved agencies having jurisdiction, the Downtown District Alliance will procure the manufacture of the Project of the selected design alternative;
7. The completed Project will be donated and delivered to the City for installation in the location previously approved by the City, NYSDOT, subgrantee and Downtown District Alliance

Subgrantee will submit to the City an itemized statement of costs and expenditures paid from the subaward in such form and supported by such documents as the City may reasonably require by November 15, 2024.

COUNTY OF ORANGE
MUNICIPAL TOURISM GRANT AGREEMENT

THIS AGREEMENT ("Agreement") is made as of this 15th day of May 2024, by and between the County of Orange, a municipal corporation and a County of the State of New York, with principal offices at 255-275 Main Street, Goshen, New York 10924 ("County"), by and through its Tourism Office, with an office located at 99 Main St, Goshen, NY 10924 ("OCT") and (City of Newburgh), with its principal place of business located at 83 Broadway, Newburgh, NY 12550 ("Grantee").

WHEREAS, OCT, on behalf of the County Executive, administers a county-funded municipal tourism grant program which supports tourism-related events, marketing initiatives and activities by local governments in Orange County that promote tourism, increase awareness and lead to the attraction of visitors to Orange County; and

WHEREAS, the Grantee submitted to OCT an application containing a proposal to provide such tourism-related events and/or activities ("Application" and "Activities"); and

WHEREAS, OCT, on behalf of the County Executive, has reviewed the Grantee's proposal and is willing to provide funding therefore, and the Grantee is willing to perform the activities detailed in the Application on the terms and conditions specified herein.

NOW, THEREFORE, the County and the Grantee agree as follows:

1. Acceptance of Proposal. OCT, on behalf of the County Executive, hereby accepts the Grantee's Application together with all attachments, additions and supporting or supplemental materials, a copy of which is attached hereto and incorporated herein as **Schedule A.**

2. Grantee Performance of Project Services. The Grantee hereby agrees to perform, or cause to be performed, the activities described in the Application ("Project"). The Project shall commence on or after June 15, 2024, and be completed no later than November 15, 2024 ("Term"). The term may be modified and/or extended by written consent of both parties.

3. County Funding; Limitations. The County hereby agrees to fund the Project in an amount not to exceed Four Thousand nine hundred ninety-nine dollars and zero cents. ($4,999.00) payable within ninety (90) to one-hundred and twenty (120) days of full execution of this Agreement. The Grantee acknowledges that the County is providing funding for the Project in reliance on the Application submitted by Grantee, including, but not limited to, the technical and financial information and budgets submitted, as applicable, and based upon such items OCT has determined that the Grantee will be able to satisfactorily perform. If there is a material change in the facts, estimates or projections contained in the Application including, but not limited to, a change in any item of receipts or expenditures, a change in or discontinuance of any operation or program conducted or projected to be conducted by the Grantee, the Grantee shall immediately request approval from OCT of such change. Such request for approval shall be submitted by the Grantee on a Grant Change Form in the form attached and marked as **Schedule B**. If OCT, in its sole and absolute discretion, determines that such change will

impede or impair the Grantee's ability to carry out the approved activities, or such activities can no longer meet the goal or purpose of this grant, then OCT shall have the right either to terminate this Agreement without further liability, or to limit the scope of the Project and reduce the funding payment to the Grantee in such amount as determined by OCT in its sole discretion. Notwithstanding the dates within which the Project may be completed pursuant to Section 2 above, the grant funding shall be expended on or before November 15, 2024.

4. Representations. Grantee represents that:
   a. The Grantee has met all the necessary procedural and substantive requirements and is qualified to receive the grant funds for the purposes set forth in the Application.
   b. The Project will be performed or executed in Orange County, New York.
   c. The Grantee made **only one (1)** request for municipal tourism grant funding in this calendar year a copy of which of which is attached hereto as **Schedule A.**
   d. The Grantee will use the verbiage "***This project is made possible, in part, with funds from the County of Orange and Orange County Tourism,"*** in all promotion and advertising for the Project.
   e. The Grantee, at its sole expense, has obtained or will obtain any and all easements, required authorizations and permits to carry out the Project before disbursement of grant funds by the County.
   f. None of the grant funding shall be expended on costs inconsistent with the Grantee's Application.
   g. The Grantee will hold the grand funds provided by the County under this Agreement in an appropriate municipal account such as, for example, a publicity fund account, as may be applicable.

5. Independent Contractor. The Grantee acknowledges that it is an independent contractor and not an employee or agent of either OCT or the County of Orange. In accordance with such status as an independent contractor, the Grantee covenants and agrees that neither it nor its employees or agents will hold themselves out as, nor claim to be officers or employees of either OCT or the County, or of any department, agency or unit thereof, and that they will not make any claim, demand or application to or for any right or privilege applicable to an officer or employee of OCT or the County, including, but not limited to, worker's compensation coverage, health coverage, unemployment insurance benefits, social security coverage or employee retirement membership or credit.

6. Reports; Deliverables. The Grantee shall submit such reports and other items as may reasonably be requested by OCT relating to the Project and the performance thereof and the Grantee's ability to fulfill its obligations under this Agreement. A final report shall be submitted to OCT, in the form prescribed in the attached **Schedule C**, no later than thirty (30) days after the date of completion of the Project, together with copies of all marketing materials. Failure to submit this report will render you ineligible to apply for the grant the following year. (2025)

7. Retention of Records. Grantee shall maintain complete, accurate and current records of all income and expenses relating to its operations and the activities performed pursuant to this Agreement. During the Term, and at any time within six (6) years thereafter, the Grantee shall make such records available upon request to OCT. OCT shall have the right, upon reasonable

notice and at reasonable times, to inspect the Grantee's books and records, its offices and facilities, for the purpose of verifying information supplied to OCT or any other purpose reasonably related to monitoring the Project.

8. Termination; Default. Without limiting any other rights under this Agreement, the County shall have the right to terminate this Agreement if it determines that the Grantee has misrepresented any fact or supplied any false or misleading information to OCT in its Application or other material or reports, or has diverted any payments made under this Agreement to a purpose other than the performance of the Project, has failed to maintain or provide any records or reports required to be maintained, has failed to abide by any other term, provision or condition of this Agreement, or is unable to satisfactorily perform all or any part of the Project, or any of the Grantee's other obligations hereunder. In the event of termination, OCT may require the Grantee to refund any or all of the grant funding made under this Agreement. In the event of termination pursuant to this Section, the County will have no further liability under this Agreement.

9. Termination; Convenience. Without limiting the provisions of Section 8, if OCT determines that terminating this Agreement, in whole or in part, is in the best interest of the County, then it may terminate this Agreement by giving the Grantee written notice. Said termination shall become effective upon the mailing of such notice. In such event, OCT shall pay the Grantee for its pro rata share of costs incurred pursuant to this Agreement to the date of termination. Such payment together with any payments previously made to the Grantee shall not exceed the lesser of the value of the services performed as of the termination date or the amount set forth in Section 3.

10. Assumption of Risk; Indemnification; Insurance; Taxes. Grantee hereby assumes all responsibility for the risk of operation related to the performance of the Project, and shall indemnify, defend and hold OCT, the County, and their officials, employees, contractors, and agents harmless from and against any and all claims, losses, damages, liabilities, costs, or expenses (including reasonable attorney's fees and costs of litigation and/or settlement) arising out of the Project and the activities and programs performed by the Grantee relating to the Project, excluding claims arising out of the County's own negligence or willful misconduct. The Grantee shall carry all insurance and pay all taxes required by law in connection with the Project.

11. Assignment. This Agreement cannot be assigned without the prior written consent of the County Executive on behalf of the County of Orange.

12. Prevention of sexual harassment. Pursuant to the New York State Finance Law §139-l, by execution of this Agreement, the Grantee and the individual signing this Agreement on behalf of the Grantee certifies, under penalty of perjury, that the Grantee has and has implemented a written policy addressing sexual harassment prevention in the workplace and provides annual sexual harassment prevention training to all of its employees. Such policy shall, at a minimum, meet the requirements of Section 201-g of the New York State Labor Law. A model policy and training has been created by the New York State Department of Labor and can be found on its website at:

https://www.ny.gov/programs/combating-sexual-harassment-workplace.
The County's policy against sexual harassment and other unlawful discrimination and harassment in the workplace can be found on the County's website at:
https://www.orangecountygov.com/1137/Human-Resources

13. Governing Law; Venue. This Agreement shall be governed by the laws of the State of New York. Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed thereto in writing by the County Executive, but instead must only be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

15. Signatures. This Agreement may be executed in one or more counterparts and all such counterparts shall be deemed to constitute but one and the same agreement as if all signatures were set forth on the same agreement. A manually signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission will be deemed to have the same legal force and effect as delivery of an original signed copy of this Agreement.

14. Entire Agreement; Inconsistencies. The rights and obligations of the parties, their permitted successor and assigns, shall be subject to and governed by this Agreement, which supersedes any other understandings or writings between or among them. In the event, however, of any conflict between the terms of the Application and Proposal and the terms of this Agreement, the terms of this Agreement shall govern.

COUNTY OF ORANGE

By: ____________________________
Stefan ("Steven") M. Neuhaus
County Executive

City of Newburgh

By: ____________________________
Name: Todd Venning
Title: City Manager /CEO

Orange County & Municipalities Working Together

Municipal Tourism Grant

Municipality Applying: City of Newburgh

Date of application: 5/31/24

Date you need the funds by: 8/31/24

In effort to provide resources to municipalities as they plan and execute tourism events in Orange County, the County Executive launched a grant program. The program was approved by the Orange County Legislators and funding has been added to the 2024 Tourism Budget.

PLEASE MAIL OR E-MAIL COMPLETED APPLICATION

- **E-mail** - LSantiago@orangecountygov.com
- **Mail** - Orange County Tourism, ATTN: Lisa Santiago, 99 Main Street, Goshen, NY 10924

PROGRAM DETAILS AND PROCESS

- Requests for grants will be awarded to municipalities **only.**
- Applications will be sent out to each municipal leader.
- Applications will be accepted from January 1, 2024, until October 1, 2024
- Completed applications should be sent to the Tourism & Film office and will be reviewed and awarded by the Municipal Tourism Grant Committee (MTGC)
- MTGC will meet on a monthly basis or on an *as needed* basis. Committee will not exceed five members.
- MTGC will recommend grant recipients to the County Executive within four weeks of receiving the application.
- Once Approved, municipality will be required to enter into an agreement with the County of Orange (see Sample)
- Within 30 days of event or initiative completion, municipality will be required to submit final report (see sample agreement attached)

PROGRAM GUIDELINES

- Grants will be awarded to municipalities who will be using the resources towards a tourism event and/or activity that will result in the attraction of visitors to Orange County.
  - Examples of awards: (just examples and not limited to)
    - Resources awarded to a municipality for advertising and promotion expenses associated with **XYZ** event.
    - Resources awarded to a municipality towards the enhancement of signage for the event/activity.
    - Resources awarded to a municipality for enhancements to their website so that they are more user-friendly to visitors.

AMOUNT OF GRANT

- Grant range is $2,500 - $4,999 (based on an "as-needed" basis and not to exceed $4,999)
- Deadline for applications is October 1, 2024
- Grant must be used towards a tourism related event or marketing related initiatives that will ultimately lead to the increased awareness and visitation in the **current calendar year.**

Contact Information :

First Name : Alexandra

Last Name : Church

Title/Role at Municipality : Director of Planning

Address : 83 Broadway

City : Newburgh

State : NY

Zip Code : 12550

Phone Number : 845-569-9400

E-Mail : achurch@cityofnewburgh-ny.gov

Orange County & Municipalities Working Together

Municipal Tourism Grant

Request information

Amount of funds you are requesting :

$4,999

Date of Event (If Applicable) or date of completion of marketing related initiatives :

Will you be using a portion of these funds to promote your event or Municipality?

☐ YES ☑ NO

Description of event/promotional material and reason for the request of funds:

Pass through to the Newburgh Downtown Business Alliance to design and erect a multi-directional sign near the intersection of Leroy Place and Liberty Street to better direct tourists to shopping and restaurant areas including the Waterfront, Liberty St, and Broadway

Purpose of event and Key Outcomes:

Create more wayfinding and better advertising for downtown districts

Overview of how funds will be spent: Reminder that a portion of the funds must be used to promote the event or municipality.

For design, construction, and installation of the sign to promote downtown areas.

A portion of grant funds must be used towards **promoting a tourism-related** event or **marketing-related** initiatives that will ultimately lead to **increased awareness** of the event and visitation to the county in the current calendar year. Please provide an explanation of how receiving these funds will lead to **increased awareness of your event and visitation to Orange County and how you will use a portion of these funds to promote your event:**

The sign will better direct tourists to areas, and make them aware of other areas to visit in the future.

Todd Venning ~~Alexandra Church~~ City Manager / CEO

~~Director of Planning~~

Name Of Applicant: Please Print

Title of Applicant at Municipality

5/31/24

Date

OFFICE RESPONSE:

Date Application was Received

Date of Committee Meeting

Approved for Funds: ☐ YES ☐ NO

Total of funds approved:

SCHEDULE B

MUNICIPAL TOURISM GRANT
Project Change Request Form

Grantees must complete and submit this form to Orange County Tourism for approval prior to the execution of any changes that materially deviate from the initial proposal outlined in the Application.

________________________ | ________________________

Date *Grantee*

________________________ | ________________________

Contact Name *Phone Number*

____

Mailing Address

________________________ | ________________________

E-Mail *Website*

________________________ | ________________________

Project Title *Date(s) of Project*

1. What parts of the original proposal need to be changed?

2. Describe proposed changes:

3. Why is this change necessary?

4. How will this change affect the project's impact and goals?

Name & Title (print)________________________ **Signature**________________________

Approval Status – Orange County Tourism (For Office Use Only)________________________

☐ Approved ☐ Denied Date: ____________

MUNICIPAL TOURISM GRANT
FINAL REPORT

Date of Report	*Grantee*

Contact Name	*Phone Number*

Physical Address, City, State, Zip Code

Mailing Address, City, State, Zip Code *(if different from physical address)*

Email	*Website*

Project Title	*Date/s of Project*

Location/s of Public Presentation/s of Project

$ Requested	*$ Received*	*# of Attendees (if applicable)*

Were you able to accomplish the project as it was originally described in the grant application?
___ Yes ___ No

If the answer above was no, please explain what changes (date, time, venue, artists, budget changes, etc.) were made and why they were necessary.

Did you submit a grant change form to Orange County Tourism for approval of the above changes?
___Yes ___ No

List specifically what the grant funding was spent on and how much was allocated to each aspect.

Name all modes of promotion that were used for the project. ***Please attach copies of all promotional materials directly related to your funded project.*** ***(examples may include, but are not limited to, advertisements, posters, press releases, postcards, social media screenshots/printouts, etc.)***

How did you measure the success of this project?

What was the biggest challenge, if any, to accomplishing the project?

RESOLUTION NO.: 126 - 2024

OF

JUNE 10, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND TO ACCEPT IF AWARDED AN ORANGE COUNTY MUNICIPAL TOURISM GRANT IN THE AMOUNT OF $4,999.00 WITH NO CITY MATCH FOR WAYFINDING SIGNAGE AS PROPOSED BY THE DOWNTOWN DISTRICT ALLIANCE

WHEREAS, Orange County has launched a Municipal Tourism Grant Program to provide resources to municipalities as they plan and execute tourism events in Orange County; and

WHEREAS, the City of Newburgh proposes to apply for an Orange County Municipal Tourism Program grant to promote and support City of Newburgh businesses and attractions through wayfinding signage as presented by the Downtown District Alliance; and

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

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept an Orange County Municipal Tourism Program grant with no City match in the amount of $4,999.00 for wayfinding signage to promote and support the City of Newburgh businesses and attractions; and that the City Manager is further authorized to execute all necessary documents to receive and comply with the terms of such grant and to administer the program funded thereby.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 6/10/24 and that it is a true and correct copy of such original.
Witness my hand and seal of the City of Newburgh this 11th day of June 2024

Katrina Cotten
Deputy City Clerk


SEAL OF THE CITY OF NEWBURGH, N.Y.
INCORPORATED 1865
EXPLORE
NEWBURGH
HISTORIC
DISTRICT
DOWNTOWN
WATERFRONT
SHOPPING

RESOLUTION NO.: ____175____ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GUN INVOLVED VIOLENCE ELIMINATION ("GIVE") PARTNERSHIP SUBRECIPIENT GRANT AGREEMENT WITH EXODUS TRANSITIONAL COMMUNITY, INC. TO FUND THE ANTI-VIOLENCE COORDINATOR POSITION

WHEREAS, by Resolution No. 60-2024 of March 25, 2024, the City Council authorized the City Manager to apply for and accept if awarded a New York State Department of Criminal Justice Services Gun Involved Violence Elimination ("GIVE") Partnership Grant in the amount of $837,964.00 with no City match required for New York State Fiscal Year beginning July 1, 2024 and ending June 30, 2025; and

WHEREAS, the City of Newburgh was awarded the GIVE Partnership Grant, a part of which will fund an Anti-Violence Coordinator position employed by Exodus Transitional Community, Inc., a GIVE Partner; and

WHEREAS, funding the Anti-Violence Coordinator position requires a sub-recipient grant agreement between the City of Newburgh and Exodus Transitional Community, Inc.; and

WHEREAS, this Council has reviewed the sub-recipient grant agreement between the City of Newburgh and Exodus Transitional Community, Inc. and finds that approving said agreement is in the best interests of the City of Newburgh and the safety of its residents and visitors alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute a Gun Involved Violence Elimination ("GIVE") Partnership sub-recipient grant agreement with Exodus Transitional Community, Inc. in the amount of $88,200.00 to fund the Anti-Violence Coordinator position.

SUBRECIPIENT AGREEMENT
2024-2025 GUN INVOLVED VIOLENCE ELIMINATION INITIATIVE
CITY OF NEWBURGH, WITH EXODUS TRANSITIONAL COMMUNITY, INC.

This subrecipient agreement ("Agreement"), by and among the **CITY OF NEWBURGH, NEW YORK,** a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and **EXODUS TRANSITIONAL COMMUNITY, INC.**, a not-for-profit corporation, having its principal place of business at 2271 Third Avenue, New York, New York 10035 ("Subrecipient"), is made this dated as of ____________, ____, 2024, as follows:

RECITALS

A. The City was awarded funds under the 2024-2025 Gun Involved Violence Elimination Initiative program ("Grant") from the New York State Division of Criminal Justice Services (referred to herein as "Grantor").

B. The City has been duly designated to carry out activities authorized by the terms of the Grant, specifically Hotspot Policing Strategies, the Youth and Police Initiative, and fund the Crime Analyst position, a field intelligence officer position, a Sergeant and 2 full time Detectives and an Anti-Violence Coordinator.

C. Subrecipient has agreed to work with the City in an effort to administer the Grant and effectuate its specific goals and objectives in a manner more specifically set forth in **Exhibit A**, attached hereto and made a part of this Agreement.

D. Subrecipient has also submitted a reasonable budget to administer the Grant and effectuate its specific goals and objectives more specifically set forth in **Exhibit B**, attached hereto and made a part of this Agreement.

E. In addition to the terms and conditions in this Agreement, Subrecipient has agreed to additional terms and conditions as required by the Grantor, more specifically set forth in **Exhibit C**, attached hereto and made a part of this Agreement.

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

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

ARTICLE I AWARD

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

2. Subrecipient shall be solely responsible for securing goods, services, and any other accommodations necessary to provide the work product contemplated herein.

3. As consideration for the work product provided, and after the work product has been provided to the City, the City shall pay Subrecipient a sum of **$88,200**, said sum being a part of grant award to the City by Grantor.

ARTICLE II PAYMENT

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

2. Total payment under this Contract shall not exceed **$88,200** as payment for all eligible services incurred by Subrecipient.

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

ARTICLE III METHOD OF PAYMENT

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

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

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

4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of **June 30, 2025**. The final statement of costs shall constitute Subrecipient's final financial report.

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

ARTICLE IV TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Subrecipient agrees to cancel, prior to the

effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

If to City:

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

If to Subrecipient

Exodus Transitional Community, Inc.
attn.: Tomasina Salcedo
2271 Third Avenue
NY, NY 10035

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

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

ARTICLE V NO ASSIGNMENT

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

ARTICLE VI BOOKS AND RECORDS; REPORTS

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

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

ARTICLE VII CONFIDENTIAL INFORMATION

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

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

ARTICLE VIII INTEREST OF SUBRECIPIENT, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

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

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

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

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

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

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

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

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

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XII REPRESENTATIONS OF SUBGRANTEE

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

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

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

ARTICLE XIII EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

ARTICLE XIV FACILITIES AND PERSONNEL

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

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

ARTICLE XV INDEMNIFICATION

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

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

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

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

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

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

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

SECTION XVI NOTICES

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

If to City:

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

If to Subrecipient

Exodus Transitional Community, Inc.
attn.: Tomasina Salcedo
2271 Third Avenue
NY, NY 10035

SECTION XVII MISCELLANEOUS

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

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

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

4. Subrecipient has read, acknowledged, and agreed to the terms in this Agreement, and any exhibits annexed hereto, which are all incorporated by reference. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) required by Grantor, the term(s) required by Grantor shall control and prevail.

[Signature page to follow]

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

DATED: _______________, 2024 CITY OF NEWBURGH

By: ____________________________________
Name: Todd Venning
Title: City Manager

DATED: _______________, 2024 EXODUS TRANSITIONAL COMMUNITY, INC.

By: ____________________________________
Name: Julio Medina
Title: Executive Director
Chief Executive Officer

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

On this ____ day of ______________, in the year 2024, before me 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 person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

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

On this ____ day of ______________, in the year 2024, before me personally appeared Julio Medina 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/she executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

EXHIBIT A – SCOPE OF WORK

OBJECIVES:
The Gun Involved Violence Elimination Initiative Grant Program is a collaborative program between Exodus Transitional Community, Inc. and the Newburgh City Police Department with the goal of improving the outcome of the GIVE Project in The City of Newburgh, Orange County, NY.

DELIVERABLES:
Individuals who are identified as Program Participants by the Newburgh City Police Department will be referred to Exodus. Exodus created the position of Anti-Violence Coordinator and will hire and employ an individual to complete the job duties of the position. The Anti-Violence Coordinator will report and work from the City of Newburgh Police Department located at 55 Broadway, Newburgh, NY on a schedule to be determined by the Police Chief and Exodus. The Anti-Violence Coordinator will field incoming calls from Program Participants, develop individualized needs assessment, and guide the Program Participants through the network of social services designed to meet their needs. The qualifications and duties of the Anti-Violence Coordinator are provided in the approved description (INSERT FINAL JOB DESCRIPTION AFTER EXHIBT A AND BEFORE EXHIBIT B)

TIMELINE:

The GIVE Grant Program funding year commences on July 1, 2024 and ends on June 30, 2025. The Sub-recipient will begin providing services as provided in the scope of work upon the later of July 1, 2024 or the execution of the Agreement.

EXHIBIT B – BUDGET

Grant funding in the amount of $ $88,200 is allocated from the total Grant award to fund the salary of the Anti-Violence Coordinator.

A disbursement in the amount of $ $14,700 will be made to the Sub-recipient within thirty (30) days of execution of the Agreement for the purpose of funding the initial two months of salary & fringe of the Anti-Violence Coordinator.

The remaining grant funding will be disbursed to the subgrantee monthly for the duration of the GIVE Grant Program funding year ending on June 30, 2025. Sub-recipient will submit payroll records sufficient to account for the total salary paid for the Anti-Violence Coordinator during the GIVE Grant Program funding year.

<u>EXHIBIT C – GRANTOR ADDITIONAL TERMS</u>

2024-2025 GIVE grant agreement to be inserted here.

RESOLUTION NO.: 60 - 2024

OF

MARCH 25, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT FROM
THE NEW YORK STATE DEPARTMENT OF CRIMINAL JUSTICE SERVICES
UNDER THE GUN INVOLVED VIOLENCE ELIMINATION ("GIVE") PARTNERSHIP
TO ENHANCE LAW ENFORCEMENT IN THE CITY OF NEWBURGH
TO ACHIEVE SUSTAINED, LONG-TERM CRIME REDUCTION
IN THE AMOUNT OF $837,969.00 WITH A CITY MATCH OF 25%
FOR SALARY AND BENEFITS FOR ALL GIVE FUNDED POSITIONS
FOR THE PERIOD JULY 1, 2024 TO JUNE 30, 2025

WHEREAS, the City of Newburgh wishes to apply for and accept a Grant Award in the amount of $837,969.00 under the Division of Criminal Justice Services Gun Involved Violence Elimination ("GIVE") Partnership; and

WHEREAS, the GIVE Grant Program provides funding to the City of Newburgh for Hotspot Policing Strategies and will continue to support emerging hotspot patrols, long term hotspot foot patrols, investigations of shootings/homicides involving identified group members, the Youth and Police Initiative, the Crime Analyst position, a field intelligence officer position, a Sergeant and 2 full time Detectives and fund an Anti-Violence Coordinator Contract; and

WHEREAS, the Program funding shall be for New York State fiscal year beginning July 1, 2024 and ending June 30, 2025; and

WHEREAS, the Program will enhance enforcement and prosecution efforts against crime in the City of Newburgh and no City matching funds are required, except the City of Newburgh will be responsible for certain fringe benefit costs which are not covered by the grant; and

WHEREAS, this Council has determined that accepting such funding is in the best interests of the City of Newburgh and the safety of its residents and visitors alike;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to apply for and accept if awarded a grant award from the New York State Department of Criminal Justice Services under the Gun Involved Violence Elimination ("GIVE") Partnership, in the amount of $837,969.00 with a 25% City match required for New York State Fiscal Year beginning July 1, 2024 and ending June 30, 2025, to be used to carry out the program; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

I, Katrina Cotten, Deputy City Clerk of the City of Newburgh, hereby certify that I have compared the foregoing with the original resolution adopted by the Council of the City of Newburgh at a regular meeting held 3/25/24 and that it is a true and correct copy of such original.
Witness my hand and seal of the City of Newburgh this 26th day of Mar. 20 24

Deputy City Clerk

RESOLUTION NO.: __176__-2024

OF

AUGUST 12, 2024

A RESOLUTION AMENDING THE 2024 PERSONNEL ANALYSIS BOOK TO ADD NINE PART TIME DISPATCHER POSITIONS IN THE POLICE DEPARTMENT

WHEREAS, the Police Chief proposes to add nine Dispatcher positions on a part-time basis to promote efficiency in the Police Department; and

WHEREAS, the addition of such positions requires the amendment of the City of Newburgh Adopted Personnel Analysis Book for 2024; the same being 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 Personnel Analysis Book for the fiscal year 2024 be amended to add nine part-time Dispatcher positions in the Police Department.

RESOLUTION NO.: __177___-2024

OF

AUGUST 12, 2024

A RESOLUTION AMENDING THE 2024 PERSONNEL ANALYSIS BOOK TO ADD ONE ACCOUNT CLERK POSITION ON A TEMPORARY BASIS IN THE CODE COMPLIANCE BUREAU

WHEREAS, the Code Compliance Supervisor notified the City Manager that due to a long term leave of absence, the Code Compliance Bureau will need an additional individual to perform the duties of “Account Clerk”; and

WHEREAS, the creation of the additional Account Clerk position will be on a temporary basis; and

WHEREAS, the City Council has determined that adding one Account Clerk position in the Code Compliance Bureau will promote economy and efficiency within the Bureau; the same being 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 Personnel Analysis Book for the fiscal year 2024 be amended, and that there be and hereby is created one (1) additional position on a temporary basis in the position of “Account Clerk” in the Code Compliance Bureau.

RESOLUTION NO.: ___178_________ - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH 7ONE8 DESIGN INC. FOR WEBSITE SERVICES

WHEREAS, by Resolution No. 66-2023 of April 10,2023, the City of Newburgh, that the City of Newburgh City Council hereby appointed the City of Newburgh Conservation Advisory Council as the Climate Smart Communities Taskforce; and

WHEREAS, the Climate Smart Communities Taskforce was awarded a NYSERDA Clean Energy Communities Designation Grant in the amount of $5,000 to support a clean energy community campaign; and

WHEREAS, the Climate Smart Communities Taskforce determined that a separate website pertaining to the climate smart actions coordinated by the Taskforce would be the optimum method of communicating to the public and public engagement campaigns; and

WHEREAS, the Climate Smart Communities Taskforce received a proposal from 7ONE8 Design Inc. to develop said website and recommends entering into a contract for professional services with 7ONE8 Design Inc.; and

WHEREAS, the costs of these services will not exceed $3,158.00 and will be derived from CG.7129.0448.3451.2023; and

WHEREAS, The Climate Smart Communities Taskforce adopted the phrase "Newburgh Climate Ready" as the brand name for its activities; and

WHEREAS, this Council has determined that engaging the services of 7ONE8 Design Inc. for the purpose of creating the NewburghClimateReady.com website is in the best interest of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, Newburgh hereby authorizes the City Manager to enter into an agreement in a form substantially similar to the agreement annexed hereto, with such other terms and conditions as Corporation Counsel may require, with 7ONE8 Design Inc. for the purpose of developing a website to be utilized for Climate Smart Communities Taskforce purposes.

SUBGRANTEE AGREEMENT
NYSERDA CLEAN ENERGY COMMUNITIES DESIGNATION GRANT
CITY OF NEWBURGH WITH 7ONE8 DESIGN, INC.

This subgrantee agreement ("Agreement"), by and among the CITY OF NEWBURGH, NEW YORK, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the "City") and 7ONE8 Design Inc., an S corporation, having its principal place of business at 35 Birdsall Avenue, Marlboro, NY 12542 ("Sub-grantee"), is made this date as of ______________, 2024, as follows:

RECITALS

A. The City received an award of funds from the NYSERDA (referred to as "Grantor") Clean Energy Communities program.

B. The City has been duly designated to carry out activities authorized by the terms of the Grantor and the Clean Energy Communities Program, one such activity being launching a website in connections with the Grantor's community engagement campaign.

C. Sub-grantee has applied to work with the City in an effort to perform the services contained in paragraph B above, in a manner more specifically set forth in **Exhibit A**, attached hereto and made a part of this Agreement. In the event of a conflict between the body of this Agreement and Schedule A, the provisions in the body of this Agreement shall govern.

D. Sub-grantee has also submitted a reasonable budget to perform the services contained in paragraph B above, also more specifically set forth in **Exhibit A**.

E. In addition to the terms and conditions in this Agreement, Sub-grantee has agreed to additional terms and conditions as required by the Grantor, more specifically set forth in **Exhibit B**, attached hereto and made a part of this Agreement.

F. The City has identified Sub-grantee as competent, willing, and able to assist the City in performing the services contained in paragraph B, above, and now wishes to engage Sub-grantee to carry out the objectives of the Clean Energy Communities program as stated in the Grant Agreement with the Grantor.

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

ARTICLE 1 SPEFICIC TERMS OF AGREEMENT

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

2. Sub-grantee shall be solely responsible for securing goods, services, and any other accommodations necessary to provide the work product contemplated herein.

3. As consideration for the work product provided, and after the work product has been provided to the City, the City shall pay Subrecipient a sum of Three Thousand One Hundred Fifty-Eight and 00/100 dollars ($3,158.00), said sum being a part of grant award to the City by the Grantor.

ARTICLE II PAYMENT

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

2. Total payment under this Contract shall not exceed Three Thousand One Hundred Fifty-Eight and 00/100 dollars ($3,158.00) as payment for all eligible services incurred by Sub-grantee.

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

ARTICLE III METHOD OF PAYMENT

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

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

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

4. A final statement of cumulative costs incurred, including cost sharing, marked “FINAL”, must be submitted to the City’s Comptroller NOT LATER THAN sixty (60) days after the Maintenance Period end date. The final statement of costs shall constitute Sub-grantee’s final financial report.

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

ARTICLE IV TERM AND TERMINATION

1. This Agreement shall be effective as of the Effective Date and shall remain in force for a period of 5 years and shall then renew automatically, year-to-year, unless otherwise terminated as provided herein.

2. Either party may terminate this agreement with thirty (30) days written notice to the parties listed below. Upon receipt of notice of termination, the Sub-grantee agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

   If to City:

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

   If to Sub-grantee:

   7ONE8 Design Inc.
   Attn: Johanna Guevara
   35 Birdsall Avenue
   Marlboro, New York 12542

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

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

ARTICLE V NO ASSIGNMENT

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

ARTICLE VI BOOKS AND RECORDS; REPORTS

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

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

ARTICLE VII CONFIDENTIAL INFORMATION

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

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

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

1. Sub-grantee agrees that it presently has not interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.

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

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

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

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

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

ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

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

ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

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

ARTICLE XII REPRESENTATIONS OF SUB-GRANTEE

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

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

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

ARTICLE XIII EQUAL EMPLOYMENT OPPORTUNITY

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

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

3. Non person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE XIV <u>FACILITIES AND PERSONNEL</u>

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

2. Sub-grantee further represents that it will terminate and dismiss from further performance of work and services under this Agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to Sub-grantee by the City that such officer, employee, agent, subcontractor

or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for Sub-grantee to replace to meet its obligations under this Agreement.

ARTICLE XV INDEMNIFICATION

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

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

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

    a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt or Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.
    b. Sub-grantee shall carry liability and Property Damage Insurance with limits of not less than:

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

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

ARTICLE XVI DELIVERY OF DELIVERABLES

1. Upon City's approval of its final website, or upon termination of this Agreement, whichever occurs earlier, Developer shall deliver to City all Code, Documentation, reports and other materials developed by Developer in the course of its performance under this Agreement and any other items reasonably necessary for the operation of City's website (other than

third party operating system software, third party networking software, web browsers and hardware) and all changes and enhancements thereto (the "Deliverables"). Documentation shall be delivered in printed format and in electronic format. Code shall be delivered in electronic format. The transfer of electronic materials shall be accomplished by copying them to flash drives or via File Transfer Protocol ("FTP). Files will be provided in HTML format, standard word processing text format or, if images as TIFF's, GIFF's, JPEG's, or Photoshop files. Developer shall maintain its back-ups and one set of the final materials provided to City for a period of six months after City's approval of its final website. If this Agreement is terminated prior to final approval, or at the expiration of this six month period, Developer will destroy all of its copies of City's website (including all back-ups thereof) and "wipe" all files constituting final or working copies of City's website (other than the final copy hosted on Developer's web server and one backup copy thereof) from Developer's computers and back-up materials otherwise directed in writing by City.

2. The "Schedule" for the delivery of deliverable is attached hereto as **Exhibit A**.

ARTICLE XVII WEB SITE HOSTING

1. Server Hosting. Developer agrees, at City's option, to oversee the maintenance of the City's website on Hostinger or similar web hosting service on a month to month basis, and to make maintenance modifications to City's website from time to time in accordance with City's directions. Such modifications shall be implemented within five (5) business days of Developer's receipt of City's changes if the changes are easily implemented, and within ten (10) business days of Developer's receipt of City's changes if the changes are not easily implemented. As part of this service, Developer agrees to make City's website available to Internet users approximately 24 hours per day, to back-up City's website at least once every two weeks, and to store said back-up materials in a safe and secure environment, fit for the back-up media, and not located at the same location as Developer's web server. Also, as part of this service, the Developer agrees to use it best efforts to ensure reasonable response times for users accessing City's website.

2. Back-Up Copies. Upon notice from City not more than once each month, and also in the event of City's termination of its use of the then-current web server as the host for City's website, Developer agrees to transfer a complete copy of City's then-current website, including all Code therefor, to City, said transfer to occur by either copying them to flash drives or via FTP. Files will be provided in HTML format, standard word processing Text format or, if images, as TIFF's, GIFF's, JPEG's or Photoshop files. The transfer method will be selected by City in its discretion no later than 24 hours before the time the transfer is to take place.

3. Transaction Logging. During the time that Developer oversees the web hosting service on the City's behalf, Developer will make available on a monthly basis and free of

charge an analysis of City website traffic, including source IP address, most commonly viewed pages and any other such data reasonably requested by City

ARTICLE XVIII MAINTENANCE

1. This Agreement allows the Developer access for minor website maintenance to Website pages over a one hundred and twenty (120) day period (the "Maintenance Period"). This refers to an average of one half hour per regular web page, including updating links and making minor changes to a sentence or paragraph. This maintenance will be provided to the City at the Developer's standard professional rate of compensation, as listed in the Proposal. It does not include replacing nearly all text from a page with new text, major page reconstruction, new pages, guest books, discussion webs, navigation structure changes, attempted updates by City repairs or web design projects delivered to the City via FTP, CD, or cloud storage link. The Maintenance Period begins on the date the City's Website is published to the City's hosting services or 180 days from the Effective Date, whichever comes first. Very minor page code changes will be included under this Article XVI, but major page code and/or database structural changes will be charged at the Developer's applicable hourly rates.

ARTICLE XIX WEBSITE REPRESENTATIONS AND WARRANTIES

1. Performance. The Developer hereby warrants and represents that for a period of ninety (90) days following delivery of the Website to the City pursuant to this Agreement (the "Warranty Period"), the Website will be free from programming errors and defects in workmanship and materials, and will conform to the specifications of the Overview. If programming errors or other defects are discovered during the Warranty Period, the Developer shall promptly remedy those errors or defects at its own expense; provided, however, that the Developer shall not be obligated to remedy any such error or defect unless the City notifies it of the existence and nature of such error or defect promptly on its discovery thereof.

2. No Disablement. The Developer hereby warrants and represents that the Website, when delivered or accessed by the City, will be free from material defects, and from viruses, logic locks, and other disabling devices or codes, and in particular will not contain any virus, Trojan horse, worm, drop-dead devices, trap doors, time bombs, or other software routines or other hardware component that could permit unauthorized access, disable, erase, or otherwise harm the Website or any software, hardware, or data, cause the Website or any software or hardware to perform any functions other than those specified in this Agreement, halt, disrupt, or degrade the operation of the Website or any software or hardware, or perform any other such actions.

ARTICLE XX TIMING AND DELAYS

1. The Developer recognizes and agrees that failure to deliver the Website in accordance with the delivery schedule detailed in the Overview to this Agreement will result in expense and damage to the City. The Developer shall inform the City immediately of any anticipated delays in the delivery schedule and of any remedial actions being taken to ensure completion of the Website according to such schedule. If a delivery date is missed, the City may, in its sole discretion, declare such delay a material breach of the Agreement under Article XVI and pursue all its legal and equitable remedies. The City may not declare a breach, and the Developer cannot be held in breach of the Agreement, of this section if such delay is caused by an action or failure of action of the City. In such case, the Developer will provide the City with written notice of the delay and work on the Website shall not continue until the reason for the delay has been resolved by the City and written notice of that resolution has been provided to the Developer.

ARTICLE XXI WORK FOR HIRE

1. Notice of Incorporation of Existing Work. If the Developer intends to integrate or incorporate any work that it previously created not any work product to be created in furtherance of its performance of the Services, the Developer must obtain the City's prior written approval of such integration or incorporation. If the City, in its reasonable discretion, consents, the City is hereby granted a worldwide license, royalty-free, perpetual, irrevocable license to use, distribute, modify, publish, and otherwise exploit the incorporated items in connection with the work product developed for the City.

ARTICLE XXII RETURN OF PROPERTY

1. Within five (5) days of the termination of this Agreement, whether by expiration or otherwise, the Developer agrees to return to the City all City products, samples, models, or other property and all documents, retaining no copies or notes, relating to the City's business including, but not limited to, reports, abstracts, lists correspondence, information, computer files, computer disks, and all other materials and all copies of such material obtained by the Developer during and in connection with its representation of the City. All files, records, documents, blueprints, specifications, information, letters, notes, media lists, original artwork/creative, notebooks, and similar items relating to the City's business, whether prepared by the Developer or otherwise coming into its possession, shall remain the City's exclusive property.

ARTICLE XXIII INTELLECTUAL PROPERTY

1. No Intellectual Property Infringement by Developer. The Developer hereby represents and warrants that the use and proposed use of the Website by the City or any third party does not and shall not infringe, and the Developer has not received any notice, complaint, threat, or claim alleging infringement of, any trademark, copyright, patent, trade secrets, industrial design, or other rights of any third party in the Website, and the use of the Website will not include any activity that may constitute "passing off". To the extent the Website infringes on the rights of any such third party, the Developer shall obtain a license or consent from such third party permitting the use of the Website.

2. No Intellectual Property Infringement by City. The City represents to the Developer and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to the Developer for inclusion in the Website are owned by the City or that the City has permission from the rightful owner to use each of these elements, and will hold harmless, protect, indemnify, and defend the Developer and its subcontractors from any liability (including attorney's fees and court costs), including any claim or suit, threatened or actual, arising from the use of such elements furnished by the City.

3. Continuing Ownership of Existing Trademarks. The Developer recognizes the City's right, title, and interest in and to all service marks, trademarks, and trade names used by the City and agrees not to engage in any activities or commit any acts, directly or indirectly, that may contest, dispute, or otherwise the City's right, title, and interest therein, nor shall the Developer cause diminishment of value of said trademarks or trade names through any act or representation. The Developer shall not apply for, acquire, or claim any right, title, or interest in or to any such service marks, trademarks, or trade names, or others that may be confusingly similar to any of them, through advertising or otherwise. Effective as of the termination of this Agreement, the Developer shall cease to use all of the Town's trademarks, marks, and trade names.

ARTICLE XXIV AUTHORSHIP CREDIT

1. The Developer may include a byline and link on the bottom of the Website establishing authorship credit. This byline is upon agreement by both the City and the Developer and may be removed at any time upon written request by the City.

ARTICLE XXV NOTICES

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

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

If to Sub-grantee:
7ONE8 Design Inc.
Attn: Johanna Guevara
35 Birdsall Avenue
Marlboro, New York 12542

ARTICLE XXVI MISCELLANEOUS

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

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

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

4. Subrecipient has read, acknowledged, and agreed to the terms of this Agreement, and any exhibits annexed hereto, which are all incorporated by reference. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) required by Grantor, the term(s) required by Grantor shall control and prevail.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

[Signature page to follow]

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

DATED: _______________, 2024 CITY OF NEWBURGH

By: ___________________________________
Name: Todd Venning
Title: City Manager

Dated: _________________, 2024 SUB-GRANTEE: 7ONE8 Design Inc.

By: ___________________________________
Name: Johanna Guevara
Title: CEO

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

On this ____ day of _________________, in the year 2024, before me 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 person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

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

On this ____ day of ________________, in the year 2024, before me personally appeared Johanna Guevara, 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 s/he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

____
NOTARY PUBLIC

SCHEDULE A

City of Newburgh

7/10/24

BRANDING FOR
empowerment
sustainability
higher learning

35 BIRDSALL AVE
MARLBORO NY 12550

WWW.7ONE8.COM

PARTIES

7ONE8 DESIGN INC ("7ONE8") is proposing to **City of Newburgh** ("Client") with the following:

PROJECT SCOPE:

DESIGN & PROGRAM: www.NewburghClimateReady.com

- Setup Wordpress CMS, MySQL database and additional necessary plugins on Hostinger.com
- In collaboration with City of Newburgh, adjust the proposed student website design to the following template: https://wydethemes.com/flora3
    - -Template is Fully Responsive – ready for all mobile devices in both portrait/landscape
    - -Program the above site based on final sitemap
    - -Provides Video/Zoom tutorials on how to maintain/use the site
- Offer a complimentary minor edit phase in regards to up-to-date 2024 text & images before going live
- Provide backup file copies of the website files via WeTranfer.com
- Once the site goes live, offer a maintenance period (120 days) of any additional edits charged at the developers standard professional rate of compensation.

THE PROCESS	DESCRIPTION	QUANTITY	TIME	PRICE
Wordpress+Plugins/MySQL	Hostinger Server	1	*Based on process*	$250
Student Designs	Based on Template	1	*Based on process*	$1000
Programming	Based on Sitemap	1	*Based on process*	$1500
Video/Zoom Tutorial	Based on site maintenance	1	*Based on process*	$250
PHASE 1: Programming	Setup Server, Template & Pages	NA	5-10 Days	*Included*
PHASE 2: Revisions	Site Edits	2 rounds	2 Days/per	*Included*
PHASE 3: Tutorials	Video/Zoom Tutorial	NA	1-3 Days	*Included*
		TOTAL	**21+ Days**	**$3000**

ADDITIONAL FEES:

Web Domain + Hosting: **www.hostinger.com**
Wordpress Template License: **$59**
https://themeforest.net/item/flora-responsive-creative-wordpress-theme/12038776
Wordpress Multi Lingual Plugin: **$99**
https://wpml.org/

City of Newburgh

7/10/24

PAYMENT SCHEDULE

For 7ONE8 Design, Creative, Programming and Strategy Development services (**NOT INCLUDING** additional expenses) is **$3158.** Payments are due based on agreed Payment Schedule. Late Payments have a penalty fee of 5% of the late monthly payment after a 5 day grace period from due date. Submitting deposit payment but not signing the proposal is acceptance of all items in the proposal.

Project start date subject to the date of receipt of all materials.

DATE	SUBMIT BY	MONTHLY PAYMENT
TBD	Deposit + Fees	**$1658**
TBD	Upon Completion	**$1500**
	TOTAL PROJECT PRICE	**$3158**

DELIVERABLES & USAGE

Project deliverables and client usage rights are as follows based on Project Scope

WEBSITE **UnLimited Usage Rights**

- Artwork created by 7ONE8 for the website is for usage only on the website unless prearranged
- Online Accounts for CMS via WORDPRESS.ORG
- All files/folders necessary to make the site work is delivered to the client via the Clients Web Hosting space upon project completion.
- WEB HOSTING & REGISTRATION account for a year
- Compatible with only the most RECENT browser windows for Mac & PC

PROJECT PROCEDURES

COMMUNICATION

Before project begins, client organization must designate ONE representative (with witness) to have the final say and officially sign off on all decisions and communication. This includes and not limited to departments, partnerships, families & married couples.

All Client feedback, e.g., design or production requests, revisions, modifications, changes or updates are tracked via Email.

If Client fails to communicate feedback or payment within 10 business days from the last meeting, Client will be given notice and has 10 days to response. If no communication occurs within those 10 days, project is automatically put on HOLD and a reactivation fee applies. To reactivate a project, a two-week in advance notice and a penalty fee of 10% of the outstanding balance will apply.

If Client fails to respond to the first notice, a second notice is sent and Client has 10 additional days to response. If no communication occurs within those 10 additional days, 7ONE8 has the right to TERMINATE the project with no refund or responsibility to continue.

After Deposit, if Client Cancels the project due to unsatisfactory work, the designs, ideas & programming created by 7ONE8 is owned by 7ONE8 not Client. 7ONE8 is not entitled to return deposit.

Client not entitled to pay any fees. If Client wishes to have Transfer of Files & Usage Rights of the unsatisfactory work, a Kill fee of 25% of the next schedule payment is required.

PAYMENT

Project begins on the day the signed proposal, payment & all final project inventory items are received by 7ONE8, unless prearranged.

Timeframe in the Proposal does not include non-business days or third-party vendor time.

Proposal expires after 30 days from date of submission and is subject to a starting date based on current 7ONE8 project schedules.

Methods of payments accepted are cash or checks. Visa, Mastercard, American Express and Debit Card payments can also be arranged through www.paypal.com with a 3% markup to cover Paypal fees.

RISK

Proposal on existing online web projects are dependent on the “flexibility” and “edit-ability” of the project once it is further researched.

If all **final content** for print or web project(s) are not submitted fully at the **beginning** of the project, the project deadline is at jeopardy of not being met

7ONE8 is not responsible for missed deadlines due to lack of Client participation/payment.

All data (coding, data, images etc) related to a clients’ website is the clients responsibility with his/her Hosting company. Client risk loosing their website if Hosting/Domain fees are not paid.

Turnaround time **WILL** increase if client is late in feedback, payment, material & logins.

Client does not hold 7ONE8 responsible for faulty service from third party vendors such as web hosting companies, programmers and printers.

If transfer of the editable-digital files, are delivered to Client, they are for use by an experience graphics person. Tech support of the files is offered at an hourly rate. If client misplaces the digital files transferred to them at the end of the project, re-archiving & documenting is subject to an hourly rate.

Websites are compatible with only the most RECENT browser windows for Mac & PC as of July 2024.

Programming, content management systems and web language used at the time of the project is subject to **depreciation due to the rate of new technology developments**. 7ONE8 cannot be held responsible for future upgrading, incompatibility, spamming, hacking or loss of integration.

7ONE8 is not responsible for the limited understanding that the client may have in using Content Management Systems (CMS) & other online tools. They are meant to be use by an individual with basic online knowledge (Novice Webmaster).

TERMS

1. Client Responsibilities
Client is responsible for all correct spelling and facts of final designs. Client must proof all designs, colors, print techniques and other materials submitted to Client by 7ONE8. 7ONE8 is not responsible for final outcome if Client relinquishes this responsibility.

2. Project Modification
Any changes or additions to the Project Scope & Timeline once Proposal is signed, is subject to $150/hr fee. Modifications, revisions, changes & updates are tracked by Email.

3. Hold, Termination, Cancelation & Kill Fee
Hold If Client fails to communicate feedback or payment within 10 business days from the last meeting, Client will be given notice & has 10 days to response. If no communication occurs within those 10 days, project is automatically put on HOLD & a reactivation fee applies. To reactivate a project, a two-week in advance notice & a penalty fee of 10% of the outstanding balance will apply.
Termination If Client fails to respond to the first notice, a second notice is sent and Client has 10 additional days to response. If no communication occurs within those 10 additional days, 7ONE8 has the right to terminate the project with no refund or responsibility to continue.
Cancelation After Deposit is submitted, if Client Cancels the project due to unsatisfactory work, designs, ideas & programming created by 7ONE8 are owned by 7ONE8. Client can not use any of the unsatisfactory work created by 7ONE8. 7ONE8 is not entitled to return deposit, Client not entitled to pay any fees. If Client wishes to have Transfer of Files & Usage Rights of the unsatisfactory work, a Kill fee of 25% of the next schedule payment is required.

4. Payment
Rate: $150 per hour. Applies to increase in Comps or Revision Rounds and if change/additions are made to final signed Proposal.
Rates are subject to change on a quarterly basis.
Methods of Payments: On-time cash or checks are accepted. Payments can also be arranged through www.paypal.com with a 3% markup to cover Paypal fees.
Refunds: Each payment is non-refundable.
Client use of a 7ONE8 design/idea other than the final chosen design has an additional fee of 50% of total project cost per design/idea.
Payments are due based on Payment Schedule. Late Payments have a penalty fee of 5% of the late monthly payment after a 5 day grace period from due date.
Submitting payment but not signing proposal is acceptance of all items in this proposal.

5. Intellectual Property
7ONE8 retains ownership of all **PROPOSED** designs, ideas, and corresponding electronic files, in the form of copyright, trademark or other form of property, throughout the project. **UPON FULL PAYMENT** by Client, transfer of the Final Client Approved Designs & Usage rights are given to the Client. For all final designs transferred to Client, 7ONE8 maintains a license to use said designs for promo purposes and portfolio. As well as an active link from the created site to www.7ONE8.com. If Client does not want a link on their site to 7ONE8, an additional fee applies of 25% of total project price.

Proposal Confidentiality/Non-Disclosure
All correspondence, discussion and documents provided as part of this Proposal shall be treated as confidential between Client and 7ONE8. Both parties hereby agree not to disclose details of this Proposal with third parties, other than vendors and key employees as necessary.

6. Miscellaneous
Status of parties The parties to this Agreement are independent contractors. This Agreement is not a **work made for hire** agreement, moreover, it shall not create any fiduciary, agency, partnership, joint venture, employment or special relationship between the parties.

Entire Agreement This Agreement (including any attached Exhibits), and other documents delivered pursuant to it, constitute the full and entire understanding and Agreement between the parties and may be modified only by a written instrument executed by both parties.

Non-assignment Client or 7ONE8 may not assign this Agreement without 7ONE8's or Clients's written consent. Any purported assignment without such consent shall be void and of no force or effect.

Technology 7ONE8 is not held responsible for future online technology update/upgrades (by client or online companies) that may alter the look or usage of projects.

Print Client acknowledges the lower accuracy rate of a print piece produced by a cost-effective digital printer vs. a more expensive traditional printer.

Attorneys fees In the event of any action that 7ONE8 or Client brings to recover damages for any breach of this Agreement, 7ONE8 & Client agrees that the party that prevails in litigation shall pay all costs and expenses thereof, together with reasonable attorney's fees.

Choice of law This Agreement shall be construed and enforced in accordance with the laws of the State of New York, and the parties agree that, in any dispute, jurisdiction and venue shall be in New York City, NY.

Learning Curve In the event the client introduces a new method, program, software, etc that 7ONE8 is not versed in, 7ONE must be given extra time to become familiar with it. 7ONE8 is not responsible if said method, program, software, etc is not 100% functional.

Each party warrants and represents to the other party that it has full power and authority to enter into this Agreement legally bind their organization to carry out its obligations hereunder.

This agreement may be signed in counterparts and transmitted by fax and/or email, each of which counterparts will be deemed to be an original and which taken together will constitute the agreement.

SIGNATURE Signer agrees to the information stated on SCHEDULE 1 to 4 (located at the Footer of each page)

FIRST/LAST NAME ______________________________

SIGNATURE______________________________

DATE______________________________

ADDRESS ______________________________

SCHEDULE B

EXHIBIT B

GENERAL CONTRACT PROVISIONS, TERMS AND CONDITIONS

Article I

Definitions

Section 1.01. Definitions. Unless the context otherwise requires, the terms defined below shall have, for all purposes of this Agreement, the respective meanings set forth below, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined.

(a) General Definitions:

Agreement: This Agreement shall consist of Page One and the Exhibits noted thereon, all of which are made a part hereof as if set forth here in full.

Budget: The Budget set forth at Exhibit A hereto.

Cash-based Expenses: Those obligations of Contractor that shall be settled in cash.

Contract Administrator: NYSERDA's Director of Contract Management, Wendy M. MacPherson, or such other person who may be designated, in writing, by NYSERDA.

Contract Information: Recorded information regardless of form or characteristic first produced in the performance of this Agreement, that is specified to be compiled under this Agreement, specified to be delivered under this Agreement, or that is actually delivered in connection with this Agreement, and including the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable.

disencumbered, unless NYSERDA, in its sole discretion, elects to extend. Any extensions of this date are only effective if in writing.

outside the scope of this Agreement and without NYSERDA financial support, provided that such information is not generally known or available from other sources without obligation concerning their confidentiality; has not been made available by the owner to others without obligation concerning its confidentiality; and is not already available to NYSERDA without obligation concerning its confidentiality. Under no circumstances shall any information included in the Final Report delivered by Contractor pursuant to Exhibit A, Statement of Work, if applicable, be considered Proprietary Information.

Person: An individual, a corporation, an association or partnership, an organization, a business or a government or political subdivision thereof, or any governmental agency or instrumentality.

performance of Contractor and as such terms have been interpreted relative to public procurements. See NYS Finance Law § 163(1)(c).

Statement of Work: The Statement of Work attached hereto as Exhibit A.

Subcontract: An agreement for the performance of Work by a Subcontractor, including any purchase order for the procurement of permanent equipment or expendable supplies in connection with the Work.

whether or not in privity of contract with the Contractor) but not including any employees of the Contractor or the Subcontractors.

connection therewith) and the performance of all other requirements imposed upon the Contractor under this Agreement.

Article II

Performance of Work

Section 2.01. Manner of Performance. Subject to the provisions of Article XII hereof, the Contractor shall perform all of the Work described in the Statement of Work, or cause such Work to be performed in an efficient and expeditious manner and in accordance with all of the terms and provisions of this Agreement. The Contractor shall perform the Work in accordance with the current professional standards and with the diligence and skill expected for the performance of work of the type described in the Statement of Work. The Contractor shall furnish such personnel and shall procure such materials, machinery, supplies, tools, equipment and other items as may reasonably be necessary or appropriate to perform the Work in accordance with this Agreement.

Section 2.02. Project Personnel. It is understood and agreed that the Project Director identified at Item 5, Page One of this Agreement shall be responsible for the overall supervision and conduct of the Work on behalf of the Contractor and that the persons described in the Statement of Work shall serve in the capacities described therein. Any change of Project Director by the Contractor shall be subject to the prior written approval of NYSERDA. Such approval shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty (30) days after receipt of request for approval by NYSERDA, the requested change in Project Director shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor

within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to thirty (30) days.

Section 2.03. Title to Equipment. Title shall vest in the Contractor to all equipment purchased hereunder.

(a) If the Contractor fails to complete all Task(s) of this Agreement, the Contractor is subject to recapture of the full NYSERDA contribution under any tasks of the Agreement under which NYSERDA contributions have been made. NYSERDA reserves the right to pro-rate the final award amount if the completed project deviates from the proposed design submitted and approved in Task 2.

[illegible] duration specified under the Minimum Performance Requirements of this Agreement, the Contractor will be subject to the recapture of a portion of the value of the equipment purchased or leased under Task 3 of this Agreement. The recapture will be prorated based upon the amount of time the Contractor has kept the equipment in operation divided by the number of years the Contractor is required to operate the equipment according to the Minimum Performance Requirements under this Agreement, or as approved in writing by the NYSERDA Project Manager.

reporting requirement outlined under the Minimum Performance Requirements under this Agreement = NYSERDA Funded Amount - (Total Project Value * percent of duration required under the Minimum Performance Requirements).

Article III

Deliverables

Work.

Article IV

Payment

Section 4.01. Payment Terms. In consideration for this Agreement and as NYSERDA's full payment for the costs of the performance of all Work, and in respect of all other direct and indirect costs, charges or expenses incurred in connection therewith, NYSERDA shall pay to the Contractor amounts not to exceed the maximum amount set forth in Item 5, Page One of this Agreement. Subject to the provisions and restrictions contained herein, including, without limitation, the Prompt Payment Policy Statement attached hereto as Exhibit D, payment will be made according to the Milestone Billing Events set forth in Exhibit A, Statement of Work. NYSERDA is not obligated to make any payments beyond the Expiration Date of this contract. Any funding balances will be disencumbered at that time, unless

NYSERDA, in its sole discretion, elects to extend the Expiration Date. Any changes to expiration dates will be effective only if in writing.

Section 4.02. Payments.

(a) Invoicing. Subject to any applicable provisions set forth in Exhibit A, Statement of Work, at the completion of each Milestone Event, for projects not managed through NYSERDA's Salesforce application, the Contractor shall submit invoices electronically to NYSERDA's online invoice system at: https://services.nyserda.ny.gov/Invoices/. For projects managed through NYSERDA's Salesforce application, the Contractor shall submit the identified deliverables, including documentation reasonably sufficient to demonstrate completion and evidence of the Contractor's cost share, if applicable, and may request payment by NYSERDA of the amounts corresponding to the amounts indicated in Exhibit A, Statement of Work. The agreement number shown as Item 1 on page 1 of this Agreement, as well as the purchase order number, which will be generated and provided to the Contractor upon contract execution, should be referenced when submitting documentation of deliverables. Documentation shall be submitted electronically via email to the assigned Project Manager along with a statement "I hereby request that upon NYSERDA's approval of these deliverable(s), payment of the corresponding milestone payment amount be made in accordance with NYSERDA's Prompt Payment Policy, as detailed in the NYSERDA agreement" or, if this project is managed through NYSERDA's Salesforce application, via NYSERDA's Salesforce Contractor Portal with the

Section 4.03. Final Payment. Upon final acceptance by NYSERDA of all deliverables contained in Exhibit A, Statement of Work, pursuant to Section 6.02 hereof, the Contractor shall submit an invoice for final payment with respect to the Work, together with such supporting information and documentation as, and in such form as, NYSERDA may require. All invoices for final payment hereunder must, under any and all circumstances, be received by NYSERDA prior to the Expiration Date of the contract. In accordance with and subject to the provisions of NYSERDA's Prompt Payment Policy Statement, attached hereto as Exhibit D, NYSERDA shall pay to the Contractor within the prescribed time after receipt of such invoice for final payment, the total amount payable pursuant to Section 4.01 hereof, less all progress payments/milestone payments previously made to the Contractor with respect thereto and subject to the maximum commitment set forth in Section 4.06 hereof.

NYSERDA from all claims and liability that the Contractor, its representatives and assigns might otherwise have relating to this Agreement.

Section 4.05. Maintenance of Records. The Contractor shall keep, maintain, and preserve at its principal office throughout the term of the Agreement and for a period of three years after acceptance of the Work, full and detailed books, accounts, and records pertaining to this Agreement, including without limitation, all data, bills, invoices, payrolls, time records, expense reports, subcontracting efforts and other documentation evidencing, or in any material way related to, Contractor's performance under this Agreement.

shall be the amount appearing at Item 5 of page one of this Agreement. NYSERDA shall not be liable for any costs or expenses in excess of such amount incurred by the Contractor in the performance and completion of the Work.

Section 4.07. Audit. NYSERDA shall have the right from time to time and at all reasonable times during the term of this Agreement and for the maintenance period set forth in Section 4.05 hereof to inspect and audit any and all books, accounts and records related to this Agreement or reasonably necessary to the performance of an audit at the office or offices of the Contractor where they are then being kept, maintained and preserved pursuant to Section 4.05 hereof. Any payment made under the Agreement shall be subject to retroactive reduction for amounts included therein which are found by NYSERDA on the basis of any audit of the Contractor by NYSERDA, the State of New York or an agency of the United States not to constitute an allowable charge or cost hereunder.

Article V

Assignments, Subcontracts and Performance

Section 5.01. General Restrictions. Except as specifically provided otherwise in this Article, the assignment, transfer, conveyance, subcontracting or other disposal of this Agreement or any of the Contractor's rights, obligations, interests or responsibilities hereunder, in whole or in part, without the express consent in writing of NYSERDA shall be void and of no effect as to NYSERDA.

Section 5.02. Subcontract Procedures. Without relieving it of, or in any way limiting, its obligations to NYSERDA under this Agreement, the Contractor may enter into Subcontracts for the performance of Work or for the purchase of materials or equipment. Prior to beginning any Work, Contractor shall notify the NYSERDA Project Manager of all subcontractors performing work under the Agreement, as well as all changes in subcontractors throughout the term of the Agreement. Except for a subcontractor or supplier specified in a team arrangement with the Contractor in the Contractor's original proposal, and except for any subcontract or order for equipment, supplies or materials from a single subcontractor or supplier totaling less than $50,000, the Contractor shall select all subcontractors or suppliers through a process of competitive bidding or multi-source price review. A team arrangement is one where a subcontractor or supplier specified in the Contractor's proposal is performing a substantial portion of the Work and is making a substantial contribution to the management and/or design of the Project. In the event that a competitive bidding or multi-source price review is not feasible, the Contractor shall document an explanation for, and justification of, a sole source selection. The Contractor shall document the process by which a subcontractor or supplier is selected by making a record summarizing

the nature and scope of the work, equipment, supplies or materials sought, the name of each person or organization submitting, or requested to submit, a bid or proposal, the price or fee bid, and the basis for selection of the subcontractor or supplier. An explanation for, and justification of, a sole source selection must identify why the work, equipment, supplies or materials involved are obtainable from or require a subcontractor with unique or exceptionally scarce qualifications or experience, specialized equipment, or facilities not readily available from other sources, or patents, copyrights, or proprietary data. All Subcontracts shall contain provisions comparable to those set forth in this Agreement applicable to a subcontractor or supplier, and those set forth in Exhibit C to the extent required by law, and all other provisions now or hereafter required by law to be contained therein. Each Subcontract shall make express reference to this Agreement, and shall state that in the event of any conflict or inconsistency between any Subcontract and this Agreement, the terms and conditions of this Agreement shall control as between Subcontractor and Contractor. For each Subcontract valued at $100,000 or more, the Contractor shall obtain and maintain, pursuant to Section 4.05, a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form from such Subcontractor prior to the execution of the Subcontract. Such form shall be made available to the Contractor by NYSERDA. Each such Subcontract shall contain a provision whereby the Subcontractor warrants and guarantees that there is and shall be no actual or potential conflict of

Section 5.03. Performance. The Contractor shall promptly and diligently comply with its obligations under each Subcontract and shall take no action that would impair its rights thereunder. The Contractor shall take no action, and shall take all reasonable steps to prevent its Subcontractors from taking any action, that would impair NYSERDA's rights under this Agreement. The Contractor shall not assign, cancel or terminate any Subcontract without the prior written approval of NYSERDA's Contract Administrator as long as this Agreement remains in effect. Such approval shall not be unreasonably withheld and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval by NYSERDA, the requested assignment, cancellation, or termination of the Subcontract shall be considered approved by NYSERDA. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty (30) days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to sixty (60) days.

Article VI

Schedule; Acceptance of Work

schedule requirements contained herein and in the Statement of Work. The draft and final versions of all deliverables shall be submitted by the dates specified in the Exhibit A Schedule. It is understood and agreed that the delivery of the draft and final versions of such deliverables by the Contractor shall occur in a timely manner and in accordance with the requirements of the Exhibit A Schedule and Project Period noted in Item No. 7 of this Agreement.

Section 6.02. Acceptance of Work. The completion of the Work shall be subject to acceptance by NYSERDA in writing of all deliverables as defined in Exhibit A, Statement of Work. Where the specified deliverable is in the form of report, acceptance of such report is contingent on Contractor complying with all its obligations set forth in the corresponding task and that the report be complete, and sufficiently and accurately described.

Article VII

Force Majeure

Section 7.01. Force Majeure. Neither party hereto shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of land or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes, or the delay or failure to perform by any Subcontractor by reason of any cause or circumstance beyond the reasonable control of such Subcontractor.

Article VIII

Rights in Information; Confidentiality

Section 8.01. Rights in Contract and Proprietary Information.

(a) All Contract Information shall be the property of NYSERDA. The Contractor shall not use Contract Information for any purpose other than to implement its obligations under this Agreement.

(b) All Proprietary Information shall be the property of Contractor.

(c) The use, public performance, reproduction, distribution, or modification of any materials used by Contractor in the performance of this Agreement does not and will not violate the rights of any third parties, including, but not limited to, copyrights, trademarks, service marks, publicity, or privacy. The Contractor shall be responsible for obtaining and paying for any necessary licenses to use any third-party content.

NYSERDA contractor or subcontractor, the Contractor shall treat such data in accordance with any restrictive legend contained thereon or instructions given by NYSERDA, unless another use is specifically authorized by prior written approval of the NYSERDA Project Manager. Contractor acknowledges that in the performance of the Work under this Agreement, Contractor may come into possession of personal information as that term is defined in Section 92 of the New York State Public Officers Law. Contractor agrees not to disclose any such information without the consent of NYSERDA.

Article IX

Warranties and Guarantees

Section 9.01. Warranties and Guarantees. The Contractor warrants and guarantees that:

(a) all information provided, and all representations made by Contractor as a part of the Proposal Checklist or application, if any, submitted to NYSERDA in order to obtain this Agreement were, to the best of Contractor's knowledge, complete, true and accurate when provided or made;

do business and is in good standing in all jurisdictions necessary for Contractor to perform its obligations under this Agreement;

(c) it is familiar with and will comply with all general and special Federal, State, municipal and local laws, ordinances and regulations, and New York State Executive Orders in effect during the contract term, if any, that may in any way affect the performance of this Agreement;

(d) the design, supervision and workmanship furnished with respect to performance of the Work shall be in accordance with sound and currently accepted scientific standards and engineering practices;

(e) all materials, equipment and workmanship furnished by it and by Subcontractors in performance of the Work or any portion thereof shall be free of defects in design, material and workmanship, and all such materials and equipment shall be of first-class quality, shall conform with all applicable codes, specifications, standards and ordinances and shall have service lives and maintenance characteristics suitable for their intended purposes in accordance with sound and currently accepted scientific standards and engineering practices;

any patent issued under the laws of the United States or any other matter which could constitute a basis for any claim that the performance of the Work or any part thereof infringes any patent or otherwise interferes with any other right of any Person;

(g) to the best of Contractor's knowledge, there are no existing undisclosed or threatened legal actions, claims, or encumbrances, or liabilities that may adversely affect the Work or NYSERDA's rights hereunder;

connection with this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statement not misleading, and that all facts have been disclosed that would materially adversely affect the Work;

(i) all information provided to NYSERDA with respect to State Finance Law Sections 139-j and 139-k is complete, true and accurate;

Consultants, and Vendors with respect to the performance of this Agreement, [1] including, but not limited to, the provisions that ensure the appropriate use of public funds by requiring Contractors, Consultants and Vendors to refrain from policy advocacy on behalf of NYSERDA unless explicitly authorized, and in the manner described, under the terms of their Agreement; and to refrain from providing advocacy positions or opinions of their own that could be construed as those of NYSERDA;

anticipated indirect costs during the term of the Agreement and calculated consistent with generally accepted accounting principles.

(l) Contractor shall at all times during the Agreement term remain Responsible, and Contractor agrees, if requested by NYSERDA, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity; and

the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this Agreement. The Contractor shall have a duty to notify NYSERDA immediately of any actual or potential conflicts of interest.

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[1] http://www.nyserda.ny.gov/About/Board-Governance.aspx

Article X

Indemnification

State of New York from and against all liabilities, losses, claims, damages, judgments, penalties, causes of action, costs and expenses (including, without limitation, attorneys' fees and expenses) imposed upon or incurred by or asserted against NYSERDA or the State of New York resulting from, arising out of or relating to Contractor's or its Subcontractors' performance of this Agreement. The obligations of the Contractor under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage.

Article XI

Insurance

Section 11.01. Maintenance of Insurance; Policy Provisions. The Contractor, at no additional direct cost to NYSERDA, shall maintain or cause to be maintained throughout the term of this Agreement, insurance of the types and in the amounts specified in the Section hereof entitled Types of Insurance. All such insurance shall be evidenced by insurance policies, each of which shall:

(a) except policies in evidence of insurance required under Section 11.02(b), name or be endorsed to cover NYSERDA, the State of New York and the Contractor as additional insureds;

(b) provide that such policy may not be cancelled or modified until at least 30 days after receipt by NYSERDA of written notice thereof; and

(c) be reasonably satisfactory to NYSERDA in all other respects.

Section 11.02. Types of Insurance. The types and amounts of insurance required to be maintained under this Article are as follows:

(a) Commercial general liability insurance for bodily injury liability, including death, and property damage liability, incurred in connection with the performance of this Agreement, with minimum limits of $1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, $1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and $1,000,000 in respect of claims arising out of property damage in any one accident or disaster; and

(b) Workers Compensation, Employers Liability, and Disability Benefits as required by New York State.

Section 11.05. Delivery of Policies; Insurance Certificates. Prior to commencing the Work, the Contractor shall deliver to NYSERDA certificates of insurance issued by the respective insurers, indicating the Agreement number thereon, evidencing the insurance required by Article XI hereof.
In the event any policy furnished or carried pursuant to this Article will expire on a date prior to acceptance of the Work by NYSERDA pursuant to the section hereof entitled Acceptance of Work, the Contractor, not less than 15 days prior to such expiration date, shall deliver to NYSERDA certificates of insurance evidencing the renewal of such policies, and the Contractor shall promptly pay all premiums thereon due. In the event of threatened legal action, claims, encumbrances, or liabilities that may affect NYSERDA hereunder, or if deemed necessary by NYSERDA due to events rendering a review necessary, upon request the Contractor shall deliver to NYSERDA a certified copy of each policy.

Article XII

Stop Work Order; Termination; Non-Responsibility

Section 12.01. Stop Work Order.

(a) NYSERDA may at any time, by written Order to the Contractor, require the Contractor to stop all or any part of the Work called for by this Agreement for a period of up to ninety (90) days after the Stop Work Order is delivered to the Contractor, and for any further period to which the parties may agree. Any such order shall be specifically identified as a Stop Work Order issued pursuant to this Section. Upon receipt of such an Order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the Work covered by the Order during the period of work stoppage consistent with public health and safety. Within a period of ninety (90) days after a Stop Work Order is delivered to the Contractor, or within any extension of that period to which the parties shall have agreed, NYSERDA shall either:

(i) by written notice to the Contractor, cancel the Stop Work Order, which shall be effective as provided in such cancellation notice, or if not specified therein, upon receipt by the Contractor, or

(ii) terminate the Work covered by such order as provided in the Termination Section of this Agreement.

(b)If a Stop Work Order issued under this Section is cancelled or the period of the Order or any extension thereof expires, the Contractor shall resume Work. An equitable adjustment shall be made in the delivery schedule, the estimated cost, the fee, if any, or a combination thereof, and in any other provisions of the Agreement that may be affected, and the Agreement shall be modified in writing accordingly, if:

(i) the Stop Work Order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Agreement, and

(ii)the Contractor asserts a claim for such adjustments within 30 days after the end of the period of Work stoppage; provided that, if NYSERDA decides the facts justify such action, NYSERDA may receive and act upon any such claim asserted at any time prior to final payment under this Agreement.

(c)If a Stop Work Order is not cancelled and the Work covered by such Order is terminated, the reasonable costs resulting from the Stop Work Order shall be allowed by equitable adjustment or otherwise.

(d)Notwithstanding the provisions of this Section 12.01, the maximum amount payable by NYSERDA to the Contractor pursuant to this Section 12.01 shall not be increased or deemed to be increased except by specific written amendment hereto.

Section 12.02. Termination.

(a) This Agreement may be terminated by NYSERDA at any time during the term of this Agreement with or without cause, upon ten (10) days prior written notice to the Contractor. In such event, payment shall be paid to the Contractor for Work performed and expenses incurred prior to the effective date of termination in accordance with the provisions of the Article hereof entitled Payment and in reimbursement of any amounts required to be paid by the Contractor pursuant to Subcontracts; provided, however, that upon receipt of any such notice of termination, the Contractor shall cease the performance of Work, shall make no further commitments with respect thereto and shall reduce insofar as possible the amount of outstanding commitments (including, to the extent requested by NYSERDA, through termination of subcontracts containing provisions therefore). Articles VIII, IX, and X shall survive any termination of this Agreement, and Article XVII shall survive until the payment obligations pursuant to Article VIII have been met.

(b) NYSERDA specifically reserves the right to terminate this agreement upon its determination of excessive project schedule lapses or delays. NYSERDA also reserves the right to deny schedule extensions for project completion beyond those to which the parties agreed upon the initial execution of the agreement.

filed by the Contractor in accordance with State Finance Law Sections 139-j and 139-k is found to have been intentionally false or intentionally incomplete, or that the certification filed by the Contractor in accordance with New York State Tax Law Section 5-a is found to have been intentionally false when made. Terminations under this subsection (c) will be effective upon Notice.

(d) Nothing in this Article shall preclude the Contractor from continuing to carry out the Work called for by the Agreement after receipt of a Stop Work Order or termination notice at its own election, provided that, if the Contractor so elects: (i) any such continuing Work after receipt of the Stop Work Order or termination notice shall be deemed not to be Work pursuant to the Agreement, and (ii) NYSERDA shall have no liability to the Contractor for any costs of the Work continuing after receipt of the Stop Work Order or termination notice.

Section 12.03. Suspension or Termination for Non-Responsibility.

Agreement, at any time, when it discovers information that calls into question the Responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as NYSERDA issues a written notice authorizing a resumption of performance under the Contract.

appropriate NYSERDA officials or staff, this Agreement may be terminated by NYSERDA at the Contractor's expense where the Contractor is determined by NYSERDA to be non-Responsible. In such event, NYSERDA may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.

Article XIII

Independent Contractor

Section 13.01. Independent Contractor.

(a) The status of the Contractor under this Agreement shall be that of an independent contractor and not that of an agent, and in accordance with such status, the Contractor, the Subcontractors, and their respective officers, agents, employees, representatives and servants, including the Project Director, shall at all times during the term of this Agreement conduct themselves in a manner consistent with such status and by reason of this Agreement shall neither hold themselves out as, nor claim to be acting in the capacity of, officers, employees, agents, representatives or servants of NYSERDA nor make any claim, demand or application for any right or privilege applicable to NYSERDA, including, without limitation, vicarious liability, professional liability coverage or indemnification, rights or privileges derived from workers' compensation coverage, unemployment insurance benefits, social security coverage and retirement membership or credit. It is understood and agreed that the personnel furnished by Contractor to perform the Work shall be Contractor's employee(s) or agent(s), and under no circumstances are such employee(s) to be considered NYSERDA's employee(s) or agent(s), and shall remain the employees of Contractor, except to the extent required by section 414(n) of the Internal Revenue Code.

(b) Contractor expressly acknowledges NYSERDA's need to be advised, on an immediate basis, of the existence of any claim or event that might result in a claim or claims against NYSERDA, Contractor and/or Contractor's personnel by virtue of any act or omission on the part of NYSERDA or its employees. Accordingly, Contractor expressly covenants and agrees to notify NYSERDA of any such claim or event, including but not limited to, requests for accommodation and allegations of harassment and/or discrimination, immediately upon contractor's discovery of the same, and to fully and honestly cooperate with NYSERDA in its efforts to investigate and/or address such claims or events, including but not limited to, complying with any reasonable request by NYSERDA for disclosure of information concerning such claim or event even in the event that this Agreement should terminate for any reason.

Article XIV

Compliance with Certain Laws

Section 14.01. Laws of the State of New York. The Contractor shall comply with all of the requirements set forth in Exhibit C hereto.

Section 14.02. All Legal Provisions Deemed Included. . It is the intent and understanding of the Contractor and NYSERDA that each and every provision of law required by the laws of the State of New York to be contained in this Agreement shall be contained herein, and if, through mistake, oversight or otherwise, any such provision is not contained herein, or is not contained herein in correct form, this Agreement shall, upon the application of either NYSERDA or the Contractor, promptly be amended so as to comply strictly with the laws of the State of New York with respect to the inclusion in this Agreement of all such provisions.

Article, in Exhibit C and elsewhere in this Agreement are not intended to be exclusive and nothing contained in such Article, Exhibit and Agreement shall be deemed to modify the obligations of the Contractor to comply with all legal requirements.

Section 14.04. Sexual Harassment Policy. The Contractor and all Subcontractors must have a written sexual harassment prevention policy addressing sexual harassment in the workplace and must provide annual sexual harassment training to all employees.

Article XV

Notices, Entire Agreement, Amendment, Counterparts

Section 15.01. Notices.

(a) All notices, requests, consents, approvals and other communications which may or are required to be given by either party to the other under this Agreement shall be in writing and shall be transmitted either:

(i) via certified or registered United States mail, return receipt requested;
(ii) by facsimile transmission;
(iii) by personal delivery;
(iv) by expedited delivery service; or
(v) by e-mail, return receipt requested.

Such notices shall be addressed as follows, or to such different addresses as the parties may from time-to-time designate as set forth in paragraph (c) below:

NYSERDA
Name: Wendy M. MacPherson
Title: Director of Contract Management
Address: 17 Columbia Circle, Albany, New York 12203
Facsimile Number: (518) 862-1091
E-Mail Address: Wendy.MacPherson@nyserda.ny.gov
Personal Delivery: Reception desk at the above address

[Contractor Name]
Name:
Title:
Address: ,
Facsimile Number:
E-Mail Address:

of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

Section 15.02. Entire Agreement; Amendment. This Agreement embodies the entire agreement and understanding between NYSERDA and the Contractor and supersedes all prior agreements and understandings relating to the subject matter hereof. Except for no-cost time extensions, which may be signed by NYSERDA and require no counter-signature by the Contractor, and except as otherwise expressly provided for herein, this Agreement may be changed, waived, discharged or terminated only by an instrument in writing, signed by the party against which enforcement of such change, waiver, discharge or termination is sought.

Section 15.03. Counterparts. This Agreement may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

Article XVI

Publicity

Section 16.01. Publicity.

(a) The Contractor shall collaborate with NYSERDA's Communications Department to prepare any press release and to plan for any news conference concerning the Work. In addition the Contractor shall notify NYSERDA's Communications Department regarding any media interview in which the Work is referred to or discussed.

from time to time desire to publish information regarding scientific or technical developments made or conceived in the course of or under this Agreement. In any such information, the Contractor shall credit NYSERDA's funding participation in the Project, and shall state that "NYSERDA has not reviewed the information contained herein, and the opinions expressed in this report do not necessarily reflect those of NYSERDA or the State of New York." Notwithstanding anything to the contrary contained herein, the Contractor shall have the right to use and freely disseminate project results for educational purposes, if applicable, consistent with the Contractor's policies.

(c) Commercial promotional materials or advertisements produced by the Contractor shall credit NYSERDA, as stated above, and shall be submitted to NYSERDA for review and recommendations to improve their effectiveness prior to use. The wording of such credit can be approved in advance by NYSERDA, and, after initial approval, such credit may be used in subsequent promotional materials or advertisements without additional approvals for the credit, provided, however, that all such promotional materials or advertisements shall be submitted to NYSERDA prior to use for review, as stated above. Such approvals shall not be unreasonably withheld, and, in the event that notice of approval or disapproval is not received by the Contractor within thirty days after receipt of request for approval, the promotional materials or advertisement shall be considered approved. In the event that NYSERDA requires additional time for considering approval, NYSERDA shall notify the Contractor within thirty days of receipt of the request for approval that additional time is required and shall specify the additional amount of time necessary up to 180 days. If NYSERDA and the Contractor do not agree on the wording of such credit in connection with such materials, the Contractor may use such materials, but agrees

EXHIBIT C

REVISED 12/19

STANDARD TERMS AND CONDITIONS

FOR ALL NYSERDA AGREEMENTS

(Based on Standard Clauses for New York State Contracts and Tax Law Section 5-a)

The parties to the Agreement agree to be bound by the following clauses which are hereby made a part of the Agreement to the extent applicable:

1. NON-DISCRIMINATION REQUIREMENTS. To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition or carrier status, or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is an Agreement for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Agreement shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Agreement. If this is a building service Agreement as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of $50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this Agreement and forfeiture

2. WAGE AND HOURS PROVISIONS. If this is a public work Agreement covered by Article 8 of the Labor Law or a building service Agreement covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a
manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by NYSERDA of any NYSERDA-approved sums due and owing for work done upon the project.

3. NON-COLLUSIVE BIDDING REQUIREMENT. In accordance with Section 2878 of the Public Authorities Law, if this Agreement was awarded based upon the submission of bids, Contractor warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further warrants that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to NYSERDA a non-collusive bidding certification on Contractor's behalf.

$5,000, the Contractor agrees, as a material condition of the Agreement, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the Federal Export Administration Act of 1979 (50 USC App.
Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the Agreement's execution, such Agreement, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify NYSERDA within five (5) business days of such conviction, determination or disposition of appeal. (See and compare Section 220-f of the Labor Law, Section 139-h of the State Finance Law, and 2 NYCRR 105.4).

shall include, but not be limited to, NYSERDA's option to withhold for the purposes of set-off any moneys due to the Contractor under this Agreement up to any amounts due and owing to NYSERDA with regard to this Agreement, any other Agreement, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to NYSERDA for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto.

6. PROPRIETARY INFORMATION. Notwithstanding any provisions to the contrary in the Agreement, Contractor and NYSERDA acknowledge and agree that all information, in any format, submitted to NYSERDA shall be subject to and treated in accordance with the NYS Freedom of Information Law ("FOIL," Public Officers Law, Article 6). Pursuant to FOIL, NYSERDA is required to make available to the public, upon request, records or portions thereof which it possesses, unless that information is statutorily exempt from disclosure. Therefore, unless the Agreement specifically requires otherwise, Contractor should submit information to NYSERDA in a non-confidential, non-proprietary format. FOIL does provide that NYSERDA may deny access to records or portions thereof that "are trade secrets or are submitted to an agency by a commercial

enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise." [See Public Officers Law, § 87(2)(d)]. Accordingly, if the Agreement specifically requires submission of information in a format Contractor considers a proprietary and/or confidential trade secret, Contractor shall fully identify and plainly label the information "confidential" or "proprietary" at the time of disclosure. By so marking such information, Contractor represents that the information has actual or potential specific commercial or competitive value to the competitors of Contractor.
Without limitation, information will not be considered confidential or proprietary if it is or has been (i) generally known or available from other sources without obligation concerning its confidentiality; (ii) made available by the owner to others without obligation concerning its confidentiality; or (iii) already available to NYSERDA without obligation concerning its confidentiality. In the event of a FOIL request, it is NYSERDA's policy to consider records as marked above pursuant to the trade secret exemption procedure set forth in 21 New York Codes Rules & Regulations § 501.6 and any other applicable law or regulation. However, NYSERDA cannot guarantee the confidentiality of any information submitted. More information on FOIL, and the relevant statutory law and regulations, can be found at the website for the Committee on Open Government

7. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION. . (a) FEDERAL EMPLOYER IDENTIFICATION NUMBER and/or FEDERAL SOCIALSECURITY NUMBER. As a condition to NYSERDA's obligation to pay any invoices submitted by Contractor pursuant to this Agreement, Contractor shall provide to NYSERDA its Federal employer identification number or Federal social security number, or both such numbers when the Contractor has both such numbers. Where the Contractor does not have such number or numbers, the Contractor must give the reason or reasons why the payee does not have such number or numbers.

(b) PRIVACY NOTIFICATION. The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by Contractor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law.

attachments thereto and amendments thereof) and the terms of this Exhibit C, the terms of this Exhibit C shall control.

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

10. NO ARBITRATION. Disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily required) without the NYSERDA's written consent, but must, instead, be heard in a court of competent jurisdiction of the State of New York.

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

12. CRIMINAL ACTIVITY. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of any allegation previously unknown to it that the Contractor or any of its principals is under indictment for a felony, or has been, within five (5) years prior to submission of the Contractor's proposal to NYSERDA, convicted of a felony, under the laws of the United States or Territory of the United States, then NYSERDA may exercise its stop work right under this Agreement. If subsequent to the effectiveness of this Agreement, NYSERDA comes to know of the fact, previously unknown to it, that Contractor or any of its principals is under such indictment or has been so convicted, then NYSERDA may exercise its right to terminate this Agreement. If the Contractor knowingly withheld information about such an indictment or conviction, NYSERDA may declare the Agreement null and void and may seek legal remedies against the Contractor and its principals. The Contractor or its principals may also be subject to penalties for any violation of law which may apply in the particular circumstances. For a Contractor which is an association, partnership, corporation, or other organization, the provisions of this paragraph apply to any such indictment or conviction of the organization itself or any of its officers, partners, or directors or members of any similar governing body, as applicable.

13. PERMITS. It is the responsibility of the Contractor to acquire and maintain, at its own cost, any and all permits, licenses, easements, waivers and permissions of every nature necessary to perform the work.

14. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS. The Contractor certifies and warrants that all wood products to be used under this Agreement will be in accordance with, but not limited to, the specifications and provisions of State Finance Law Section 165 (Use of Tropical Hardwoods), which prohibits purchase and use of tropical hardwoods, unless specifically exempted by NYSERDA.

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

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

NYS Department of Economic Development
Division for Small Business
625 Broadway
Albany, New York 12207
Telephone: 518-292-5200
Fax: 518-292-5884
http://www.esd.ny.gov

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

NYS Department of Economic Development
Division of Minority and Women's Business Development
625 Broadway
Albany, New York 12207
Telephone: 518-292-5200
Fax: 518-292-5803
http://www.empire.state.ny.us

The Omnibus Procurement Act of 1992 requires that by signing this Agreement, Contractors certify that whenever the total amount is greater than $1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

17. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

State Finance Law Sections 139-j and 139-k, by signing this Agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, NYSERDA may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

19. COMPLIANCE WITH TAX LAW SECTION 5-a. The following provisions apply to Contractors that have entered into agreements in an amount exceeding $100,000 for the purchase of goods and services:

a) Before such agreement can take effect, the Contractor must have on file with the New York State Department of Taxation and Finance a Contractor Certification form (ST-220-TD).

b) Prior to entering into such an agreement, the Contractor is required to provide NYSERDA with a completed Contractor Certification to Covered Agency form (Form ST-220-CA).

c) Prior to any renewal period (if applicable) under the agreement, the Contractor is required to provide NYSERDA with a completed Form ST-220-CA.

Certifications referenced in paragraphs (b) and (c) above will be maintained by NYSERDA and made a part hereof and incorporated herein by reference.

NYSERDA reserves the right to terminate this agreement in the event it is found that the certification filed by the Contractor in accordance with Tax Law Section 5-a was false when made.

Law, by signing this contract, each person and each person signing on behalf of any other party certifies, and in the case of a joint bid or partnership each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law (See https://ogs.ny.gov/iran-divestment-act-2012).

Contractor shall comply with and, if applicable to this Agreement, provide proof of compliance with the New York State Diesel Emission Reduction Act of 2006 ("DERA"), Environmental Conservation Law (ECL) Section 19-0323, and the NYS Department of Environmental Conservation (DEC) Law implementing regulations under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel Fuel (ULSD) and Best Available Retrofit Technology ("BART"). Compliance includes, but is not limited to, the development of a heavy-duty diesel vehicle (HDDV), maintaining documentation associated with BART evaluations, submitting to and receiving DEC approval of a technology or useful-life waiver, and maintaining records where BART-applicable vehicles are primarily located or garaged. DEC regulation under 6 NYCRR Part 248, Use of Ultra Low Sulfur Diesel and Best Available Technology for Heavy Duty Vehicles can be found at: https://www.dec.ny.gov/regs/2492.html.

other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, regardless of whether the original of said contract is in existence.

EXHIBIT D

NYSERDA PROMPT PAYMENT POLICY STATEMENT

a description of Part 504 of NYSERDA's regulations, which consists of NYSERDA's policy for making payment promptly on amounts properly due and owing by NYSERDA under this Agreement. The section numbers used in this document correspond to the section numbers appearing in Part 504 of the regulations. (This is only a summary; the full text of Part 504 can be accessed at: (http://www.nyserda.ny.gov/About/New-York- State-Regulations.aspx.))

this Agreement. However, this Exhibit does not apply to Payments due and owing when NYSERDA is exercising a Set-Off against all or part of the Payment, or if a State or Federal law, rule or regulation specifically requires otherwise.

504.2. Definitions. Capitalized terms not otherwise defined in this Exhibit shall have the same meaning as set forth earlier in this Agreement. In addition to said terms, the following terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) "Date of Payment" means the date on which NYSERDA requisitions a check from its statutory fiscal agent, the Department of Taxation and Finance, to make a Payment.

(b) "Designated Payment Office" means the Office of NYSERDA's Controller, located at 17 Columbia Circle, Albany, New York 12203.

Agreement.

(d) "Prompt Payment" means a Payment within the time periods applicable pursuant to Sections 504.3 through 504.5 of this Exhibit in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

provisions of Sections 504.3 through 504.5 of this Exhibit, in order for NYSERDA not to be liable for interest pursuant to Section 504.6.

(f) "Proper Invoice" means a written request for Payment that is submitted by a Contractor setting forth the description, price or cost, and quantity of goods, property or services delivered or rendered, in such form, and supported by such other substantiating documentation, as NYSERDA may reasonably require, including but not limited to any requirements set forth in Exhibits A or B to this Agreement; and addressed to NYSERDA's Controller, marked "Attention: Accounts Payable," at the Designated Payment Office.

(g)(1) "Receipt of an Invoice" means:

(i) if the Payment is one for which an invoice is required, the later of:

(a) the date on which a Proper Invoice is actually received in the Designated Payment Office during normal business hours; or goods, property or services covered by a Proper Invoice previously received in the Designated Payment Office.

(ii) if the Agreement provides that a Payment will be made on a specific date or at a predetermined interval, without having to submit a written invoice the 30th calendar day, excluding legal holidays, before the date so specified or predetermined.

or delivery of no less than a specified quantity of goods, property or services and only a portion of such systems or less than the required goods, property or services are working, completed or delivered, even though the Contractor has invoiced NYSERDA for the portion working, completed or delivered, NYSERDA will not be in Receipt of an Invoice until the specified minimum amount of the systems, goods, property or services are working, completed or delivered.

(h) "Set-off" means the reduction by NYSERDA of a payment due a Contractor by an amount equal to the amount of an unpaid legally enforceable debt owed by the Contractor to NYSERDA.

504.5 of this Exhibit, the Date of Payment by NYSERDA of an amount properly due and owing under this Agreement shall be no later than thirty (30) calendar days, excluding legal holidays, after Receipt of a Proper Invoice.

504.4. Payment Procedures.

(a) Unless otherwise specified in this Agreement, a Proper Invoice submitted by the Contractor to the Designated Payment Office shall be required to initiate payment for goods, property or services. As soon as any invoice is received in the Designated Payment Office during normal business hours, such invoice shall be date-stamped. The invoice shall then promptly be reviewed by NYSERDA.

(b) NYSERDA shall notify the Contractor within fifteen (15) calendar days after Receipt of an Invoice of:

(1) any defects in the delivered goods, property or services;

(2) any defects in the invoice; or

(3) suspected improprieties of any kind.

(c) The existence of any defects or suspected improprieties shall prevent the commencement of the time period specified in Section 504.3 until any such defects or improprieties are corrected or otherwise resolved.

period specified in subdivision (b) of this section, the sole effect shall be that the number of days allowed for Payment shall be reduced by the number of days between the 15th day and the day that notification was transmitted to the Contractor. If NYSERDA fails to provide reasonable grounds for its contention that a defect or impropriety exists, the sole effect shall be that the Payment Due Date shall be calculated using the original date of Receipt of an Invoice.

(e) In the absence of any defect or suspected impropriety, or upon satisfactory correction or resolution of a defect or suspected impropriety, NYSERDA shall make Payment, consistent with any such correction or resolution and the provisions of this Exhibit.

504.5. Exceptions and Extension of Payment Due Date. NYSERDA has determined that, notwithstanding the provisions of Sections 504.3 and 504.4 of this Exhibit, any of the following facts or circumstances, which may occur concurrently or consecutively, reasonably justify extension of the Payment Due Date:

having to submit a written invoice, if any documentation, supporting data, performance verification, or notice specifically required by this Agreement or other State or Federal mandate has not been submitted to NYSERDA on a timely basis, then the Payment Due Date shall be extended by the number of calendar days from the date by which all such matter was to be submitted to NYSERDA and the date when NYSERDA has actually received such matter.

independent of the Contractor is specifically required by this Agreement or by other State or Federal mandate, whether to be performed by or on behalf of NYSERDA or another entity, or is specifically permitted by this Agreement or by other State or Federal provision and NYSERDA or other entity with the right to do so elects to have such activity or documentation undertaken, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when any such activity or documentation has been completed, NYSERDA has actually received the results of such activity or documentation conducted by another entity, and any deficiencies identified or issues raised as a result of such activity or documentation have been corrected or otherwise resolved.

(c) If an invoice must be examined by a State or Federal agency, or by another party contributing to the funding of the Contract, prior to Payment, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when the State or Federal agency, or other contributing party to the Contract, has completed the inspection, advised NYSERDA of the results of the inspection, and any deficiencies identified or issues raised as a result of such inspection have been corrected or otherwise resolved.

not yet been made available to NYSERDA, then the Payment Due Date shall be extended by the number of calendar days from the date of Receipt of an Invoice to the date when such funds are made available to NYSERDA.

interest to the Contractor on the Payment when such interest computed as provided herein is equal to or more than ten dollars ($10.00). Interest shall be computed and accrue at the daily rate in effect on the Date of Payment, as set by the New York State Tax Commission for corporate taxes pursuant to Section 1096(e)(1) of the Tax Law. Interest on such a Payment shall be computed for the period beginning on the day after the Payment Due Date and ending on the Date of Payment.

504.7. Sources of Funds to Pay Interest. Any interest payable by NYSERDA pursuant to Exhibit shall be paid only from the same accounts, funds, or appropriations that are lawfully available to make the related Payment.

504.8. Incorporation of Prompt Payment Policy Statement into Contracts. The provisions of this Exhibit shall apply to all Payments as they become due and owing pursuant to the terms and conditions of this Agreement, notwithstanding that NYSERDA may subsequently amend its Prompt Payment Policy by further rulemaking.

504.9. Notice of Objection. Contractor may object to any action taken by NYSERDA pursuant to this Exhibit that prevents the commencement of the time in which interest will be paid by submitting a written notice of objection to NYSERDA. Such notice shall be signed and dated and concisely and clearly set forth the basis for the objection and be addressed to the Vice President, New York State Energy Research and Development Authority, at the notice address set forth in Exhibit B to this Agreement. The Vice President of NYSERDA, or his or her designee, shall review the objection for purposes of affirming or modifying NYSERDA's action. Within fifteen (15) working days of the receipt of the objection, the Vice President, or his or her designee, shall notify the Contractor either that NYSERDA's action is affirmed or that it is modified or that, due to the complexity of the issue, additional time is needed to conduct the review; provided, however, in no event shall the extended review period exceed thirty (30) working days.

commencement of the time in which interest will be paid is subject to judicial review in a proceeding pursuant to Article 78 of the Civil Practice Law and Rules. Such proceedings shall only be commenced upon completion of the review procedure specified in Section 504.9 of this Exhibit or any other review procedure that may be specified in this Agreement or by other law, rule, or regulation.

504.11. Court Action or Other Legal Processes.

Contractor pursuant to this Exhibit shall not extend beyond the date of a notice of intention to file a claim, the date of a notice of a claim, or the date commencing a legal action for the payment of such interest, whichever occurs first.

(b) With respect to the court action or other legal processes referred to in subdivision (a) of this section, any interest obligation incurred by NYSERDA after the date specified therein pursuant to any provision of law other than Public Authorities Law Section 2880 shall be determined as prescribed by such separate provision of law, shall be paid as directed by the court, and shall be paid from any source of funds available for that purpose.

Exhibit E

Clean Energy Communities Program Metrics Workbook

Overview

information is referred to as the Metrics Workbook. NYSERDA requires that the information in the Metrics Workbook be updated at the Planning Phase (Task 1) and at the Completion Phase (Task 2) to confirm the energy savings from the project. These submittals are referred to as the Metrics Workbook and shall be submitted in excel format.

To simplify the process and ensure consistency, NYSERDA has automated all energy savings calculations for the following pre-approved project types: Solar, Electric Vehicles, Charging Stations, and LED Street lights. The Contractor is required to ensure that all project details in the Metrics Workbook align with the project design at the Planning Phase (Task 1) and how the project was actually built at the Completion Phase (Task 2).

from the project. The required metrics should be provided if the measures are recommended in a CEC Energy Study or ASHRAE Level II or III Energy Audit. NYPA Clean Energy Solutions projects will typically provide energy savings estimates. ASHP and GSHP projects will typically include energy savings calculations as part of the feasibility analysis and design. The Contractor must quantify these project benefits for all the metrics applicable to the project in the Metrics Workbook.

The Metrics Workbook may be updated periodically, therefore the customer should confirm with NYSERDA that they have the latest version.

the specification of the CEC program, the contract performance requirements and that the data provided to estimate benefits was based on the design. Upon request, the Contractor may be required to provide NYSERDA with project design documentation, which may include energy audits, contractor proposals, outreach or draft plans, or purchase orders.

Depending on the number of types of projects within a contract, there may be one or more Task 1 Metric Workbook submittals. Once the necessary data has been entered, the Task 1 Planning Phase Metrics Workbook shall be submitted as a separate excel file to NYSERDA, with additional documentation if requested.

project has been completed, the customer will revise the Metrics Workbook values if appropriate to reflect the final implementation of the project.

program, the contract requirements and that the data provided to calculate the energy savings were based on the final implementation conditions. Upon request, the Contractor may be required to provide NYSERDA with project completion documentation, such as executed contracts or purchase orders, photographs, and or final outreach or planning reports.

Depending on the number of types of projects within a contract, there may be one or more Task 2 Metric Workbook submittals. Once the necessary data has been entered, the Task 2 Project Completion Metrics Workbook shall be submitted as a separate excel file to NYSERDA with additional documentation if requested.

RESOLUTION NO.: 179 - 2024

OF

AUGUST 12, 2024

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 9, 2024 TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING CHAPTER 93 ENTITLED "REPURCHASE OF IN REM PROPERTIES" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Amending Chapter 93 entitled 'Repurchase of In Rem Properties' of the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the regular meeting of the Council to be held at 7:00 p.m. on the 9th day of September, 2024, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

LOCAL LAW NO.: ________ - 2024

OF

________________________, 2024

A LOCAL LAW AMENDING CHAPTER 93 ENTITLED "REPURCHASE OF IN REM PROPERTIES" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Chapter 93 entitled 'Repurchase of In Rem Properties' of the Code of Ordinances of the City of Newburgh".

SECTION 2 – PURPOSE AND INTENT

Chapter 55 of the 2024 Session Laws of New York (A. 8805-C), signed into law on April 20, 2024, amended the Real Property Tax Law ("RPTL") related to the prosecution and administration of delinquent tax liens.

This local law amends Chapter 93 entitled 'Repurchase of In Rem Properties' of the Code of Ordinances of the City of Newburgh to incorporate the RPTL amendments and to provide notice provisions for former owners or lienors seeking to repurchase an *in rem* property,

SECTION 3 – AMENDMENT

Chapter 93 of the Code of Ordinances of the City of Newburgh is hereby amended as follows:

§ 93-1 Findings and legislative intent.

The Council of the City of Newburgh finds that the City annually acquires title to several properties by foreclosure for unpaid taxes or other charges, pursuant to Article 11, Title 3, of the Real Property Tax Law of the State of New York. Immediately after acquiring title, the City usually receives several requests to repurchase these properties by former owners or other interested parties to pay the taxes or charges owed. The Council generally grants these requests, but, although § 1166 of the Real Property Tax Law permits the City to sell such properties at private sale, a special resolution is required to approve each sale. It is the intent of this chapter to specifically supersede Real Property Tax Law § 1166, Subdivision 1, in part, so as to permit the private sale of real property acquired by in rem foreclosure to former owners thereof without the necessity of Council approval.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

§ 93-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

FORMER OWNER

An individual or corporation in title to a piece of real property immediately prior to the City taking title thereto.

IN REM PROPERTY

A piece of real property acquired by the City of Newburgh through a foreclosure of taxes in rem, pursuant to Article 11, Title 3, of the Real Property Tax Law of the State of New York.

LIENOR

The holder of a mortgage, judgment or other lien on a piece of real property immediately prior to the City taking title thereto.

§ 93-3 (Reserved)

§ 93-4 Time for requests to repurchase.

Any former owner or lienor may request the repurchase of an in rem property. Such request must be in writing, addressed to the City Manager, plus the deposit provided for in § 93-5, and must be received no later than ~~60~~ 30 days after the date of filing the deed conveying title to said in rem property to the City. The City shall provide notice of the filing of the deed to the public by publication to the City's website and by posting such notice in a conspicuous location at City Hall. The City shall not be obligated to provide individual notice to former owners, lienors, or other persons with an interest in a tax foreclosed property other than in the manner stated herein. A former owner or owners shall be given first priority over a lienor where an owner and a lienor both make a request to repurchase the same property. Requests of lienors to repurchase should be honored on the basis of the first received by the City Manager.

§ 93-5 Deposit to accompany request.

Each request to repurchase must be accompanied by a deposit equal to 10% of the taxes shown as owing on the list of delinquent taxes for the in rem proceeding for each of the in rem properties which it is requesting to repurchase. Said deposit must be in cash, good certified or bank check payable to the City of Newburgh.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

§ 93-6 Amount to repurchase.

The amount required to repurchase a property shall be the "charges" as that term is defined in Section 1102 of the Real Property Tax Law ~~total amount of taxes, water and sewer charges, sanitation charges, interest and penalties due and owing or that would have been owing~~ had the City not taken title to the property as of the time of repurchase of the in rem property, whether or not set forth on the list of delinquent taxes, plus an additional penalty equal to 30% of said total, figured to the date of payment.

§ 93-7 Approval of repurchase request.

All repurchase requests timely received, as provided in § 93-4, together with the deposit required by § 93-5, timely received, are approved and the City Manager is authorized to execute a deed conveying title of the City of Newburgh, as acquired in any in rem proceeding, to the former owner or lienor of that in rem property in accordance with the conditions and procedures set forth in this chapter. The deed shall be in quit claim form and shall contain a property description by Tax Map section, block and lot only.

§ 93-8 Time for payment.

Payment in full of the amount due on any in rem property as calculated pursuant to § 93-6 must be made in cash, good certified or bank check, payable to the City of Newburgh no later than 120 60 days after the date of the filing of the deed conveying title to the in rem property to the City.

§ 93-9 Effect of failure to timely request repurchase or make payment.

A. No request to repurchase shall be considered after the expiration of the time limit in § 93-4.

B. No payment shall be accepted after the expiration of the time limit in § 93-8. Upon such expiration, the request to repurchase such in rem property shall be deemed to be in default and the City shall retain the deposit tendered with such request as liquidated damages.

C. No extensions of time to either request repurchase or make payment shall be granted under any circumstances.

D. Upon the expiration of said time limitations, the in rem property shall be sold in accordance with applicable law and the City's Surplus Real Property Disposition Policy or retained for public purposes. ~~at public auction to the highest bidder or retained for public purposes or otherwise disposed of, pursuant to § 1166 of the Real Property Tax Law.~~

Underlining denotes additions
~~Strikethrough~~ denotes deletions

§ 93-10 Exceptions.

A. The provisions herein authorizing the repurchase of in rem properties shall not apply to any in rem property which the Council determines, in its sole discretion, should be retained for public purposes. Excepted properties may also include properties that are vacant, boarded up, or buildings that are required to be boarded up pursuant to law. The Council shall approve a resolution with a list of all properties to be retained by the City.

B. The provisions herein authorizing the repurchase of in rem properties shall not apply to any in rem property on which an answer was filed in the in rem proceeding.

§ 93-11 Deed.

After the timely receipt of the payment in full, as required by § 93-6, the City Manager shall execute and deliver a quit claim deed conveying such interest to an in rem property as the City acquired by its in rem foreclosure proceeding to the former owner or lienor without any further or confirming resolution of the Council<u>, and in accordance with Real Property Tax Law Section 1136(4).</u>

§ 93-12 When effective.

This chapter shall take effect immediately.

<u>SECTION 4</u> – <u>SEVERABILITY</u>

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

<u>SECTION 5</u> – <u>CODIFICATION</u>

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

<u>Underlining</u> denotes additions
~~Strikethrough~~ denotes deletions

SECTION 6 – VALIDITY

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

SECTION 7 – EFFECTIVE DATE

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

Underlining denotes additions
~~Strikethrough~~ denotes deletions

§ 4. Subdivision 1 of section 1102 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1102 >>

1. "Charges" or "legal charges" means:

(a) the cost of the mailing or service of notices required or authorized by this article;

(b) the cost of publication of notices required or authorized by this title;

(c) the amount of any interest and penalties imposed by law;

(d) the cost of recording or filing legal documents required or authorized by this article; ~~and~~

(e) **the cost of appraising a parcel for the purpose of determining the existence and amount of any surplus pursuant to section eleven hundred ninety-six of this article;**

(f) the reasonable and necessary cost of any search of the public record required or authorized to satisfy the notice requirements of this article, and ~~the~~ **other** reasonable and necessary expenses ~~for legal services of~~ **incurred by** a tax district in connection with a proceeding to foreclose a tax lien**, including but not limited to administrative, auction and reasonable attorney fees and/or costs associated with the foreclosure process**; provided, that: (i) a charge of up to ~~one~~ **either two** hundred fifty dollars per parcel**, or two percent of the sum of the taxes, interest and penalties due on the parcel, whichever is greater,** shall be deemed reasonable and necessary to cover the combined costs of such searches and ~~legal expenses~~ **the other reasonable and necessary costs and expenses delineated in this paragraph**, and such an amount may be charged without substantiation, even if salaried employees of the tax district performed ~~the search or legal~~ **some or all of such** services; and (ii) a tax district may charge a greater amount with respect to one or more parcels upon demonstration to the satisfaction of the court having jurisdiction that such greater amount was reasonable and necessary**; and**

~~(f)~~ **(g) the amount owed to the tax district by virtue of a judgment lien, a mortgage lien, or any other lien held by the tax district that is not a delinquent tax lien.**

(h) Charges shall be deemed a part of the delinquent tax for purposes of redemption **and determination of surplus**.

§ 5. Subdivision 1 of section 1123 of the real property tax law, as amended by chapter 579 of the laws of 1995, is amended to read as follows:

<< NY RP TAX § 1123 >>

1. ~~Twenty-one~~ **Eighteen** months after lien date, or as soon thereafter as is practicable, the enforcing officer shall execute a petition of foreclosure pertaining to those properties which remain subject to delinquent tax liens; provided, however, that in the case of property which is subject to a three or four year redemption period, such petition shall be executed ~~thirty-three or forty-five~~ **thirty or forty-two** months after lien date, respectively, or as soon thereafter as is practicable.

§ 6. The sixth undesignated paragraph of subdivision 3 of section 1124 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1124 >>

Last day for redemption: The last day for redemption is hereby fixed as the .... day of .... (here insert a date at least ~~three~~ **six** months after the date of the first publication of this notice).

§ 7. Section 1125 of the real property tax law is amended by adding a new subdivision 2–a to read as follows:

<< NY RP TAX § 1125 >>

2–a. In the case of residential property as defined by section eleven hundred eleven of this article, such notice shall also either include or be accompanied by the homeowner warning notice described by section eleven hundred forty-four of this article.

§ 8. The real property tax law is amended by adding a new section 1135 to read as follows:

<< NY RP TAX § 1135 >>

§ 1135. Application for surplus

In lieu of filing an answer to the foreclosure proceeding, any person claiming surplus arising from a tax district's enforcement of delinquent property taxes shall have the right to file with the clerk in whose office the report of sale is filed at any time before the confirmation of the report of sale, a written notice of such claim, stating the nature and extent of their claim and the address of the claimant or the claimant's attorney.

§ 9. Paragraph (d) of subdivision 2 of section 1136 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1136 >>

(d) In directing any conveyance pursuant to this subdivision, the judgment shall direct the enforcing officer of the tax district to prepare and execute a deed conveying title to the parcel or parcels of real property concerned. Such title shall be full and complete in the absence of an agreement between tax districts as herein provided that it shall be subject to the tax liens of one or more tax districts. Upon the execution of such deed, the grantee shall be seized of an estate in fee simple absolute in such parcel unless the conveyance is expressly made subject to tax liens of a tax district as herein provided, and all persons, including the state, infants, incompetents, absentees and non-residents, who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. **Nothing contained herein shall be construed to preclude any such person from filing a claim pursuant to section eleven hundred thirty-five or title six of this article for a share of any surplus that may be attributable to the sale of such parcel.**

§ 10. Subdivision 3 of section 1136 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1136 >>

3. When no answer has been interposed. **(a)** The court shall make a final judgment awarding to such tax district the possession of any parcel of real property described in the petition of foreclosure not redeemed as provided in this title and as to which no answer is interposed as provided herein. In addition thereto such judgment shall contain a direction to the enforcing officer of the tax district to prepare, execute and cause to be recorded a deed conveying to such tax district full and complete title to such parcel.

(b) Alternatively, at the request of the enforcing officer, the court may make a final judgment authorizing the enforcing officer to prepare, execute and cause to be recorded a deed conveying full and complete title to such parcel directly to a party other than the tax district, without the tax district taking title thereto.

(c) Upon the execution of such deed, the tax district**, or the grantee as the case may be,** shall be seized of an estate in fee simple absolute in such parcel and all persons, including the state, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. **Nothing contained herein shall be construed to preclude any such person from filing a claim pursuant to section eleven hundred thirty-five or title six of this article for a share of any surplus that may be attributable to the sale of such parcel.**

§ 11. Section 1136 of the real property tax law is amended by adding a new subdivision 4 to read as follows:

<< NY RP TAX § 1136 >>

4. (a) Notwithstanding any other provision of law to the contrary, when a parcel is subject to a judgment of foreclosure issued pursuant to this section but has not yet been conveyed to a third party, the tax district may, at its discretion, convey title to the parcel back to the former owner or owners, or to the successor or successors in interest if any, upon payment of the taxes, penalties, interest and other lawful charges owed to the tax district, subject to the provisions of paragraph (b) of this subdivision.

(b) If immediately prior to the issuance of the judgment of foreclosure, any other person had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, the deed conveying the parcel back to the former owner or owners, or to their successor or successors in interest, shall state that the conveyance shall become subject to the right, title, interest, claim, lien or equity of redemption of any other person that had been extinguished by the judgment of foreclosure, once such right, title, interest, claim, lien or equity of redemption has been reinstated nunc pro tunc pursuant to the provisions of this paragraph. Upon the execution of such deed, the tax district shall cause a copy thereof to be filed with the court, which shall direct the reinstatement of any such right, title, interest, claim, lien or equity of redemption in such parcel nunc pro tunc.

§ 12. Article 11 of the real property tax law is amended by adding a new title 3–A to read as follows:

Art. 11, Tit. 3–A, prec. 11–1142

TITLE 3–A

HOMEOWNER BILL OF RIGHTS AND RELATED PROVISIONS

<< NY RP TAX § 1142 >>

§ 1142. Homeowner bill of rights

RESOLUTION NO.: 180 - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PAYMENT OF CLAIM WITH YAMELIZ QUINONES IN THE AMOUNT OF $2,644.70

WHEREAS, Yameliz Quinones 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 Forty-Four and 70/100 Dollars ($2,644.70) 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 Yameliz Quinones in the total amount of Two Thousand Six Hundred Forty-Four and 70/100 Dollars ($2,644.70) 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.: 181 - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION REGARDING THE FORECLOSURE OF TAX LIENS IN REM FOR THE YEAR 2021 RELATED TO PROPERTIES KNOWN AS 20 PIERCES ROAD, BUILDING 2, UNIT B1 (SECTION 53, BLOCK 1, LOT 1.-1), 20 PIERCES ROAD, BUILDING 2, UNIT A2 (SECTION 53, BLOCK 1, LOT 1.-2), 20 PIERCES ROAD, BUILDING 2, UNIT B3 (SECTION 53, BLOCK 1, LOT 1.-3), AND 20 PIERCES ROAD, BUILDING 2, UNIT A4 (SECTION 53, BLOCK 1, LOT 1.-4),

WHEREAS, The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number EF008006-2021; and

WHEREAS, Greenbrier Condominium of Newburgh, Inc., by and through its attorney, filed an Answer to the tax foreclosure proceeding on July 10, 2024 with respect to four (4) properties known as 20 Pierces Road, Building 2, Unit B1 (Section 53, Block 1, Lot 1.-1), 20 Pierces Road, Building 2, Unit A2 (Section 53, Block 1, Lot 1.-2), 20 Pierces Road, Building 2, Unit B3 (Section 53, Block 1, Lot 1.-3), and 20 Pierces Road, Building 2, Unit A4 (Section 53, Block 1, Lot 1.-4), respectively; and

WHEREAS, the property owner, by and through its homeowners association and its attorney, indicated that it is prepared to withdraw its Answer and settle the action as it applies to the subject property; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter without the need for further litigation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the Director of Finance and Enforcing Officer is hereby authorized to withdraw the liens on the above-referenced properties from the List of Delinquent Taxes and remove said properties from the 2021 In Rem tax foreclosure action (Index Number EF008006-2021), as the amounts set forth below for each property, representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due water charges, sewer charges, and sanitation charges, have been tendered to the City of Newburgh in full by certified check and is ready for acceptance.

Address	Redemption Amount
20 Pierces Road, Building 2, Unit B1 (Section 53, Block 1, Lot 1.-1)	$24,378.51
20 Pierces Road, Building 2, Unit A2 (Section 53, Block 1, Lot 1.-2)	$105,602.53
20 Pierces Road, Building 2, Unit B3 (Section 53, Block 1, Lot 1.-3)	$45,036.02
20 Pierces Road, Building 2, Unit A4 (Section 53, Block 1, Lot 1.-4)	$40,526.76
Greenbrier Condominium Association (Water Bill)	$62,408.38

RESOLUTION NO.: 182 - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION REGARDING THE FORECLOSURE OF TAX LIENS IN REM FOR THE YEAR 2021 RELATED TO PROPERTIES KNOWN AS 54 FOWLER AVENUE (SECTION 13, BLOCK 5, LOT 22) AND 88 MAPLE STREET (SECTION 25, BLOCK 1, LOT 52),

WHEREAS, The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number EF008006-2021; and

WHEREAS, Cristhian D. Castro, by and through his attorney, filed an Answer to the tax foreclosure proceeding on August 6, 2024 with respect to two (2) properties known as 54 Fowler Avenue (Section 13, Block 5, Lot 22), and 88 Maple Street (Section 25, Block 1, Lot 52), respectively; and

WHEREAS, the property owner indicated that it is prepared to withdraw its Answer and settle the action as it applies to the subject property; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter without the need for further litigation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the Director of Finance and Enforcing Officer is hereby authorized to withdraw the liens on the above-referenced properties from the List of Delinquent Taxes and remove said properties from the 2021 In Rem tax foreclosure action (Index Number EF008006-2021), as the amounts set forth below for each property, representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due water charges, sewer charges, and sanitation charges, have been tendered to the City of Newburgh in full by certified check and is ready for acceptance.

Address	Redemption Amount
54 Fowler Avenue (Section 13, Block 5, Lot 22)	$1,067.47
88 Maple Street (Section 25, Block 1, Lot 52)	$4,295.40

RESOLUTION NO.: 183 - 2024

OF

AUGUST 12, 2024

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION REGARDING THE FORECLOSURE OF TAX LIENS IN REM FOR THE YEAR 2021 RELATED TO PROPERTY KNOWN AS 25 CARPENTER AVENUE (SECTION 29, BLOCK 2, LOT 17)

WHEREAS, The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number EF008006-2021; and

WHEREAS, Castro & Son's Acquisitions, LLC, by and through his attorney, filed an Answer to the tax foreclosure proceeding on August 6, 2024 with respect to the property known as 25 Carpenter Avenue (Section 29, Block 2, Lot 17); and

WHEREAS, the property owner indicated that it is prepared to withdraw its Answer and settle the action as it applies to the subject property; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter without the need for further litigation;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the Director of Finance and Enforcing Officer is hereby authorized to withdraw the liens on the property located at 25 Carpenter Avenue (Section 29, Block 2, Lot 17), City of Newburgh, from the List of Delinquent Taxes and remove the property from the 2021 In Rem tax foreclosure action (Index Number EF008006-2021), as the sum of Forty-Four Thousand Eight Hundred Nineteen and 56/100 dollars ($44,819.56), representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due water charges, sewer charges, and sanitation charges, have been tendered to the City of Newburgh in full by certified check and is ready for acceptance.