City of Newburgh
Council Work Session
Sesion de trabajo del Concejal
May 21, 2026
6:00 PM

Council Meeting Presentations / Presentaciones de la Reunion General

1. Key to the City Request - Harold Shirley

   Resolution bestowing a Key to the City of Newburgh in honor of Harold Shirley

   Resolución que otorga la Llave de la Ciudad de Newburgh en honor a Harold Shirley

Engineering / Ingeniería

2. Contract with CT Male for Engineering Assessment of Washington Lake Dam

   Resolution authorizing the City Manager to enter into an agreement with C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. for professional engineering services in an amount not to exceed $25,000.00 for an engineering assessment of Washington Lake Dam

   Resolución que autoriza al Gerente de la Ciudad a celebrar un acuerdo con C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. para servicios profesionales de ingeniería por un monto que no exceda de $25,000.00 para una evaluación de ingeniería de la presa del Lago Washington

3. Contract with ARCADIS for the South Interceptor Sewer Improvements Project

   Resolution authorizing the City Manager to accept a proposal and enter into an agreement for final design professional engineering services with Arcadis of New York Inc. for Phase V of the Long Term Control Plan for the South Interceptor Improvements Project in the amount of $496,300.00

   Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y celebrar un acuerdo con Arcadis of New York Inc. para servicios profesionales de ingeniería de diseño final correspondientes a la Fase V del Plan de Control a Largo Plazo para el Proyecto de Mejoras del Interceptor Sur, por un monto de $496,300.00

4. Contract with ARCADIS for the West Trunk Sewer - Contract No. 3 Project

   Resolution authorizing the City Manager to accept a proposal and enter into an agreement for final design professional engineering services with Arcadis of New York Inc. for the West Trunk Sewer Rehabilitation Contract No. 3 Project in the amount $712,900.00

   Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y celebrar un acuerdo con Arcadis of New York Inc. para servicios profesionales de ingeniería de diseño final correspondientes al Proyecto de Rehabilitación del Colector Principal Oeste, Contrato Núm. 3, por un monto de $712,900.00

5. Contract with ARCADIS for the Reconstruction of Liberty Street Project

   Resolution authorizing the City Manager to accept a proposal and enter into an agreement for final design professional engineering services with Arcadis of New York Inc. for Phase II of the Long Term Control Plan for the Liberty Street Sewer Separation between Ann Street and Renwick Street Project in the amount of $974,900.00

   Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y celebrar un acuerdo con Arcadis of New York Inc. para servicios profesionales de ingeniería de diseño final correspondientes a la Fase II del Plan de Control a Largo Plazo para el Proyecto de Separación del Alcantarillado de Liberty Street entre Ann Street y Renwick Street, por un monto de $974,900.00

Finance / Finanza

6. Prudential Life Insurance - Renewal Contract

   Resolution authorizing the City Manager to execute a contract renewal with Prudential Insurance Company to provide life insurance coverage for a two-year term

   Resolución que autoriza al Gerente de la Ciudad a ejecutar una renovación de contrato con Prudential Insurance Company para proporcionar cobertura de seguro de vida por un período de dos años

Planning and Economic Development / Planificación y Desarrollo Económico

7. Bourne and Kenney Rehabilitation Project - National Environmental Policy Act Review

   Resolution of the City Council of the City of Newburgh, in its capacity as the Responsible Entity under the National Environmental Policy Act ("NEPA"), finding that the proposed rehabilitation of the Bourne

Apartments and the Kenney Apartments is categorically excluded from an Environmental Impact Statement or Environmental Assessment, is subject to 24 CFR Section 58.5, and finding no significant impact

Resolución del Consejo de la Ciudad de Newburgh, en su calidad de Entidad Responsable conforme a la Ley Nacional de Política Ambiental ("NEPA"), que determina que la rehabilitación propuesta de los Apartamentos Bourne y los Apartamentos Kenney está categóricamente excluida de una Declaración de Impacto Ambiental o de una Evaluación Ambiental, está sujeta a la Sección 58.5 del Título 24 del Código de Reglamentos Federales (24 CFR), y determina que no existe impacto significativo

8. 59 Broadway - Release of Restrictive Covenants and Right of Re-Entry

   Resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to Samuel Z. Mandel and Ann Mandel to the premises known as 59 Broadway (Section 37, Block 2, Lot 3)

   Resolución que autoriza la ejecución de una Liberación de Convenios Restrictivos y Derecho de Reingreso de una escritura emitida a Samuel Z. Mandel y Ann Mandel para el inmueble conocido como 59 Broadway (Sección 37, Bloque 2, Lote 3)

9. 75 Broadway - Release of Restrictive Covenants and Right of Re-Entry

   Resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to Samuel Z. Mandel and Ann Mandel to the premises known as 75 Broadway (Section 37, Block 2, Lot 2)

   Resolución que autoriza la ejecución de una Liberación de Convenios Restrictivos y Derecho de Reingreso de una escritura emitida a Samuel Z. Mandel y Ann Mandel para el inmueble conocido como 75 Broadway (Sección 37, Bloque 2, Lote 2)

Grants/Contracts/Agreements / Becas /Contratos/Convenios

10. New City Parks - Cooperation Agreement

    Resolution of the City Council authorizing the City Manager to execute a cooperation agreement with New City Parks, Inc. for the Delano-Hitch Recreation Park Rehabilitation Project

    Resolución del Consejo de la Ciudad que autoriza al Gerente de la Ciudad a ejecutar un acuerdo de cooperación con New City Parks, Inc. para el Proyecto de Rehabilitación del Parque Recreativo Delano-Hitch

11. NY PLAYS Grant

    Resolution authorizing the City Manager to apply for and accept if awarded a New York Places for Learning, Activity, and Youth Socialization (NY PLAYS) Initiative Program Grant not to exceed $2,500,000.00 with a 20% match for the Delano-Hitch Recreation Park Rehabilitation Project

    Resolución que autoriza al Gerente de la Ciudad a solicitar y aceptar, en caso de ser otorgada, una subvención del Programa de la Iniciativa New York Places for Learning, Activity, and Youth Socialization (NY PLAYS) por un monto que no exceda de $2,500,000.00, con una aportación municipal del 20%, para el Proyecto de Rehabilitación del Parque Recreativo Delano-Hitch

Resolutions of Support / Resoluciones de Apoyo

12. Resolution of Support for Bill A.10568

    Resolution of the City Council of the City of Newburgh supporting Assembly Bill A.10568 Consolidated Lead-Line Elimination and Replacement Program (CLEAR Program)

    Resolución del Consejo de la Ciudad de Newburgh que apoya el Proyecto de Ley de la Asamblea A.10568, Programa Consolidado de Eliminación y Sustitución de Líneas de Plomo (Programa CLEAR)

Boards and Commissions / Juntas y Comisiones

13. NACC - ArtBiz 2026 Project Manager

    Resolution authorizing an agreement between the City of Newburgh and Nadia Tahoun for Project Management Services related to the Art-Biz Workshop Series of 2026

    Resolución que autoriza un acuerdo entre la Ciudad de Newburgh y Nadia Tahoun para servicios de gestión de proyectos relacionados con la Serie de Talleres Art-Biz 2026

Local Laws / Leyes Locales

14. Local Law establishing a Charter Review Commission

    Local Law of the City Council of the City of Newburgh establishing a Charter Review Commission

    Ley local del Consejo de la Ciudad de Newburgh que establece una Comisión de Revisión de la Carta Orgánica

Discussion Items / Temas de Discusión

15. Land-Use Boards Audio & Recording

    Audio y grabación de las juntas de uso de suelo

16. City Manager Search

    Búsqueda de Gerente de la Ciudad

17. Flock Group Inc. Master Services Agreement

    Acuerdo maestro de servicios con Flock Group Inc.

Executive Session / Sesión Ejecutiva

18. Proposed, Pending or Current Litigation

    Litigio propuesto, pendiente o actual

19. Matters pertaining to the medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation

    Asuntos relacionados con el historial médico, financiero, crediticio o laboral de una persona o corporación en particular, o asuntos que conduzcan al nombramiento, empleo, promoción, degradación, disciplina, suspensión, despido o remoción de una persona o corporación en particular

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION BESTOWING A KEY TO THE CITY OF NEWBURGH IN HONOR OF HAROLD SHIRLEY

WHEREAS, Harold Shirley, affectionately known as "Hardy," attended schools within the Newburgh Enlarged City School District and proudly served his country in the United States Army, and then returning to his hometown of Newburgh to build a fulfilling career, working for the NECSD and the Montrose Veterans Administration Hospital; and

WHEREAS, although Harold, his wife, Paula, and family relocated to Raleigh, North Carolina in 1999, he never turned his back on Newburgh and instead stayed actively involved, supporting the City by any means necessary rooted in a desire to see Newburgh continue to thrive, grow, and bring about positive change, just as it had during his youth; and

WHEREAS, as a reminder and testament to his outlook on community unity and service Hardy, in 2002, founded and served as the first president of the original Newburgh, NY Reunion with his wife and mother to create a meaningful way to bring family and friends together for three unforgettable days, in various states, which features a warm meet-and-greet, a formal banquet with an awards ceremony, along with a heartfelt worship service, fostering connection, celebration, and community; and

WHEREAS, confirming Hardy's firm belief that education is the key to unlocking potential and creating opportunities for young people, a standout element of the reunion is its dedication to supporting education by awarding scholarships to high school students from Newburgh free Academy who achieve a 3.0 GPA or higher; and

WHEREAS, on May 1, 2009, Hardy was honored at the Change Your Community, Change Your World event hosted by the Glenn E. Hines Boys and Girls Club and received the prestigious Alumni Hall of Fame Inductee Certificate of Recognition from Mayor Nicholas Valentine, a Certificate of Merit from Senator William J. Larkin Jr., and a Certificate of Special Congressional Recognition from the Members of Congress which acknowledged his outstanding and invaluable service to the community; and

WHEREAS, Hardy was instrumental in assisting the 2009 NFA New York State Class AA Championship basketball team purchase a commemorative ring for their beloved mascot and team manager, Danny "Butterfly" Washington, who had been an integral part of their journey; and

WHEREAS, in 2016, Hardy was honored by the NAACP for his exceptional service to the community, and in 2021, Hardy played an instrumental role in honoring his late friend, Terry "LD" Williams, by helping to rename the street where he grew up in his honor, as well as playing a significant role in the renaming of Gidney Avenue Park to Clyde H. Sims Park in 2022; and

WHEREAS, Hardy is Newburgh, a living symbol of its resilience, compassion, and unshakable sense of community and his tireless efforts, unhindered by his now personal physical impairment, continue to inspire those around him, reminding us that the spirit of Newburgh lives on in the love, pride, and unity of its people and his work stands as a shining testament to the power of preserving the past while building a brighter and more hopeful future for generations to come;

NOW, THEREFORE, BE IT RESOLVED, in recognition of his life's work, dedication, and service to the Newburgh community, the City Council of the City of Newburgh hereby bestows upon Harold Shirley the ceremonial "Key to the City," representing this Council's respect, admiration and appreciation for his myriad of contributions to the City of Newburgh.

Dear Mr. Todd Venning, Mayor Torrance Harvey and Council Members:

We, the family of Mr. Harold Shirley (aka Hardy), and the friends of the Newburgh Reunion Committee are submitting this request to have Harold be a recipient of the Key to the City for all the humanitarian work he has accomplished assisting the youth and acknowledging the accomplishments of many adults in the City of Newburgh.

Harold Shirley, affectionately known as "Hardy," attended schools within the Newburgh Enlarged City School District. After High School , Hardy proudly served his country by joining the United States Army. After completing his tour of duty, he returned to his hometown of Newburgh, where he went on to build a fulfilling career, working for the NECSD and the Montrose Veterans Administration Hospital.

In 1999, Harold and his beloved wife, Paula, made the decision to relocate to Raleigh, North Carolina, with their three sons and in 2006, they were overjoyed to welcome their daughter, Cammora, into their family

Hardy never turned his back on Newburgh—the great city where he came from. Just as he remained committed to Newburgh, the city never turned its back on him or his family. Over the past 25 years, Hardy stayed actively involved, supporting the city by any means necessary. His dedication was rooted in a desire to see Newburgh continue to thrive, grow, and bring about positive change, just as it had during his youth.

Newburgh was once celebrated as an "All-American City" by Look magazine in 1952 for its industry, prosperity, cleanliness, and safety—qualities made possible by the hard work and sacrifices of our ancestors and forefathers. The city was built on the backs of our families, and Hardy believes in honoring that legacy. He reminded others that no single person can create change alone; it takes a community united in purpose. Whether we still live in Newburgh or have moved away, it remains our great city. Hardy encouraged everyone not to turn their backs on Newburgh and to take part in its revival.

"I am a proud product of the people who paved the way for me," Hardy often said. "The lights of Newburgh still shine bright, and our city has great people leading us forward, back to the greatness we once knew."

As the founder and president of the original Newburgh, NY Reunion, Harold Shirley, alongside his wife Paula and his mother Elsie, began this journey of reconnection and celebration in 2002. He believed he was chosen by God to bring people together, and the reunion became a testament to the enduring spirit of Newburgh.

The Newburgh, NY Reunion was created as a meaningful way to bring family and friends together for three unforgettable days, hosted in various states. The event features a warm meet-and-greet, a formal banquet with an awards ceremony, along with a heartfelt worship service, fostering connection, celebration, and community. A standout element of the reunion is its dedication to supporting education by awarding scholarships to high school students from Newburgh free Academy who achieve a 3.0 GPA or higher. Hardy firmly believes that education is the key to unlocking potential and creating opportunities

On May 1, 2009, Hardy was honored at the Change Your Community, Change Your World event hosted by the Glenn E. Hines Boys and Girls Club. During this ceremony, Hardy received the prestigious Alumni Hall of Fame Inductee Certificate of Recognition from Mayor Nicholas Valentine, a Certificate of Merit from Senator William J. Larkin Jr., and a Certificate of Special Congressional Recognition from the Members of Congress. These honors acknowledged his outstanding and invaluable service to the community.

On March 24, 2009, the NFA basketball team celebrated a historic victory, winning the New York State Class AA Championship. Following their triumph, the team purchased championship rings to commemorate their achievement. However, due to budget constraints, they were unable to provide a ring for their beloved mascot and team manager, Danny "Butterfly" Washington, who had been an integral part of their journey.

Recognizing this, some of the basketball players reached out to Hardy for help. Without hesitation, Hardy drove to Newburgh and met with the basketball team's faculty to gather the necessary details about where and how to purchase a ring for Danny. After obtaining Danny's ring size and the required information, Hardy made the arrangements and personally purchased the championship ring that Danny so deeply deserved.

Later in 2009, the ring was presented to Danny. His joy was undeniable, and his family was deeply moved—not only by the ring itself but by Hardy's thoughtful initiative to ensure Danny's contributions were honored. This heartfelt act was a testament to Hardy's character, generosity, and belief that everyone who plays a role in a team's success deserves to be celebrated.

In 2016, Hardy was honored by the NAACP for his exceptional service to the community, a recognition many felt was well-deserved after years of hard work which produced impact within the community.

Hardy had a deep passion for ensuring people were recognized for their hard work, particularly those who made a significant impact in Newburgh. In 2021, Hardy played an instrumental role in honoring his late friend, Terry "LD" Williams, by helping to have the street where Terry grew up named after him. This heartfelt gesture was deeply meaningful to Hardy, as Terry was the first African American from Newburgh to make it to the NBA.

One of Hardy's recent accomplishments was his instrumental role in the renaming of Gidney Avenue Park to Clyde H. Sims Park in 2022. This meaningful endeavor exemplified Hardy's unwavering dedication to honoring those who have left a lasting legacy in the community.

Hardy is Newburgh—a living symbol of its resilience, compassion, and unshakable sense of community. His tireless efforts, unhindered by his now personal physical impairment, continue to inspire those around him, reminding us that the spirit of Newburgh lives on in the love, pride, and unity of its people. Hardy's work stands as a shining testament to the power of preserving the past while building a brighter and more hopeful future for generations to come.

May God bless you all, and may God continue to bless the great city of Newburgh.

While we understand that the Key to the City is a symbolic award, it is a way for Newburgh to express its appreciation and honor Harold Shirley, who has made significant contributions to the lives of so many. We appreciate your consideration in this matter and await a response.

Sincerely,

Mrs. Paula Shirley

The Family of Harold Shirley, Sr.

Ms. Alice Frazier

Newburgh Reunion Committee

Bishop Jeffrey C. Woody
The Cathedral at The House
131 Broadway
Newburgh, NY 12550
845.565.5910

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C. FOR PROFESSIONAL ENGINEERING SERVICES IN AN AMOUNT NOT TO EXCEED $25,000.00 FOR AN ENGINEERING ASSESSMENT OF WASHINGTON LAKE DAM

WHEREAS, the New York State Department of Environmental Conservation NYSDEC, Department of Water, Bureau of Flood Protection and Dam Safety regulations require performance of engineering assessments of Class B Intermediate Hazard Dams every 10 years; and

WHEREAS, Washington Lake Dam is classified as a Class B Intermediate Hazard Dam, having received its last updated and stamped engineering assessment on December 29, 2017; and

WHEREAS, the City of Newburgh has identified C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. ("C.T. Male Associates") pursuant to the Master Services Agreement, C.T. Male Associates, P.C. has submitted a proposal to provide a supplementary investigation of the Washington Lake Dam in an amount not to exceed $25,000.00; and

WHEREAS, funding for such project shall be derived from F.1440.0455 – Consultant Services; and

WHEREAS, this Council has determined that entering into an agreement with C.T. Male Associates is in the best interests of the City of Newburgh and its residents;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an agreement with C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. for professional engineering services for an engineering assessment of the Washington Lake Dam in an amount not to exceed $25,000.00.

C.T. MALE ASSOCIATES
Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C.

50 Century Hill Drive, Latham, NY 12110
518.786.7400 FAX 518.786.7299 ctmale@ctmale.com

March 19, 2026

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

Re: Proposal for Engineering Assessment Update- Washington Lake Dam - REVISED
City of Newburgh
C.T. Male Proposal No.: P6.0029

Dear Mr. Morris:

C.T. Male Associates Engineering, Surveying, Architecture, Landscape Architecture & Geology, D.P.C. (C.T. Male) is pleased to present this proposal to prepare an Engineering Assessment (EA) Update for Washington Lake Dam.

NYSDEC requires that the Engineering Assessments for Class B - Intermediate Hazard Dams be updated every 10 years. The prior Engineering Assessment was last updated and stamped by C.T. Male on December 29, 2017. In addition, C.T. Male prepared a design for rehabilitation that included an Engineering Design Report dated September 11, 2019. The scope of work in this proposal assumes that no significant changes to the structure have occurred since the rehabilitation with the exception of the installation of 2 culvert pipes under the dike/causeway carrying Little Britain Road on the south side of the reservoir, which were reportedly installed by a coordinated effort between the City of Newburgh and the New York State Department of Transportation (NYSDOT) to improve the hydraulic connection on either side of the dike/causeway.

Scope of Work

The updated Engineering Assessment will be performed in accordance with New York State Department of Environmental Conservation (NYSDEC) regulations:

- NYSDEC, Department of Water, Bureau of Flood Protection and Dam Safety regulations for Class "B" Intermediate hazard dams, which include NYR Part 673.13 and TOGS 3.1.4 "Guidance for Dam Engineering Assessment Reports."

The Engineering Assessments must be performed by a Licensed Professional Engineer. Engineering Assessments of dams are comprised of the following five components.

1. Safety Inspection
2. Hazard Classification Assessment
3. Hydrologic & Hydraulic Assessment
4. Seepage & Stability Analysis
5. Engineering Assessment Report

The scope of work associated with each component/task is below.

Task 1 – Safety Inspection

A safety inspection will be performed in accordance with the NYSDEC Dam Safety Regulations 6 NYCRR Part 673.12 regulations. The inspection shall be documented in a report signed and sealed by the Professional Engineer that performs the inspection. The safety inspection will begin with a review of documents contained in available files for the dam, which C.T. Male has in our files. Following this review, a visual inspection of the dam's embankment sections and the spillways will be performed.

The inspection will be performed by two staff members from C.T. Male with the expectation that the owner is present during the inspections. During this inspection, we will complete a detailed inspection form and take numerous photographs of the dam's condition. The safety inspection report will document the conditions observed and identify any deficiencies identified during the inspection. Based upon the level of threat the deficiencies pose to the dam's safety, a schedule for making the corrections will be recommended.

Task 2- Hazard Classification Assessment

The hazard classification will be reviewed to ensure the current hazard classification is applicable to the structure. Based upon the Engineering Design Report, in the Event of Dam Failure it is unlikely that the hazard classification will change from the current Class B- Intermediate Hazard classification. For this reason, no updates to the dam break model or inundation zone modeling will be performed.

There will be minor updates made to the inundation mapping including updated aerial imagery and an updated list of impacted property owners. It is assumed that publicly available parcel ownership information from tax maps will be used.

Task 3 - Hydrologic & Hydraulic Assessment

The DEC requires that the dam's outlet works pass the spillway design flood. The design flood for the dam's current hazard classification of small Class "B", is equal to 150% of the 100-year flood event. C.T. Male will verify the hydrologic modeling found in the 2019 Engineering Design Report and provide updates to the modeling in the computer program HydroCAD to reflect possible changed conditions within the watershed and changed storm frequency (i.e. increases in storm intensity that may have occurred over the past decade).

C.T. Male will also update the hydrologic and hydraulic assessment to reflect the dam and spillway geometry based upon the rehabilitation record drawings.

Task 4 – Seepage and Stability Analyses

The stability of the dam's earthen embankment sections will be analyzed for the applicable load cases in accordance with the requirements set forth in the NYSDEC document *"Guidelines for Design of Dams"* and the U.S. Army Corps of Engineer's publication referenced therein. The prior stability analyses will be reviewed and utilized where applicable, but modeling software and many of the seismic design parameters have changed since the prior EA and are required to be re-visited in this 10-year EA update. As the dike/causeway has had culverts installed to hydraulically connect the main reservoir area to the smaller southern section, stability analysis of this structure will be excluded.

Task 5 - Engineering Assessment Report

Upon completion of Tasks 1 through 4, C.T. Male will prepare an Engineering Assessment Report summarizing the findings of the safety inspections, spillway capacity, slope stability analyses, and the hazard classification assessment. This report will include recommended rehabilitation and repairs necessary to bring the dam into compliance with NYSDEC Dam Safety Regulations. The evaluation of rehabilitation and repairs will be conceptual in nature and will only be used to determine the relative magnitude of the improvements needed.

Three (3) signed and sealed hard copies and one electronic copy on a flash drive of the reports will be submitted to the City. One (1) copy each of the report with the

supporting hydrologic and hydraulic calculations and geotechnical calculations in electronic format will be submitted to NYSDEC Dam Safety. Our fee includes responding to one round of NYSDEC comments and submission of a final document to the City and the NYSDEC.

Proposed Fees

We propose to perform the 10-Year Engineering Assessment Updates for Washington Lake Dam for a lump sum fee of $25,000.00, which includes reimbursables. We are immediately available to begin scheduling the work included in this proposal. The fee is valid for a period of 6 months from the date of this letter.

Again, thank you for requesting this proposal from C.T. Male Associates. If this proposal is acceptable, we will provide you a contract for review and execution. Should you have any questions regarding this proposal, please do not hesitate to contact John directly at 518.786.7567 or j.scheetz@ctmale.com.

Sincerely,

C.T. MALE ASSOCIATES

John Scheetz, P.E.
Geotechnical Engineer

Jacob R. Gordon, P.E., ENV-SP
Regional Office Manager

CONTRACT AGREEMENT

Project No.: 26.0029

Agreement made this 4th day of May, 2026, by and between C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C., a Design Professional Corporation registered in New York State and authorized to do business in the State of New York, (hereinafter called C.T. MALE ASSOCIATES); and CITY OF NEWBURGH (hereinafter called the CLIENT).

CLIENT and C.T. MALE ASSOCIATES agree as follows:

A. CLIENT and C.T. MALE ASSOCIATES, for the mutual consideration hereinafter set forth, agree as follows:

C.T. MALE ASSOCIATES shall complete an Engineering Assessment for Washington Lake Dam for the 2026 calendar year as identified in the C.T. MALE ASSOCIATES proposal dated March 19, 2026.

B. CLIENT agrees to pay C.T. MALE ASSOCIATES as compensation for services as follows:

Total fee of twenty-five thousand dollars ($25,000.00) as listed in the C.T. MALE ASSOCIATES proposal dated March 19, 2026.
For invoices paid by credit card, a 3.5% charge will be applied to each invoice in addition to the base contracted amount. Fees and other charges will be invoiced monthly unless otherwise specified. The amount of each invoice shall be due at the time of billing. When bills are not paid within 30 days, a late payment service charge will be charged on any unpaid balance at the rate of 1.25% compounded monthly (annual rate of 15%) or the highest rate allowable under applicable State law, whichever is higher.

C. CLIENT shall furnish the following:

Signed contract agreement
Refer to C.T. MALE ASSOCIATES proposal dated March 19, 2026 for additional items

D. This Agreement, as signed by the CLIENT and/or his/her representative, includes the following Standard Terms and Conditions incorporated herein by this reference.

E. The person signing this Agreement warrants he/she has authority to sign as, or on behalf of, the CLIENT. If such person does not have such authority, it is agreed that he/she will be personally liable for all breaches of this Agreement, and that in any action against them for breach of such warranty, a reasonable attorney's fee shall be included in any judgment rendered.

F. CLIENT shall provide C.T. MALE ASSOCIATES personnel with any information regarding potential hazards or whether personal protective measures are required when working on project site(s) associated with this contract and that C.T. MALE ASSOCIATES personnel be afforded the opportunity to review any health and safety plan available for site(s) that they will be working on.

AGREED TO:

CITY OF NEWBURGH

83 Broadway
Newburgh, NY 12550
Phone:
Email:

By: _____
(Authorized Signature/Date)

Title: _____

AGREED TO:

C.T. MALE ASSOCIATES ENGINEERING, SURVEYING, ARCHITECTURE, LANDSCAPE ARCHITECTURE & GEOLOGY, D.P.C.
50 Century Hill Drive
Latham, NY 12110
Phone: (518) 786-7400
Fax: (518) 786-7299

By: _____
John Scheetz, P.E. (Date)

Title: Geotechnical Engineer/Project Manager

STANDARD TERMS AND CONDITIONS OF AGREEMENT

1. EXTRA WORK: Extra work shall include, but not be limited to, additional office or field work caused by policy or procedural changes or governmental agencies, changes in the project, and work necessitated by any of the causes described in Paragraph 5 hereof. All extra work to be authorized by CLIENT in writing prior to commencement by C.T. MALE ASSOCIATES.

2. OWNERSHIP OF DOCUMENTS AND/OR ELECTRONIC MEDIA FILES: All tracings, specifications, computations, survey notes and media files and other original documents as instruments of service are and shall remain the property of C.T. MALE ASSOCIATES unless otherwise provided by law. CLIENT shall not use such items on other projects without C.T. MALE ASSOCIATES' prior written consent. C.T. MALE ASSOCIATES shall not release CLIENT's data without authorization.

3. LIMITATIONS OF PROBABLE COST: Any opinion of the probable construction cost of the project or any part thereof is not to be construed, nor is it intended, as a guarantee of the total cost.

4. APPROVAL OF WORK: The work performed by C.T. MALE ASSOCIATES shall be deemed approved and accepted by CLIENT as and when invoiced unless CLIENT objects within 30 days of the invoice date by written notice specifically stating the details in which CLIENT believes such work is incomplete or defective.

5. DELAY: Any delay, default, or termination in or of the performance of any obligation of C.T. MALE ASSOCIATES under this Agreement caused directly or indirectly by strikes, accidents, acts of God, shortage or unavailability of labor, materials, power or transportation through normal commercial channels, failure of CLIENT or CLIENT's agents to furnish information or to approve or disapprove C.T. MALE ASSOCIATES' work promptly, late, slow or faulty performance by CLIENT, other contractors or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of C.T. MALE ASSOCIATES' work, or any other acts of the CLIENT or any other Federal, State, or local government agency, or any other cause beyond C.T. MALE ASSOCIATES' reasonable control, shall not be deemed a breach of this Agreement. The occurrence of any such event shall suspend the obligations of C.T. MALE ASSOCIATES as long as performance is delayed or prevented thereby, and the fees due hereunder shall be equitably adjusted.

6. TERMINATION: The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, C.T. MALE ASSOCIATES shall be paid for all services rendered to the date of termination, as well as for all reimbursable expenses and termination expenses. For purposes of this section, the failure of the CLIENT to pay C.T. MALE ASSOCIATES within thirty (30) days of receipt of an invoice shall be considered such a substantial failure. In the event of a substantial failure on the part of the CLIENT, C.T. MALE ASSOCIATES, in addition to the right to terminate set forth in this paragraph, may also elect to suspend work until the default in question has been cured without consequence. No delay or omission on the part of C.T. MALE ASSOCIATES in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy on any future occasion.

7. INDEMNIFICATION: CLIENT shall indemnify, defend and hold C.T. MALE ASSOCIATES harmless for any and all loss, cost, expense, claim, damage, or liability of any nature arising from: (a) soil conditions; (b) changes in plans or specifications made by CLIENT or others; (c) use by CLIENT or others of plans, surveys, or drawings unsigned by C.T. MALE ASSOCIATES or for any purpose other than the specific purpose for which they were designed; (d) job site conditions and performance of work on the project by others; (e) inaccuracy of data or information supplied by CLIENT; and (f) work performed on material or data supplied by others, unless said loss was solely caused by C.T. MALE ASSOCIATES' own negligence.

9. REPLACEMENT OF SURVEY STAKES: C.T. MALE ASSOCIATES, if included in Paragraph A of the Agreement, will provide necessary construction stakes. In instances where it is determined that negligence on the part of the CLIENT or others results in the need for restaking, the cost of such restaking will be billed as an extra to the CLIENT on a time basis. It will be the CLIENT's responsibility to provide adequate protection of the stakes against his own negligence or the negligence of those working for or with him and against vandalism by others. If staking is ordered by the CLIENT or others prematurely and construction does not take place, it will also be the CLIENT's responsibility to protect said stakes until such time as construction takes place.

10. MAPPING: Areas obscured by dense vegetation or shadow will be labeled as "DENSE WOODS", "SHADOW", or "OBSCURED AREA". C.T. MALE ASSOCIATES cannot certify as to the accuracies within these areas. Field verification of such area(s) must be undertaken and is not included within the scope of this Agreement unless explicitly stated.

11. OBSERVATION AND TESTING OF CONSTRUCTION, SAFETY: The observation and testing of construction is not included herein unless specifically agreed upon in the Scope of Services as set forth in Paragraph A of this Agreement. It should be understood that the presence of C.T. MALE ASSOCIATES' field representative will be for the purpose of providing observation and field testing. Under no circumstances is it C.T. MALE ASSOCIATES' intent to directly control or supervise the physical activities of the contractor's workmen to accomplish the work on this project. The presence of C.T. MALE ASSOCIATES' field representative at the site is to provide the CLIENT with a continuing source of information based upon the field representative's observations of the contractor's work, but does not include any superintending, supervision, or direction of the actual work of the contractor or the contractor's workmen. The contractor should be informed that neither the presence of C.T. MALE ASSOCIATES' field representative nor observation and testing personnel shall excuse the contractor in any way for defects discovered in his work. It is understood that C.T. MALE ASSOCIATES will not be responsible for job or site safety on the project.

12. RESTRICTIONS ON USE OF REPORTS: It should be understood that any reports rendered under this Agreement will be prepared in accordance with the agreed Scope of Services and pertain only to the subject project and are prepared for the exclusive use of the CLIENT. Use of the reports and data contained therein for other purposes is at the CLIENT's sole risk and responsibility.

13. RISK ALLOCATION: The CLIENT agrees that C.T. MALE ASSOCIATES' liability for damages to the CLIENT for any cause whatsoever in connection with this project, and regardless of the form of action, whether in contract or in tort, including negligence, shall be limited to the greater of $100,000.00, or C.T. MALE ASSOCIATES' total fee for services rendered on the project.

14. CONSEQUENTIAL DAMAGES: Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

15. CLIENT RESPONSIBILITIES: Client shall be responsible for providing all reasonable assistance required by C.T. MALE ASSOCIATES in connection with Services, including, without limitation, any assistance specified in the Proposal. In particular, Client will provide the following:

Reasonable ingress to and egress from the Site by C.T. MALE ASSOCIATES and/or its subcontractors and their respective personnel and equipment.

Clean, secure, and unobstructed space and areas at the Site for C.T. MALE ASSOCIATES equipment and vehicles or those of C.T. MALE ASSOCIATES' subcontractors.

Information in the possession of Client (including, without limitation, facility and/or Site schematics, engineering drawings and plot plans) detailing the construction of facilities located underground or above ground at the Site that pertain to the stated scope of work or are necessary to assist C.T. MALE ASSOCIATES in performing Services and/or to successfully carry out the project.

Prior to any boring, drilling, and/or excavation work being commenced by C.T. MALE ASSOCIATES, the specific location(s) of such work will be provided to Client. Prior to any boring, drilling, excavation or other intrusive subsurface activities on the Site, Client or Client's representative shall identify any private and public subsurface obstruction or utility that Client or its representative knows or believes to exist at the Site. C.T. MALE ASSOCIATES, at its discretion, may contact the local public utility locator and, if agreed by Client, a private utility locator to determine the existence and location of subsurface obstruction or utilities. Client or Client's representative will provide C.T. MALE ASSOCIATES with prior approval of each location where C.T. MALE ASSOCIATES will carry-out any intrusive activity on the Site. Client agrees that if C.T. MALE ASSOCIATES or its subcontractor causes damage to a subsurface obstruction or utility that was not properly identified by Client, or marked by the public utility locator or private utility locator, if any, the Client shall indemnify, defend and hold harmless C.T. MALE ASSOCIATES, its officers, directors, employees and independent contractors from and against any and all claims, costs, fines, or other liability arising out of, or in connection with any damage to any such subsurface obstruction or utilities, except to the extent such claims, costs, fines, or other liability are caused by C.T. MALE ASSOCIATES' negligence or willful misconduct.

16. CONTROLLING LAWS: This Agreement is to be governed by the laws of the **State of New York**.

17. INSURANCE C.T. MALE ASSOCIATES shall procure and maintain throughout the period of this agreement, at C.T. MALE ASSOCIATES' own expense, insurance for protection from claims under worker's compensation, temporary disability and other similar insurance required by applicable State and Federal laws, and shall maintain general and professional liability insurances. Certificates for all such policies of insurance shall be provided to the CLIENT upon written request. C.T. MALE ASSOCIATES shall not be responsible for any loss, damage or liability beyond the amounts, limits and conditions of such insurance.

18. STANDARD OF CARE: CLIENT agrees that in performing requested tasks, in accordance with this contract or amendments thereto, C.T. MALE ASSOCIATES will provide statements of adherence to standards or specifications only when said standards or specifications are included in the scope of services. In the event C.T. MALE ASSOCIATES is required to sign a statement or certificate on behalf of CLIENT, which differs from or exceeds the scope of services contracted for, CLIENT hereby agrees to indemnify and hold C.T. MALE ASSOCIATES harmless from any liability arising from or resulting from such statement or certificate.

19. SUCCESSORS AND ASSIGNS: Neither CLIENT nor C.T. MALE ASSOCIATES shall assign, sublet, or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law.

20. MEDIATION: CLIENT and C.T. MALE ASSOCIATES agree to resolve all claims, disputes or controversies, or in relation to the interpretation, application or enforcement of this agreement through mediation.

21. EQUAL EMPLOYMENT OPPORTUNITY: C.T. MALE ASSOCIATES is committed to equal employment opportunity for all persons regardless of race, color, sex, age, national origin, marital status, handicap, or veteran's status. In striving to eliminate discrimination in the workplace, it is our policy to deal only with sub-contractors, vendors, suppliers, and other affiliates who recognize and support equal employment opportunity and comply with all applicable State and Federal Equal Employment Opportunity laws and regulations including the annual filing of Standard Form EEO-1.

22. NOTICES: All notices called for by this Contract shall be in writing and shall be deemed to have been sufficiently given or served when presented personally and when deposited in the mail, postage prepaid, certified and return receipt requested.

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND ENTER INTO AN AGREEMENT FOR FINAL DESIGN PROFESSIONAL ENGINEERING SERVICES WITH ARCADIS OF NEW YORK INC. FOR PHASE V OF THE LONG TERM CONTROL PLAN FOR THE SOUTH INTERCEPTOR IMPROVEMENTS PROJECT IN THE AMOUNT OF $496,300.00

WHEREAS, by Resolution No. 219-2011 of October 24, 2011 and by Resolution No. 303-2015 of November 23, 2015, the City Council approved a Consent Order with the New York State Department of Environmental Conservation to resolve violations at the Wastewater Treatment Plant and for the development of the Long Term Control Plan ("LTCP") and Modification Order on Consent approving a Compliance Schedule for Phase I through V of the LTCP; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for professional engineering services to complete the final design and the preparation of bid documents for the South Interceptor Improvements Project (the "Project") included in Phase V of the LTCP Schedule of Compliance; and

WHEREAS, the scope of services will include field investigations, preparation of a basis of design report and preparation of bid documents; and

WHEREAS, funding for the cost of the services the amount of $496,300.00 shall be derived from financing through New York State Environmental Facilities Corporation Project No. C3-7332-11-06; 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 the amount of $496,300.00 to complete the final design and the preparation of bid documents for the South Interceptor Improvements Project included as part of Phase V of the Long Term Control Plan for the City's Combined Sewer Collection System; 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.

SENT VIA E-MAIL ONLY

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

Arcadis of New York, Inc.
646 Plank Road
Suite 100
Clifton Park, NY 12065
United States
Phone: 518 250 7300
www.arcadis.com

Date: April 3, 2026
Our Ref: 103127672
Subject: Proposal for Engineering Design Services – South Interceptor Sewer Replacement Design

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) is pleased to provide the City of Newburgh (City) with this letter proposal for design services to replace the South Interceptor Sewer. This project is required by Order on Consent between the New York State Department of Environmental Conservation (NYSDEC) and the City, and represents the final construction project to be implemented as part of the City's Long Term Control Plan (LTCP). We appreciate the confidence the City has in our ability to deliver quality projects for the improvement of critical infrastructure and for regulatory compliance.

Project Understanding

The South Interceptor Sewer was constructed in 1969 to convey flow from the western portion of the City and the majority of the Town of Newburgh to the City's Water Pollution Control Plant (WPCP). Flow into the South Interceptor Sewer is regulated by Combined Sewer Overflow (CSO) Regulator No. 2, which is the largest of the City's combined sewer regulators, controlling approximately half of the total flow to the WPCP. In 2019, the City completed construction of upgrades to Regulator No. 2 that included a real-time control slide gate that modulates to maximize wet weather flows at the WPCP to 18 mgd until construction of the new Combined Sewer Control Facility (CSCF) is completed. Once construction of the new CSCF is completed, the combined flow to the WPCP and CSCF will be increased to approximately 58 mgd. To convey these wet weather flows to the WPCP and CSCF, the capacity of the South Interceptor Sewer needs to be increased to a capacity of up to 56 mgd. During the project planning phase of this project, Arcadis evaluated alternatives which included constructing a parallel interceptor sewer that would be used during wet weather events or replacing the entire South Interceptor Sewer. The planning phase evaluations were documented in a Preliminary Engineering Report (PER) that was finalized and submitted to NYSDEC in June 2024. The scope of services presented herein builds upon this evaluation and will progress the design to 100%, acquire necessary permits and regulatory approvals, and includes assisting the City with bidding the project.

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Mr. Jason Morris, PE
City of Newburgh
April 3, 2026

Scope of Services

Task 1 – Preliminary Engineering Report Updates

Arcadis will assist the City with addressing comments from NYSDEC and New York State Environmental Facilities Corporation (NYSEFC) on the PER received on March 18, 2026. Arcadis prepared the PER in June 2024 based on the current NYSEFC engineering report outline. NYSEFC has since made updates to the engineering report outline and NYSEFC / NYSDEC require that the PER be updated to meet the requirements of the latest engineering report outline. The City will be required to have the PER updated prior to approval.

Task 2 - Field Investigations

Topographic and Utility Survey: Arcadis will engage Badey & Watson Surveying & Engineering, DPC, a woman owned business enterprise (WBE) to complete a full instrument field survey of the South Interceptor corridor. The survey will depict road rights of way, surface features, topography (1-foot contour intervals), improvements, and underground utilities as marked out by Dig Safely New York (water, sewer, electric, natural gas). Elevations of the existing utilities, where access is possible through manholes and structures, will be obtained. The survey will be completed in AutoCAD format in the NAVD 88 datum.

Badey & Watson will perform a complete title search and analysis of the easement coverage for the project and map the existing boundary lines and limits on the survey. If any gaps are found or additional easements are needed, they will prepare the permanent and temporary right-of entry easements that are identified as being required. Arcadis will prepare estimated costs for easement and parcel acquisition.

Arcadis has included $4,500 for CSX flagging services to complete the survey (approximately 3 days) on CSX property. This will include surveying the centerline of the track, the bottom of track elevation, toe elevations of railroad embankment.

Natural Resources Assessment: Arcadis will perform a natural resources assessment within the defined project boundaries, including both desktop and field analyses. The desktop analysis will utilize publicly available data, mapping resources, and aerial photography to obtain information on the potential for the following natural resources to occur within, or in close proximity to the project site.

Arcadis will conduct a one-day field visit to verify the findings of the desktop analysis and to delineate the areas of identified resources. Aquatic resources identified within the defined project area will be delineated in accordance with the United States Army Corps of Engineers (USACE) Wetlands Delineation Manual (TR-Y-87-1) and the USACE Regional Supplement (TR-12-1). Wetland boundaries will be delineated with pink-glo flagging stamped with “WETLAND BOUNDARY”. Each flag will be denoted alphanumerically with a unique identifier and will be spatially located by a licensed land surveyor. A minimum of two wetland determination plots will be performed for each wetland delineated (one wetland and one upland plot). Arcadis will assess each wetland and waterway delineated to preliminarily identify the appropriate regulatory agency or agencies.

During the one-day field visit, the Project Site will be assessed for the potential presence of Federal and State protected species and significant natural communities. If the desktop analysis identifies the presence of such resources, Arcadis will assess whether the habitat for the resource is present or absent. Included in this scope will be surveys for bald eagles, which are known to nest in the vicinity.

Trees having a diameter at breast height (DBH) of 12 inches or greater will be measured and survey located. Trees that appear to be dead or diseased will be noted during the survey.

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Arcadis will summarize the findings of the desktop evaluation and field assessment in a technical memorandum. The memorandum will include a detailed narrative, figures generated from the desktop review, photograph documentation, completed wetland determination forms, and associated delineation mapping. Trees with a 12-inch or larger DBH identified within the project limits will be listed in a table and depicted on project mapping. The approximate limits of any areas determined to be potentially suitable for State and Federal threatened and endangered species and State listed species of special concern identified during the desktop analysis will be depicted on project mapping and included in the memorandum.

Geotechnical Investigation: Arcadis will retain the services of a geotechnical drilling subcontractor to collect soil data at up to 14 locations to facilitate the understanding of subsurface conditions along the route of the proposed sewer alignments. The subsurface explorations will be limited to 25-feet deep borings or bedrock whichever is shallower, and are only intended to capture soil conditions, and if encountered, proximity to rock and the water table. Boring holes located in paved areas will be backfilled with 1-1/2 sack slurry and cold patched, while boring holes in non-paved areas will be filled with sack slurry and tailings. Prior to drilling, the geotechnical contractor will explore the intended location of each boring with Ground Penetrating Radar (GPR) to search for potential interferences that could be damaged by, or be damaging to, the drill rig. This information will be used to finalize boring locations. In addition, Dig Safely, New York will be contacted to mark out the utility locations in the area to support the GPR exploration and drilling. Arcadis will collect up to three (3) soil samples per location and have them tested for environmental contaminants.

Task 3 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Preliminary bypass scheme.
- Preliminary sheet and shoring plans.
- Preliminary construction sequencing.
- Updated plan and profiles.
- Preliminary drawing index.
- Preliminary list of specifications.
- Existing conditions survey.
- Real property information and easements.
- Identify permits and regulatory approvals required.
- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.

Arcadis will prepare a draft BODR and 30% Design deliverable for the City's review and will schedule a workshop meeting to review the documents with City and review comments that the City may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to the City. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

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Task 4 – Prepare Bid Documents

Arcadis will build upon the previous evaluation and Basis of Design Report to prepare Bid Documents (inclusive of Drawings and a Project Manual) for regulatory approval and bidding purposes for the South Interceptor Replacement Project. The Bid Documents will be prepared as a single prime contract in accordance with Wick's Law. Funding agency language and requirements will be incorporated into the Bid Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide the City with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 3) and 90% (ACEE Class 2) submittals. The major elements of the project include the following:

- Detailed design of approximately 3,400 linear feet of 52-inch interceptor sewer from Regulator No. 2 to MH-1 on the North Interceptor.
- Water main replacement in Water Street as required for construction of the relocated interceptor sewer.
- Jack and bore of interceptor sewer and dry data conduits under the CSXT spur track.
- Coordination with CSXT railroad for a utility right-of-way and crossing beneath the spur track.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYSDOT) requirements.
- Repaving and striping as appropriate along the areas disturbed by construction.
- Raising grade as required to achieve minimum of 3-feet over top of the new interceptor sewer and re-grading access road to facilitate a new walking trail.
- Coordination with working group for new walking trail and Arcadis' in-house landscape architecture group for a conceptual plan.

During the 60% design phase Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility. Arcadis will submit the 60% Bid Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed. Arcadis will meet with City representatives at the 60%, 90% and final Bid document submission.

Task 5 – Permitting and Approvals

Arcadis will submit the 100% Design Documents to New York State (NYS) Environmental Facilities Corporation (EFC), NYS Department of Environmental Conservation (DEC), NYSDOT, and Orange County Department of Health (OCDOH) on behalf of the City. Upon receipt of comments from NYSEFC/NYSDEC, NYSDOT, and OCDOH Arcadis will finalize the Bid Documents and prepare a comment response correspondence. Only one comment response letter each to NYSEFC/NYSDEC, NYSDOT, and OCDOH has been included in the budget.

Arcadis will submit the 100% design to CSXT for approval and establishment of new utility access agreement between the City and CSXT. Arcadis has included up to 80 hours in coordination with CSXT to achieve the necessary approvals for this project.

Additionally, Arcadis will support the City in preparing, submitting, and acquiring the necessary permits to complete the project. Arcadis anticipates the following permits will be required:

- NYSDEC, NYSDOS, NYSOGS, and USACE Joint Permit Application and supplementals for freshwater wetlands and protection of waters.
- SWPPP if total disturbance exceeds one acre.

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Task 6 – Funding Assistance

Arcadis will continue to support the City in the solicitation of funding from State and Federal sources as appropriate for the Project including Water Infrastructure Improvement Act (WIIA) and Water Quality Improvement Program (WQIP) grants.

The WQIP application is part of the New York State Consolidated Funding Application, which is expected to open in May and close in late July. WIIA applications are typically due in September. Arcadis will monitor funding opportunities to determine if additional funding may become available for the project.

Task 7 – Bidding Assistance

Arcadis will assist the City with bidding the project. Arcadis will prepare electronic Bid Documents for City's use for electronic bidding. Arcadis will prepare a bid advertisement for the City's approval and use. We will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and prepare up to three addenda as required for the City's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids, and make a recommendation of award.

Engineering Services During Construction

Arcadis will provide engineering services during construction for the duration of the project, which is anticipated to have an 18-month duration. Engineering services will generally include but are not limited to the following:

- Preconstruction Conference.
- Preparation of supplemental drawings and sketches required during Construction.
- Respond to Contractors' Request for Interpretations (RFIs).
- Review and provide Engineer's determination on Contractor submittals and shop drawings.
- Attend bi-weekly progress meetings.
- Provide full-time construction observation and resident engineering.
- Conduct periodic site visits.
- Provide a resident project representative.
- Perform a site visit and finalize Contractor Punch Lists upon request for Substantial Completion.
- Preparation of Substantial Completion Certifications
- Final Certification of Completed Work.
- Preparation of As-Built Record Documents.
- Prepare Operation and Maintenance Manuals as applicable.

Arcadis will provide a more detailed scope of services and cost proposal for Engineering Services During Construction at the completion of the design phase.

Compensation

Arcadis will complete the scope of services for the South Interceptor Sewer Project presented herein for a total not to exceed fee of $496,300 to be compensated on a time and expenses basis using our 2026 standard rate schedule for hours worked plus other direct costs with a markup of 10 percent.

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Mr. Jason Morris, PE
City of Newburgh
April 3, 2026

Task / Description	Fee
Task 1 – Preliminary Engineering Updates	$ 6,800.00
Task 2 – Field Investigations	$ 136,600.00
Task 3 – Basis of Design Report	$ 45,300.00
Task 4 – Prepare Bid Documents	$ 239,100.00
Task 5 – Permitting and Regulatory Approvals	$ 34,800.00
Task 6 – Funding Assistance	$ 12,300.00
Task 7 – Bidding Assistance	$ 21,400.00
Total Not to Exceed Fee	**$ 496,300.00**

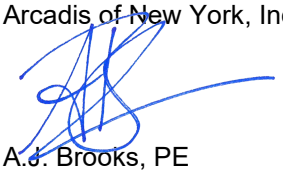
Arcadis is familiar with NYSEFC requirements to make good faith efforts to obtain the services of M/WBE subcontractors. To that end we are proposing to use three different M/WBE subcontractors. It is estimated for the scope of services described herein, that the total M/WBE utilization will be approximately $87,650 or 17.7%.

Schedule

Arcadis anticipates completing the aforementioned scope in Task 1 through Task 4 on or before June 30, 2027, for submission to the NYSDEC and NYSEFC in advance of the Order on Consent required submission date of October 3, 2028.

We look forward to continuing to assist the City improve its critical wastewater infrastructure, and again, appreciate the confidence you have in our people. If you have any questions, please do not hesitate to call me at 518.250.7374 at your earliest convenience.

Sincerely,
Arcadis of New York, Inc.



A.J. Brooks, PE
Principal Engineer

Email: a.j.brooks@arcadis.com
Direct Line: 518.250-7374

CC. M. Kosier, C. Superak - Arcadis

Enclosures:
Standard Rate Schedule for 2026
Partially Executed Agreement

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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

This is an **Agreement** effective as of April _____, 2026 ["**Effective Date**"] City of Newburgh ["**Client**"], a municipal 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 Delaware, having its principal place of business at 110 West Fayette Street, Suite 300, Syracuse, New York 13202 and an office at 646 Plank Road, Suite 100, Clifton Park, New York, 12065.

The Client intends to design and construct the replacement of the South Interceptor Sewer from the Combined Sewer Overflow (CSO) Regulator No. 2 to the junction with the North Interceptor Sewer on South Water Street in compliance with the Client's CSO Long Term Control Plan ["**Project**"].

Client engages Arcadis to provide professional engineering services related to the design and construction administration in support of its Project [**Services**].

The location of the Project is South Water Street, Newburgh [**Site**], New York [**State**].

Arcadis' Services for the Project are described generally as follows:

Provide engineering design and bidding services for the City of Newburgh South Interceptor Sewer Replacement Project.

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' obligations under this Agreement are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder. 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.

1.2 **Standard of Care**. Arcadis shall perform the professional engineering 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 **Applicable Codes**. The Service Instruments will conform to the generally accepted codes and regulations applicable to the Project at the time of performance.

1.5 **Indemnification**. Arcadis agrees to indemnify and hold Client harmless from all losses and damages resulting from Arcadis' failure to meet the Standard of Care.

1.6 **Contract Documents**. The Service Instruments shall incorporate Arcadis' standard construction documents **[Contract Documents**]. In any event, Arcadis shall be an additional insured on all liability and property damage insurance policies which the construction contractor(s) for the Project [**Contractor**] shall be required to provide. All contracts between Client and Contractor for the Project shall require the Contractor to indemnify and hold Client and Arcadis harmless from any and all legal actions and liabilities arising out of the construction of the Project including, but not limited to, injury to or death of any person or injury or destruction of tangible property, not caused by the sole negligence of the party to be indemnified.

1.7 **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.

1.8 **Hazardous Wastes**. Client represents that the Project does not contemplate the performance of services, professional or otherwise, related to hazardous or toxic wastes, material, or substances and other pollutants. Arcadis shall not be responsible for and, to the fullest extent permitted by law, shall be held harmless from all costs and other liabilities arising from the presence in

or about the Project of hazardous or toxic wastes, material or substances and other pollutants, whether or not designated as such by law or regulation.

1.9 Construction Phase Services. Arcadis shall provide construction phase Services in accordance with Schedule A and act as Client's representative at the Site in accordance with the General Conditions of the Contract Documents as modified by Schedule D.

1.9.1 In the event the construction phase services are provided by another party, Arcadis shall not be responsible for and Client shall indemnify and hold Arcadis and Arcadis' consultants harmless from all claims, damages, losses and expenses, including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution, acceptance, shop drawing or sample approval or modifications of such documentation issued or carried out by Client or others or construction observation carried out by others. Nothing contained in this paragraph shall be construed to release Arcadis or Arcadis' consultants from liability for failure to perform in accordance with professional standards any duty or responsibility which Arcadis has undertaken or assumed under 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 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 Project.

3.2 Project Criteria. Provide all criteria and information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, and any budgetary limitations. Furnish copies of all design and construction standards which Client will require to be included in the Service Instruments.

3.3 Data. Provide all available information, including previous reports and any other data in the possession of Client relevant to design or construction of the Project. 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 Surveys. Provide engineering surveys to define construction reference points to enable Contractor to lay out Project construction.

3.5 Access. Arrange for Arcadis to enter upon public and private property as necessary.

3.6 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.

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

3.8 Expert Advice. Provide legal, accounting, insurance or other necessary advisory services for the Project including any documents submitted by Arcadis. 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.

3.9 Site Representative. If Client designates a person other than Arcadis to represent Client at the Site, specify the duties, responsibilities and limitations of authority of such other person and the effect on Arcadis' duties and responsibilities in a schedule attached to this Agreement.

3.10 Ancillary Costs. If the Construction Cost includes the cost of the activities described in 3.7 through 3.10, provide an estimate of such costs to Arcadis for Project cost estimating purposes.

3.11 Meetings. Attend the pre-bid conference, bid opening, pre-construction conference, construction progress and other job related meetings, and Substantial Completion and Final Payment inspections.

3.12 Project 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' services, or any defect or non-conformance in the work of any Contractor.

4 PERIODS OF SERVICE

4.1 Time of Performance. Sections 4 and 5 anticipate the orderly and continuous progress of the Services through completion of construction. The time of performance is the period reasonably expected to be required for the design, award of contracts, construction and initial operation of the Project, including any necessary Client or regulatory agency review and approval.

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' Services will occur:

4.4.1 for a study, investigation or planning activity: upon delivery of the final report as specified in Schedule A or B, as appropriate;

4.4.2 for a design activity: when the Bid Set of Contract Documents is delivered as specified in Schedule A;

4.4.3 for a bidding or construction contract negotiation activity: upon issuance by Client of notice of award of the construction contract;

4.4.4 for a construction activity: when written recommendation of final payment for the last prime construction contract of the Project is issued; and

4.4.5 for a startup or operations activity: upon the earlier of successful completion of acceptance testing by the Contractor or beneficial occupancy by Client but, in any event, not later than one year after Substantial Completion.

4.5 Force Majeure. If a force, event, or circumstance beyond Arcadis' control interrupts or delays Arcadis' 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 work performed and Reimbursable Expenses incurred during the period covered by the invoice. Arcadis shall be entitled to invoice for any 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 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 in 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' 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 attorney's 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. The cost of constructing the Project [**Construction Cost**] means the total cost to Client of those portions of the Project designed and specified in the Service Instruments. Construction Cost will not include Arcadis' compensation and expenses, the cost of land, rights of way, or compensation for properties unless specified in Schedule A. 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 paragraphs 3.6 and 3.8 unless otherwise specified in Schedule A.

6.2 Opinions of Cost. Arcadis has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions. Arcadis' opinion of probable Construction Cost is made on the basis of Arcadis' experience and qualifications and represents Arcadis' 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' 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' 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' Services for the Project and Arcadis shall have the right to use or reuse and retain the copyright of such Service Instruments for its purposes, at its sole risk and without liability to Client. Client may retain copies in connection with the use or occupancy of the Project.

7.3.1 **Reuse**. Arcadis does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Project 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 sent 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' employees' Project-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' performance under this Agreement; and

7.4.3 professional liability in the amount of $1,000,000 for legal obligations arising out of Arcadis' 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. All 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 last 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 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 SECTION 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 for Non-Construction Contracts attached to this Agreement.

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"

8.2.4 **Schedule D** " Construction Phase Services"

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: _____

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

City of Newburgh
83 Broadway
Newburgh, New York 12550
Attn: Mayor's Office

ARCADIS of New York, Inc.

By: _____

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

Arcadis of New York
646 Plank Road, Suite 100
Clifton Park, New York 12065
Attn: A.J. Brooks, PE

Schedule A
Scope of Basic Engineering Services and Related Matters

Task 1 – Preliminary Engineering Report (PER) Updates

Arcadis will assist Client with addressing comments from New York State Department of Environmental Conservation (NYSDEC) and New York State Environmental Facilities Corporation (NYSEFC) on the PER received on March 18, 2026 and updating the PER to NYSEFC's current engineering report outline.

Task 2 – Field Investigations

Topographic and Utility Survey: Arcadis will engage an MWBE subcontractor to complete a full instrument field survey of the South Interceptor corridor. The survey will depict road rights of way, surface features, topography (1-foot contour intervals), improvements, and underground utilities as marked out by Dig Safely New York (water, sewer, electric, natural gas). Elevations of the existing utilities, where access is possible through manholes and structures, will be obtained. The survey will be completed in AutoCAD format in the NAVD 88 datum.

Arcadis will perform a complete title search and analysis of the easement coverage for the project and map the existing boundary lines and limits on the survey. If any gaps are found or additional easements are needed, they will prepare the permanent and temporary right-of entry easements that are identified as being required. Arcadis will prepare estimated costs for easement and parcel acquisition.

Arcadis has included $4,500 for CSX flagging services to complete the survey (approximately 3 days) on CSX property. This will include surveying the centerline of the track, the bottom of track elevation, toe elevations of railroad embankment.

Natural Resources Assessment: Arcadis will perform a natural resources assessment within the defined project boundaries, including both desktop and field analyses. The desktop analysis will utilize publicly available data, mapping resources, and aerial photography to obtain information on the potential for the following natural resources to occur within, or in close proximity to the project site.

Arcadis will conduct a one-day field visit to verify the findings of the desktop analysis and to delineate the areas of identified resources. Aquatic resources identified within the defined project area will be delineated in accordance with the United States Army Corps of Engineers (USACE) Wetlands Delineation Manual (TR-Y-87-1) and the USACE Regional Supplement (TR-12-1). Wetland boundaries will be delineated with pink-glo flagging stamped with "WETLAND BOUNDARY". Each flag will be denoted alphanumerically with a unique identifier and will be spatially located by a licensed land surveyor. A minimum of two wetland determination plots will be performed for each wetland delineated (one wetland and one upland plot). Arcadis will assess each wetland and waterway delineated to preliminarily identify the appropriate regulatory agency or agencies.

During the one-day field visit, the Project Site will be assessed for the potential presence of Federal and State protected species and significant natural communities. If the desktop analysis identifies the presence of such resources, Arcadis will assess whether the habitat for the resource is present or absent. Included in this scope will be surveys for bald eagles, which are known to nest in the vicinity.

Trees having a diameter at breast height (DBH) of 12 inches or greater will be measured and survey located. Trees that appear to be dead or diseased will be noted during the survey.

Arcadis will summarize the findings of the desktop evaluation and field assessment in a technical memorandum. The memorandum will include a detailed narrative, figures generated from the desktop review, photograph documentation, completed wetland determination forms, and associated delineation mapping. Trees with a 12-inch or larger DBH identified within the project limits will be listed in a table and depicted on project mapping. The approximate limits of any areas determined to be potentially suitable for State and Federal threatened and endangered species and State listed species of special concern identified during the desktop analysis will be depicted on project mapping and included in the memorandum.

Geotechnical Investigation: Arcadis will retain the services of an MWBE geotechnical subcontractor to collect soil data at up to 14 locations to facilitate the understanding of subsurface conditions along the route of the proposed sewer alignments. The subsurface explorations will be limited to 25-feet deep borings or bedrock whichever is shallower, and are only intended to capture soil conditions, and if encountered, proximity to rock and the water table. Boring holes located in paved areas will be backfilled with 1-1/2

sack slurry and cold patched, while boring holes in non-paved areas will be filled with sack slurry and tailings. Prior to drilling, the geotechnical contractor will explore the intended location of each boring with Ground Penetrating Radar (GPR) to search for potential interferences that could be damaged by, or be damaging to, the drill rig. This information will be used to finalize boring locations. In addition, Dig Safely, New York will be contacted to mark out the utility locations in the area to support the GPR exploration and drilling. Arcadis will collect up to three (3) soil samples per location and have them tested for environmental contaminants.

Task 3 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Preliminary bypass scheme.
- Preliminary sheet and shoring plans.
- Preliminary construction sequencing.
- Updated plan and profiles.
- Preliminary drawing index.
- Preliminary list of specifications.
- Existing conditions survey.
- Real property information and easements.
- Identify permits and regulatory approvals required.
- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.

Arcadis will prepare a draft BODR and 30% Design deliverable for the Client's review and will schedule a workshop meeting to review the documents with Client and review comments that the Client may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to the Client. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

Task 4 – Prepare Bid Documents

Arcadis will prepare Bidding Documents (including Drawings and a Project Manual) for regulatory approval and bidding purposes for the South Interceptor Replacement Project. The Bidding Documents will be prepared as a single prime contract in accordance with Wick's Law. Funding agency language and requirements will be incorporated into the Bidding Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide the Client with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 3) and 90% (ACEE Class 2) submittals. The major elements of the project include the following:

- Detailed design of approximately 3,400 linear feet of 54-inch sewer from Regulator No. 2 to MH-1 on the North Interceptor.
- Water main replacement in Water Street as required for construction of the relocated interceptor sewer.
- Jack and bore of interceptor sewer and dry data conduits under the CSXT spur track.
- Coordination with CSXT railroad for a utility right-of-way and crossing beneath the spur track.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYSDOT) requirements.
- Repaving and striping as appropriate along the areas disturbed by construction.
- Raising grade as required to achieve minimum of 3-feet over top of the new interceptor sewer and re-grading access road to facilitate a new walking trail.
- Coordination with working group for new walking trail and Arcadis' in-house landscape architecture group for a conceptual plan.

Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility. Arcadis will submit the 60% Bid Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed. Arcadis will meet with Client's representatives at the 60%, 90% and final Bid document submission to review the Documents.

Task 5 – Permitting and Approvals

Arcadis will submit the 100% Design Documents to NYSEFC, NYSDEC, NYSDOT, and Orange County Department of Health (OCDOH) on behalf of Client. Upon receipt of comments from NYSEFC/NYSDEC, NYSDOT, and OCDOH Arcadis will finalize the Bidding Documents and prepare a comment response correspondence. Only one comment response letter each to NYSEFC/NYSDEC, NYSDOT, and OCDOH has been included in the budget.

Arcadis will submit the 100% design to CSXT for approval and establishment of new utility access agreement between Client and CSXT. Arcadis has included up to 80 hours in coordination with CSXT to achieve the necessary approvals for this project.

Additionally, Arcadis will support the Client in preparing, submitting, and acquiring the necessary permits to complete the project. Arcadis anticipates the following permits will be required:

- NYSDEC, NYSDOS, NYSOGS, and USACE Joint Permit Application and supplementals for freshwater wetlands and protection of waters.
- SWPPP if total disturbance exceeds one acre.

Task 6 – Funding Assistance

Arcadis will support Client in the solicitation of funding from State and Federal sources as appropriate for the Project including Water Infrastructure Improvement Act (WIIA) and Water Quality Improvement Program (WQIP) grants. Arcadis will monitor funding opportunities to determine if additional funding may become available for the project.

Task 7 – Bidding Assistance

Arcadis will assist Client with bidding the project. Arcadis will prepare electronic Bidding Documents for Client's use for electronic bidding. Arcadis will prepare a bid advertisement for the Client's approval and use. Arcadis will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and prepare up to three addenda as required for the Client's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids, and make a recommendation of award.

Preliminary Schedule:

Arcadis anticipates completing the aforementioned scope in Task 1 through Task 4 on or before June 30, 2027, for submission to the NYSDEC and NYSEFC in advance of the Order on Consent required submission date of October 3, 2028.

Schedule B

Additional or Optional Engineering Services

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

a. None at this time. In the event that Additional or Optional Engineering Services are identified and required under this Agreement at a later time, Client will provide Arcadis written authorization to perform such Services.

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 Standard 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 not to exceed $496,300.

Hourly Rates: **Charges for services provided will be in accordance with the attached Summary of Standard Charges.**

C.3 **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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

Schedule D
Construction Phase Services

D.1 CONSTRUCTION PHASE SERVICES

Note: For purposes of this Schedule, the expressions Contract Documents, Shop Drawing, and Change Order shall have the meanings given in the Construction Contract between Client and the Contractor.

1. **General Administration of Construction Contract**. Arcadis shall consult with and advise Client and act as Client's representative as provided in this Agreement. All of Client's instructions to Contractor will be issued through Arcadis who will have authority to act on behalf of Client to the extent provided in this Agreement.

2. **Visits to Site and Observation of Construction**. In connection with observations of the work of Contractor while it is in progress:

2.1 Arcadis shall make visits to the site at intervals appropriate to the various stages of construction as Arcadis deems necessary to observe, as an experienced and qualified design professional, the progress and quality of the Contractor's work (Work). In addition, Arcadis shall provide the services of a Resident Project Representative (Resident) at the site to provide more extensive inspection of the Work. Based on information obtained during such visits and on its inspections, Arcadis shall endeavor to determine whether the Work is proceeding in accordance with the intent of the Contract Documents. Arcadis shall keep Client informed of the progress of the Work.

2.2 The Resident will be Arcadis' agent or employee and under Arcadis' supervision. The duties and responsibilities of the Resident are set forth in Article D.2, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative," below.

2.3 The purpose of Arcadis' visits to and representation by the Resident at the site will be to provide for Client a greater degree of confidence that the completed Work will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor.

2.4 Arcadis shall not, during such visits or as a result of observations or inspections of the Work in progress, supervise, direct or have control over the Work nor shall Arcadis have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing the Work. Arcadis can neither guarantee the performance of the Work by the Contractor nor assume responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3. **Defective Work**. During its visits, Arcadis may disapprove of or reject the Work while it is in progress if Arcadis believes that the Work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

4. **Interpretations and Clarifications**. Arcadis shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare Change Orders for execution by Client, if appropriate.

5. **Shop Drawings**. Arcadis shall review and approve (or take other appropriate action) Shop Drawings, samples and other data which Contractor is required to submit. Such reviews shall be for conformance with the design concept of the Project as a functioning whole and compliance with the information given in the Contract Documents. Any approvals or other actions associated with the reviews shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

6. **Substitutes**. Arcadis shall evaluate and determine the acceptability of substitute or 'equivalent' materials and equipment proposed by Contractor.

7. **Inspections and Tests**. Arcadis shall have authority, as Client's representative, to require special inspection or testing of the work, and shall review all certificates of inspections, testings and approvals required by law or the Contract Documents to determine that both the content of the certificates and the certified inspection or test results comply substantially with such requirements.

8. **Disputes between Client and Contractor**. Arcadis shall act as the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of Client or Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.

9. **Applications for Payment**. Based on Arcadis' on-site observations, on information provided by the Resident, and on review of applications for payment and the accompanying data and schedules, Arcadis shall:

9.1 Recommend in writing payments to Contractor. Such recommendations of payment will constitute a representation to Client that the Work has progressed to the point indicated and that, to the best of Arcadis' knowledge, information and belief, the quality of the Work is generally in accordance with the Contract Documents subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations.

9.2 In the case of unit price Work, include final determinations of quantities and classifications of the Work in the recommendations of payment, subject to any subsequent adjustments allowed by the Contract Documents.

9.3 By recommending any payment Arcadis will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations beyond the responsibilities specifically assigned to Arcadis in this Agreement and the Contract Documents have been made by Arcadis to check the quality or quantity of the Work as it is furnished and performed. Arcadis is not responsible to examine how or for what purposes the Contractor has used the moneys paid on account, or to determine that title to any of the Work, materials or equipment has passed to Client free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

10. **Contractor's Completion Documents**. Arcadis shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests, approvals, and record documents which are to be assembled by Contractor in accordance with the Contract Documents. Such review is limited to determining that their content complies with the requirements of the Contract Documents Arcadis shall transmit the documents to Client with written comments.

11. **Inspections**. Arcadis shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed Work is acceptable so that Arcadis may recommend, in writing, final payment to Contractor. Arcadis may give written notice to Client and the Contractor that the Work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 9.3.

12. **Limitation of Responsibilities**. Arcadis shall not be responsible for the acts or omissions of the Contractor, or of any subcontractor or supplier, or any of the Contractor's or subcontractor's or supplier's agents or employees or any other persons (except Arcadis' own employees and agents) at the site or otherwise furnishing or performing any of the Work. However, nothing contained in paragraphs 1 thru 11, shall be construed to release Arcadis from liability for failure to properly perform the duties and responsibilities assumed by Arcadis in the Contract Documents.

D.2 DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

The duties and responsibilities of the Resident Project Representative (Resident) are limited to those of Arcadis in Schedules A and B and are further described as follows:

1. **General.** The Resident is Arcadis' agent at the site, will act as directed by and under the supervision of Arcadis, and will confer with Arcadis regarding Resident's actions. Resident's dealings in matters pertaining to the on-site Work shall in general be with Arcadis and Contractor, but keeping Client advised as appropriate. Resident's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident shall generally communicate with Client with the knowledge of and under the direction of Arcadis.

2. Duties and Responsibilities. The Resident shall:

2.1 *Schedules*: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Arcadis concerning acceptability.

2.2 *Conferences and Meetings*: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

2.3 *Liaison*:

2.3.1 Serve as Arcadis' liaison with Contractor, working principally through Contractor's superintendent and assist in explaining the intent of the Contract Documents as necessary.

2.3.2 Assist Arcadis in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-site operations.

2.3.2 Assist in obtaining from Client additional details or information, when required for proper execution of the Work.

2.4 *Shop Drawings and Samples*:

2.4.1 Record date of receipt of Shop Drawings and samples.

2.4.2 Receive samples which are furnished at the site by Contractor and notify Arcadis of availability of samples for examination.

2.4.3 Advise Arcadis and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not yet been received and approved by Arcadis.

2.5 *Review of Work, Rejection of Defective Work, Inspections and Tests*:

2.5.1 Conduct on-site inspections of Work in progress to determine whether the Work is proceeding in general compliance with the Contract Documents.

2.5.2 Report to Arcadis whenever Resident believes that any Work is unsatisfactory, faulty or defective, or does not conform to the Contract Documents, has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise Arcadis of Work that Resident believes should be corrected or rejected, should be uncovered for inspection, or requires special testing, inspection or approval.

2.5.3 Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof. Observe, record and report to Arcadis appropriate details relative to the test procedures and startups.

2.5.4 Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Arcadis.

2.6 *Interpretation of Contract Documents*: Report to Arcadis when clarifications and interpretations of the Contract Documents are needed. Transmit to Contractor clarifications and interpretations issued by Arcadis.

2.7 *Modifications*. Consider and evaluate Contractor's suggested changes to Drawings or Specifications and report to Arcadis with Resident's recommendations. Transmit Arcadis' decisions to Contractor.

2.8 *Records*:

2.8.1 Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Construction Contract, Arcadis' clarifications and interpretations of the Contract Documents, progress reports, and

2.8.2 Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions concerning Change Orders or changed conditions, list of job site visitors, daily activities, decisions, general observations, and specific, more detailed observations as in the case of test procedures. Send copies to Arcadis at appropriate intervals.

2.8.3 Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

2.9 *Reports*:

2.9.1 Furnish reports at appropriate intervals to Arcadis concerning progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.

2.9.2 Consult with Arcadis in advance of scheduled major tests, inspections or start of important phases of the Work.

2.9.3 Draft proposed Change Orders, obtaining supporting information from Contractor, and recommend to Arcadis.

2.9.4 Report any accidents or unusual incidents to Arcadis and Client immediately upon occurrence.

2.10 *Payment Requests*: Review Contractor's applications for payment for compliance with the requirements of the Contract Documents and forward with Resident's recommendations to Arcadis. The Resident will note the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

2.11 *Certificates, Maintenance and Operation Manuals*: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be furnished by Contractor are appropriate to the items actually installed and in accordance with the Contract Documents. The Resident will have this material delivered to Arcadis for review and forwarded to Client prior to final payment for the Work.

2.12 *Completion*:

2.12.1 Before Arcadis issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

2.12.2 Determine whether necessary inspections and approvals by public agencies having jurisdiction over the Work have been performed and advise Arcadis accordingly.

2.12.3 Conduct a final inspection of the Work in the company of Arcadis, Client, and Contractor and prepare a final list of items to be completed or corrected.

2.12.4 Verify that all items on final list have been completed or corrected and make recommendations to Arcadis concerning acceptance of the Work.

3. Limitations of Authority. The Resident:

3.1 Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment unless authorized by Arcadis.

3.2 Shall not exceed limitations of Arcadis' authority as set forth in this Agreement or the Contract Documents.

3.3 Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.

3.4 Shall not advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

3.5 Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

3.6 Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.

3.7 Shall not authorize Client to occupy the Project in whole or in part.

3.8 Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Arcadis.

Environmental Facilities Corporation | Department of Health

KATHY HOCHUL
Governor

MAUREEN A. COLEMAN
President and CEO

Mandatory State Revolving Fund Terms and Conditions

For Contracts Funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

Identify Contract Type prior to Advertisement for Bid:

☐ **Construction**
- ☐ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☒ **Non-Construction**

Effective October 1, 2025

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INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document. Recipients, Contractors, Subcontractors, and any other involved entities must also comply with any and all applicable rules and regulations not listed below or in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, surety that is completing performance for a defaulted contractor pursuant to a performance bond, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction Provider means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

Subcontract means an agreement between a Contractor and a Subcontractor.

Subcontractor means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212. This does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all CWSRF projects and for DWSRF projects are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than $10,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") participation requirements of this section apply to the Contracts Meeting Article 15-A Thresholds.

> ***Contracts Meeting Article 15-A Thresholds*** *means Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:*
> *a) Non-Construction Provider Contracts greater than $25,000;*
> *b) Non-Construction Provider Contracts that are initially under $25,000 but subsequent change orders or contract amendments increase the Contract value to above $25,000;*
> *c) Construction Contracts greater than $100,000; and,*
> *d) Construction Contracts that are initially under $100,000 but subsequent change orders or contract amendments increase the Contract value to above $100,000.*

Disregard this section if it does not apply to this Contract or Subcontract.

I. General Provisions

A. Contractors and Subcontractors are required to comply with the following provisions:

1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State Contracts meeting Article 15-A thresholds.

2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.

3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction Contracts related to any government programs providing federal financial assistance, as those terms are defined therein.

4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction Contracts in excess of $10,000, as those terms are defined therein.

5. Section 504 of the Rehabilitation Act of 1973 (“Section 504”) for any program or activity receiving federal financial assistance, as those terms are defined therein.

6. The Age Discrimination Act of 1975 (“Age Discrimination Act”) for any program or activity receiving federal financial assistance, as those terms are defined therein.

7. Section 13 of the Federal Water Pollution Control Act (“Clean Water Act”) Amendments of 1972 (“Section 13”) for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.

B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time or as otherwise determined by EFC.

C. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(E) of this section, or enforcement proceedings as allowed by the Contract.

D. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

II. Equal Employment Opportunities (EEO)

A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

B. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.

D. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.

E. The Contractor will include the provisions of Subdivisions II(A) and II(C) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

F. The Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender

identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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, including apprenticeship.

G. ***For construction contracts in excess of $10,000***, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.

H. Pursuant to 41 CFR Section 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet, if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
2. Has 50 or more employees;
3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
4. Has a Contract, Subcontract, or purchase order amounting to $50,000 or more.

III. Business Participation Opportunities for MWBEs

Applicable to Contracts Meeting Article 15-A Thresholds

A. Contract Goals

1. ***New York State certified MWBE participation goals for this contract are 20%***. For projects funded from the sources listed below, the goals may be achieved through any combination of MBE and/or WBE participation.
   a. CWSRF, DWSRF & Green Innovation Grant Program (GIGP).
   b. NYS Water Infrastructure Improvement Act Grants that are also receiving EFC financing.
   c. NYS Intermunicipal Grants that are also receiving EFC financing.

2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MWBEs found at https://ny.newnycontracts.com.

3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.

   a. For construction and construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a Supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a Broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
   b. For Non-Construction Provider Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a Broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.

4. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as Subcontractors or Suppliers in the performance of the Contract.

5. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the MWBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.

2. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this section.

3. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.

4. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the MBO in the Monthly MWBE Contractor Compliance Report immediately following the change. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the Monthly MWBE Contractor Compliance Report or revised Utilization Plan.

5. The Contractor shall submit copies of all fully executed Subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

C. Request for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the MBO documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request aligns with the documentation identified on the Request for Waiver form, the MBO shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.

2. If the MBO, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regard to such non-compliance, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

1. The Contractor agrees to submit a report to the MBO by the third business day following the end of each month over the term of this Contract documenting the payments made and the

progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Liquidated Damages - MWBE Participation

1. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.

2. Liquidated damages shall be calculated as an amount not to exceed the difference between:

   a. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
   b. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.

3. The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor's non-compliance.

4. In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women's Business Development ("ESD") pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

SECTION 3 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

The requirements of this section apply to all Construction Contracts and Subcontracts

A. New York State Veterans' Service Law Article 3, and 9 NYCRR Part 252, and/or any other related regulations promulgated thereto, provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. New York State recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of EFC Contracts.

   In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as Subcontractors or Suppliers, as protégés, or in other partnering or supporting roles.

B. Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: https://sdves.ogs.ny.gov/business-search.

C. Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or

VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

SECTION 4 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (2) all Contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as Attachment 2 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

(a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
(b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
(c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 5 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than $2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of $2,000:

(a) Required Contract Clauses

1. Minimum Wages

(i) *Wage rates and fringe benefits*

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate

on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

As provided in paragraphs (d) and (e) of this section the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis–Bacon poster (WH–1321) must be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The Davis-Bacon poster (WH-1321) can be found at https://www.dol.gov/whd/regs/compliance/posters/davis.htm . Wage determinations may be obtained from the US Department of Labor's website, https:/sam.gov/.

(ii) *Frequently recurring classifications*

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR Part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
2. The classification is used in the area by the construction industry; and,
3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) *Conformance*

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the Contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a

classification in the wage determination; and
2. The classification is used in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(D) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(E) The contracting officer must promptly notify the Contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The Contractor must furnish a written copy of such determination to each affected worker, or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iv) *Fringe benefits not expressed as an hourly rate*

Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) *Unfunded plans*

If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided,* that the Secretary of Labor has found, upon the written request of the Contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(vi) *Interest*

In the event of a failure to pay all or part of the wages required by the Contract, the Contractor will be required to pay interest on any underpayment of wages.

2. Withholding.

(i) *Withholding requirements*

The Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor, so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by this Contract or any other Federal contract, or federally-assisted contract subject to Davis–Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2).

The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally-assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

In the event of a Contractor's failure to pay any laborer or mechanic, including any apprentice or helper, working on the site of the work (or otherwise working on construction or development of the project under a development statute) all or part of the wages required by the Contract, or upon the Contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the Recipient, Subrecipient at any tier, and/or contracting agency may on its own initiative and after written notice to the Contractor, sponsor, applicant, or owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a Contractor, or a Contractor's bankruptcy estate;

(D) A Contractor's assignee(s)

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Payrolls and basic records.

(i) *Basic record requirements*

(A) Length of record retention

All regular payrolls and other basic records must be maintained by the Contractor and any Subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in a construction or development of the project under a development statute) for a period of at least three years after all the work on the prime contract is completed.

(B) Information required

Such records must contain the name, Social Security number, last known address, telephone number, and email address of each such worker, each worker's correct classification(s) of work

actually performed;, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act), daily and weekly number of hours actually worked in total on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits

Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act, the Contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) *Certified payroll requirements*

(A) Frequency and method of submission

The Contractor or Subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, a copy of all payrolls to the Recipient. The prime contractor is responsible for the submission of all certified payrolls by all Subcontractors. A prime contractor may permit or require Contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the Contractor, the contracting agency, EFC, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the Contractor is unable or limited in its ability to use the electronic system.

(B) Information required

The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i)(B), except that full social security numbers and home addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's social security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/forms or its successor website. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(C) Statement of Compliance

Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor, or the Contractor's or Subcontractor's agent who pays or supervises the payment of the persons employed under the Contract and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information and records are correct and complete;

2. That each laborer or mechanic (including each helper and apprentice) working on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the Contract.

(D) Use of Optional Form WH-347

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.

(E) Signature

The signature by the Contractor, Subcontractor, or the Contractor's or Subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification

The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention

The Contractor or Subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) *Contracts, Subcontracts, and related documents*

The Contractor or Subcontractor must maintain this Contract or Subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The Contractor or Subcontractor must preserve these Contracts, Subcontracts, and related documents during the course of the work and for a period of 3 years after all work on the prime contract is completed.

(iv) *Required disclosures and access*

(A) Required record disclosures and access to workers

The Contractor or Subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents the Recipient, EFC, EPA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statues referenced by 29 CFR § 5.1, available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements

If the Contractor or Subcontractor fails to submit the required records, make them available, or refuses to permit worker interviews during working hours on the job, the federal agency may, after written notice to the Recipient, Contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records

available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR § 5.12. In addition, any Contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the Contractor or a person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) Required information disclosures

Contractors and Subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the EPA if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the federal agency is not such a party to the contract, the Contractor, Subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the EPA, Recipient, EFC, or subrecipient at any tier, contracting agency, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and trainees.

(i) *Apprentices*

(A) Rate of pay

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA) Training, or with a State Apprenticeship Agency recognized by the OA, A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program., In the event the OA or a State Apprenticeship Agency recognized by the OA, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits

Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio

The allowable ratio of apprentices to journey workers on the job site in any craft classification must not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program must be paid not less than the applicable wage rate on the wage

determination for the work actually performed.

(D) Reciprocity of ratios and wage rates

Where a Contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journey worker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ration and wage rate specified in the Contractor's registered program must be observed.

(ii) *Equal employment opportunity*

The use of apprentices and journey workers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Reserved

6. Subcontracts

The Contractor or Subcontractor must insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (11) or a link to the DBRA Requirements for Contractors and Subcontractors Under EPA Grants documents on EPA's Contract Provisions for Davis-Bacon and Related Acts webpage, along with applicable wage determination(s) and such other clauses or contract modifications as the EPA may by appropriate instructions require, and a clause requiring the Subcontractors to include these clauses and wage determination(s) in any lower-tier Subcontracts. The prime Contractor and any Subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of underpayment or loss, due to any workers of lower-tier Subcontractors, and may be subject to debarment, as appropriate.

7 through 9. Reserved

10. Certification of eligibility

(i) By entering into this Contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 40 U.S.C. 6144(b) or 29 CFR 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. § 1001.

11. Anti-Retaliation

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part of 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

For Contracts in Excess of $100,000, in addition to part (a):

(b) Contract Work Hours and Safety Standards Act (CWHSSA)

1. **Overtime requirements**. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages**. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. **Withholding for Unpaid Wages and Liquidated Damages.**

(i) *Withholding process*

The EPA, EFC, Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section, any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(1) of this section, or both, over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A Contractor's assignee(s);

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907

4. **Subcontracts**. The Contractor or Subcontractor must insert in any Subcontracts the clauses set forth in paragraphs (1) through (5) of this section and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The prime contractor is responsible for compliance by any Subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (5). In the event of any violations of these clauses, the prime contractor and any Subcontractor(s) responsible will be liable for any unpaid wages for monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-Retaliation**

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complain, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

SECTION 6 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government Contracts or federally assisted Construction Contracts pursuant to Executive Order 12549.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

SECTION 7 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than $100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of $100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 (“Lobbying Certification”) in the form attached hereto as Attachment 3, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional permanent signage is required for projects receiving funding from the NYS Bond Act.

If Contractor is expected to provide an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Attachment 1 – EFC MWBE Utilization Plan

Environmental Facilities Corporation | Department of Health

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. Submit the completed (electronic signature box checked and dated) form to the Recipient's Minority Business Officer (MBO) no later than the date of contract execution. Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be found on EFC's website.

If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified MWBE, please contact EFC for assistance.

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in ESD's MWBE Directory. A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9 and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the Mandatory Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed (electronic signature box checked and dated) to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION							
Recipient/Municipality:				**County:**			
Project No.:		**Program ID:**		**Contract ID:**		**Registration No. (NYC only):**	
Minority Business Officer:			**Email:**			**Phone #:**	
Address of MBO:							
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.						**Date:**	

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION					
Firm Name:				**Contract Type:** ☐ Construction ☐ Other Services	
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ Other: If yes, please include Prime information in Section 3. If dual certified, you must select either MBE or WBE.					
Address:		**Phone #:**		**Fed. Employer ID #:**	
Description of Work:			**Email:**		
Award Date:	**Start Date:**	**Completion Date:**	**MWBE GOAL Total**	**PROPOSED MWBE Participation**	
Total Contract Amount: $ **MWBE Eligible Contract Amount:** $ (MWBE Goals are applied to this amount and includes all change orders, amendments, & specialty waivers)			**Total:** % $	**Total:** % $	

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: MWBE SUBCONTRACTOR INFORMATION			
This Submittal is:	☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:		
NYS Certified M/WBE Subcontractor Info		**Contract Amount:**	**For EFC Use:**
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			

SIGNATURE	
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function. **Name** (Please Type)**:**	**Date:**

Attachment 2 – AIS Contractor's Certification

Environmental Facilities Corporation | Department of Health

AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA), in accordance with the requirements of the EPA and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – Lobbying Certification

Environmental Facilities Corporation | Department of Health

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____
Recipient: _____
Project Description: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND ENTER INTO AN AGREEMENT FOR FINAL DESIGN PROFESSIONAL ENGINEERING SERVICES WITH ARCADIS OF NEW YORK INC. FOR THE WEST TRUNK SEWER REHABILITATION CONTRACT NO. 3 PROJECT IN THE AMOUNT OF $712,900.00

WHEREAS, the City of Newburgh completed the West Trunk Sewer Inflow and Infiltration Planning Project which determined that a segment of the West Trunk Sewer required replacement; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for professional engineering services to complete the final design and the preparation of bid documents for the West Trunk Sewer Rehabilitation Contract No. 3 Project (the "Project"); and

WHEREAS, the scope of services will include field investigations, preparation of a basis of design report and preparation of bid documents; and

WHEREAS, funding for the cost of the services the amount of $712,900.00 shall be derived from financing through New York State Environmental Facilities Corporation Project No. C3-7332-15-00; 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 the amount of $712,900.00 to complete the final design and the preparation of bid documents for the West Trunk Sewer Rehabilitation Contract No. 3 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.

SENT VIA E-MAIL ONLY

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

Arcadis of New York, Inc.
646 Plank Road
Suite 100
Clifton Park, NY 12065
United States
Phone: 518 250 7300
www.arcadis.com

Date: April 3, 2026
Our Ref: 103127674
Subject: Proposal for Engineering Design Services – West Trunk Sewer Rehabilitation Contract III

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) is pleased to provide the City of Newburgh (City) with this letter proposal for design services to rehabilitate the most upstream portions of the West Trunk Sewer. We appreciate the City's continued confidence in Arcadis' ability to provide engineered solutions for the City's tough infrastructure problems.

Project Understanding

The West Trunk Sewer conveys flow from the Town of Newburgh and the western portion of the City of Newburgh to the South Interceptor Sewer and ultimately to the City's Water Pollution Control Plant (WPCP). Portions of the sewer are constructed out of brick and clay tile block and predate the construction of the WPCP. Over the past decade, there have been catastrophic failures of downstream portions of the West Trunk that resulted in emergency replacement of portions of the sewer. This prompted the City to investigate and rehabilitate approximately 3,600 linear feet of the West Trunk from Lake Avenue to Regulator No. 2.

In 2023, Arcadis assisted the City in securing a $100,000 Engineering Planning Grant through NYSDEC/NYSEFC to evaluate the upgradient portion of the West Trunk and including the completion of an Inflow and Infiltration (I/I) study. The goal of the study was to evaluate the existing condition of the West Trunk Sewer from a perspective of providing rehabilitation recommendations to eliminate sources of I/I and to prolong the service life of the existing West Trunk Sewer. The study included the inspection of approximately 7,000 linear feet of the West Trunk Sewer of a combination of brick and clay block and vitrified clay construction, ranging in size from 12- to 54-inch diameter. Arcadis finalized the preliminary engineering report, submitting it for acceptance by NYSDEC/NYSEFC in July 2025.

This project will build upon the preliminary engineering report to address sources of I/I by rehabilitating the West Trunk Sewer. During the study phase, it was discovered that portions of the existing West Trunk Sewer were in relatively good condition. There were some defects such as cracks and fractures observed and documented, but a majority of the West Trunk Sewer included in the study area can be rehabilitated with the installation of a sewer liner. However, despite the majority of the sewer segments being in relatively good condition, there is a section roughly 280 feet in length of the 54-inch diameter brick and clay tile portion of the sewer that is severely deformed

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and appears through visual inspection to be at risk of collapse. It was determined that this segment of the West Trunk Sewer already has too much deformation to be rehabilitated by lining and the entire 600-foot segment (which includes the 280-foot deformed portion) will need to be replaced. This project will evaluate construction alternatives for the replacement of this portion of the sewer including open cut and trenchless methods. This project will also evaluate sizing for bypass pumps and possible bypass pumping routes and will finalize the design for the lining of approximately 2,530 linear feet 24-inch diameter sewer and approximately 2,050 linear feet of 54" diameter sewer in the project area.

Scope of Services

Task 1 – Field Investigations

Topographic and Utility Survey: Arcadis will engage a woman owned business enterprise (WBE) surveying subconsultant to complete a full instrument field survey of a portion of the West Trunk corridor between Little Britain Road and Lake Street. The survey will depict road rights of way, surface features, topography (1-foot contour intervals), improvements, and underground utilities as marked out by Dig Safely New York (water, sewer, electric, natural gas). Elevations of the existing utilities, where access is possible through manholes and structures, will be obtained. The survey datum will be NAVD 88 and be completed in AutoCAD format.

Geotechnical Borings: Subsurface soil data will be collected at up to four (4) selected locations to facilitate the understanding of subsurface conditions by a geotechnical driller. Arcadis intends to engage the services of a minority owned business enterprise (MBE) subcontractor. The subsurface explorations will be limited to 40-foot deep borings and are only intended to capture soil conditions, and if encountered, proximity to rock and the water table. Boring holes located in paved areas will be backfilled with 1-1/2 sack slurry and cold patched, while boring holes in non-paved areas will be filled with sack slurry and tailings. Prior to drilling, the intended location of each boring will be explored by Ground Penetrating Radar (GPR) to search for potential interferences that could be damaged by, or be damaging to, the drill rig. This information will be used to ascertain the proper location of each. In addition, Dig Safely, New York will be contacted to mark out the utility locations in the area to support the GPR exploration and drilling.

Natural Resources Assessment: Arcadis will perform a natural resources assessment within the defined project boundaries, including both desktop and field analyses. The desktop analysis will utilize publicly available data, mapping resources and aerial photography to obtain information on the potential for the following natural resources to occur within, or in close proximity to the project site.

Arcadis will conduct a one-day field visit to verify the findings of the desktop analysis and to delineate the areas of identified resources. Aquatic resources identified within the defined project area will be delineated in accordance with the United States Army Corps of Engineers (USACE) Wetlands Delineation Manual (TR-Y-87-1) and the USACE Regional Supplement (TR-12-1). Wetland boundaries will be delineated with pink-glo flagging stamped with "WETLAND BOUNDARY". Each flag will be denoted alphanumerically with a unique identifier and will be spatially located by a licensed land surveyor. A minimum of two wetland determination plots will be performed for each wetland delineated (one wetland and one upland plot). Arcadis will assess each wetland and waterway delineated to preliminarily identify the appropriate regulatory agency(s).

During the one-day field visit, the Project Site will be assessed for the potential presence of Federal and State protected species and significant natural communities. If the desktop analysis identifies the presence of such resources, Arcadis will assess whether the habitat for the resource is present or absent. Included in this scope will be surveys for bald eagles, which are known to nest in the vicinity.

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Trees having a diameter at breast height (DBH) of 12 inches will be measured and survey located. Trees that appear to be dead or diseased will be noted during the survey.

Arcadis will summarize the findings of the desktop evaluation and field assessment in a technical memorandum. The memorandum will include a detailed narrative, figures generated from the desktop review, photograph documentation, completed wetland determination forms and associated delineation mapping. Trees with a 12-inch DBH and larger identified within the project limits will be listed in a table and depicted on project mapping. The approximate limits of areas determined to be potentially suitable for State and Federal threatened and endangered species and State listed species of special concern identified during the desktop analysis will be depicted on project mapping and included in the memorandum.

Drone Captured 3D Point Cloud: Arcadis will scan the interior of approximately 1,100 linear feet of the West Trunk using a drone that will capture a 3D LIDAR point cloud. This will create a digital twin (3D model) that can be used in conjunction with our topographical and utility survey to accurately locate the West Trunk along a steep stream embankment behind the All Around Gymnastics Studio, the Al Ikhlas Mosque, and the Independence Square Apartments Complex. Additionally, by capturing the 3D point cloud missing structures and the extent of the longitudinal cracking and loss of cross-sectional area can be ascertained.

Task 2 – Hydraulic Modeling and No-Rise Analysis

The portion of the West Trunk Sewer that will be replaced because of the extent of the deformation is located between commercial properties and the Quassaick Creek in a FEMA regulated floodway. Because of the sewer's location and the potential need for permanent stream bank stabilization to support construction and long term operation of the sewer, the potential impact to the floodplain must be evaluated through the development of a hydraulic model.

Data Collection and Review: Arcadis will obtain and review survey cross sections of Quassaick Creek from the Winona Lake Dam to as far downstream as the Hudson River and record drawings for relevant bridge, culvert, and dam structures along this reach. Arcadis will also review the FEMA FIS and the HEC-2 current effective hydraulic model. Arcadis will convert the effective peak flows for the 10, 50, 100, and 500-year events within the proposed model domain from the Winona Lake Dam to as far downstream as the Hudson River to hydrographs applying the SCS unit hydrograph.

Floodplain Modeling: Arcadis will develop the 1D hydraulic models to support design evaluations. Modeling efforts will include recreating the HEC-2 Current Effective Model for the Quassaick Creek Reach 1 in HEC-RAS as the Duplicate Effective Model. Arcadis will then calibrate the model to the effective peak flows and observed data.

The Corrected Effective Model will be developed from the Duplicate Effective Model. Arcadis will then include collected survey data and other field collected data to create the Existing Conditions (Pre-Project) Model. This modeling effort includes adjusting the terrain topography dataset, landcover data and the floodway modeling. Arcadis will revise the Proposed Conditions (Post-Project) Model to include the 60% design of the West Trunk Sewer Rehabilitation. Arcadis will run two iterations of the hydraulic model including a preliminary run incorporating survey data and draft (pre-60% design) alignment to support design team (confirm design water surface elevations) and a final run incorporating 60% design for No-Rise submission. Arcadis will compare existing and proposed floodplain and floodway elevations within the model domain to confirm no impacts on the floodplain as a result of the proposed project. Arcadis will respond to up to two rounds of questions and comments from floodplain manager on the hydraulic model.

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No-Rise Certification Package: Arcadis will prepare the No-Rise Certification package to include a narrative report detailing all analysis procedures and methodology for the development of the HEC-RAS model from the HEC-2 model, a description of the purpose of the request, the scope of the proposed rehabilitation project, and the methodology used to analyze the project effects. The narrative report will also include the Floodway Data Table from the FIS and cross section plots for existing and proposed conditions. The package will also include the model output printout, certified boundary survey, annotated Flood Insurance Rate Map (FIRM), topographic map, design plans, and the No-Rise Certification Form.

Assumptions: The scope and fee for Task 2 are based on the following assumptions:

- Existing studies, including the updated FEMA study and models will be provided to Arcadis by the City at no cost. The City should be able to request this information from FEMA at no cost as a participant in the National Flood Insurance Program.
- Record drawings are available for the bridges, dams, and culverts along the modeled reach. If not available, additional survey services will be required. Arcadis has included an allowance of $40,000 that could be used for additional survey if required to complete this task.
- Design will utilize the FEMA 10, 50, 100, and 500-year flows from the FIS or effective model.
- The analysis provided under this proposal only includes a No-Rise evaluation. While the model is being developed to the standards required for a future Conditional Letter of Map Revision (CLOMR) / Letter of Map Revision (LOMR), the work necessary to prepare and submit a CLOMR/LOMR application to FEMA is not included in this proposal but may be completed as additional services upon request by the City.
- Efforts to respond to floodplain manager comments requesting revisions to the No-Rise submission, modeling and mapping in this scope is limited to up to two rounds of comments. If additional rounds of comments are received from the floodplain manager, work to address these comments can be provided as an additional service upon request. It is expected that comments will not require additional hydrologic modeling or extensive revisions to the hydraulic mode, and accordingly, we have not included budget for additional modeling in response to comments. The first round of comments from the floodplain manager is expected to resolve most of the issues, such that the second round of comment review will address remaining minor comments only.

Deliverables: Deliverables for Task 2 will include the following:

- HEC-RAS models
- FEMA's No-Rise Certification and supporting data, including:
  - Narrative Report
  - Model output printout.
  - Certified boundary survey.
  - Annotated Flood Insurance Rate Maps (FIRM) and topographic map.
  - Design plans.
  - No-Rise Certification form.

Task 3 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. Due to the complexity and high contractor risk in replacing an approximately 600 feet portion of brick trunk sewer along the stream bank, Arcadis will evaluate options for trenchless replacement of the sewer as well as streambank stabilization if open cut replacement is the recommended option.

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It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.
- Preliminary construction sequencing.
- Updated plan and profile along with an anticipated drawing list.
- Preliminary list of specifications.
- Preliminary bypass plan.
- Existing Conditions Survey.
- Real Property information and easements.
- Identify permits and regulatory approvals required.

Arcadis will prepare a draft BODR and 30% Design deliverable for the City's review and will schedule a workshop meeting to review the documents with City and review comments that the City may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to the City. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

Task 4 – Prepare Bid Documents

Arcadis will build upon the 30% Basis of Design Report to prepare Bid Documents (inclusive of Drawings and a Project Manual) for regulatory approval and bidding purposes for West Trunk Sewer Rehabilitation Contract III. The Bid Documents will be prepared as a single prime contract in accordance with Wick's Law. Applicable funding agency language and requirements will be incorporated into the Bid Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide the City with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 4) and 90% (ACEE Class 3) submittals. The major elements of the project include the following:

- Replacement/structural repair of up to approximately 600 linear feet of combined sewer.
- Rehabilitation of approximately 4,600 linear feet of combined sewer ranging in size from 24-inches in diameter to 54-inches in diameter.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYSDOT) requirements.
- Repaving and striping as appropriate along the areas disturbed by construction.

During the 60% design phase Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility. Arcadis will submit the 60% Bid Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed.

Arcadis will meet with City representatives at the 60%, 90% and final Bid Document submission.

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Task 5 – Permitting and Regulatory Approvals

NYSEFC has classified this project as an "equivalency project" meaning that while it is funded through the State Revolving Fund (SRF), federal funds are being used. Therefore, there are additional federal requirements that the Project will need to comply with, similar to those funded directly by federal grants.

Permitting

Since this project has been deemed an equivalency project, NEPA permitting will be required. The Quassaick Creek and Muchattoes Lake are classified by NYSDEC as Class C waterbodies. Both are included in the National Wetlands Inventory (NWI) as a riverine and as a freshwater pond, respectively. As such, a NYSDEC, NYSDOS, NYSOGS, and USACE Joint Permit Application and supplementals for freshwater wetlands and protection of waters is anticipated as being required for the project.

Regulatory Approvals

Arcadis will submit the 100% Design Documents to New York State (NYS) Environmental Facilities Corporation (EFC) and NYS Department of Environmental Conservation (DEC) on behalf of the City. Upon receipt of comments from NYSEFC and NYSDEC, Arcadis will finalize the Bid Documents and prepare a comment response correspondence. Only one comment response letter per agency has been included in the budget.

Task 6 – Funding Assistance

Arcadis will continue to support the City in the solicitation of funding from State and Federal sources as appropriate for the Project including Water Infrastructure Improvement Act (WIIA) and Water Quality Improvement Program (WQIP) grants.

The WQIP application is part of the New York State Consolidated Funding Application, which is expected to open in May and close in late July. WIIA applications are typically due in September. Arcadis will monitor funding opportunities to determine if additional funding may become available for the project.

Task 7 – Bidding Assistance

Arcadis will assist the City with bidding the project. We will prepare electronic Bid Documents for City's use for electronic bidding. We will prepare a bid advertisement for the City's approval and use. We will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and prepare up to three addenda as required for the City's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids and make a recommendation of award.

Engineering Services During Construction

Arcadis will provide engineering services during construction for the duration of the project, which is anticipated to have a 12-month duration. Engineering services will generally include but are not limited to the following:

- Preconstruction Conference.
- Preparation of supplemental drawings and sketches required during Construction.
- Respond to Contractors' Request for Interpretations (RFIs).
- Review and provide Engineer's determination on Contractor submittals and shop drawings.
- Attend bi-weekly progress meetings.
- Provide full-time construction observation and resident engineering.

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- Conduct periodic site visits.
- Perform a site visit and finalize Contractor Punch Lists upon request for Substantial Completion.
- Preparation of Substantial Completion Certifications
- Final Certification of Completed Work.
- Preparation of As-Built Record Documents.
- Prepare Operation and Maintenance Manuals, as applicable.

Arcadis will provide a more detailed scope of services and cost proposal for Engineering Services During Construction at the completion of the design phase.

Compensation

Arcadis will complete the scope of services for the West Trunk Sewer Rehabilitation Project presented herein for a total not to exceed fee of $712,900 to be compensated on a time and expenses basis using our standard rate schedule for hours worked plus other direct costs with a markup of 10 percent.

Task	Fee
Task 1 – Field Investigations	$ 143,840.00
Task 2 – Hydraulic and Hydrological Modeling	$ 229,400.00
Task 3 – Basis of Design Report	$ 67,100.00
Task 4 – Prepare Bid Documents	$ 223,700.00
Task 5 – Permitting and Regulatory Approvals	$ 16,500.00
Task 6 – Funding Assistance	$ 10,400.00
Task 7 – Bidding Assistance	$ 21,960.00
Total Not to Exceed Fee	**$ 712,900.00**

Arcadis is familiar with NYSEFC requirements to make good faith efforts to obtain the services of M/WBE subcontractors. To that end we are proposing to use three different M/WBE subcontractors. It is estimated for the scope of services described herein, that the total M/WBE utilization will be approximately $129,850 or 18.2%.

Schedule

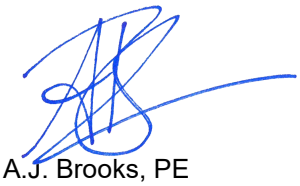
Arcadis understands that time is of the essence to repair/replace the portion of the West Trunk that shows signs of longitudinal fractures. Arcadis will complete the aforementioned scope in Tasks 1, Task 3, and Task 4 on or before March 31, 2027, for submission to NYSEFC.

Use or disclosure of information contained on this sheet is subject to the restriction and disclaimer located on the signature page of this document.

Mr. Jason Morris, PE
City of Newburgh
April 3, 2026

We look forward to continuing to assist the City in extending the lifespan of its critical wastewater infrastructure, and again, appreciate the confidence you have in our people. If you have any questions, please do not hesitate to call us at 518.250.7374 at your earliest convenience.

Sincerely,
Arcadis of New York, Inc.



A.J. Brooks, PE
Principal Engineer

Email: a.j.brooks@arcadis.com
Direct Line: 518.250.7374

CC. M. Kosier, C. Superak – Arcadis

Enclosures:
Standard Rate Schedule for 2026
Partially Executed Agreement

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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

This is an **Agreement** effective as of April _____, 2026 ["**Effective Date**"] City of Newburgh ["**Client**"], a municipal 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 Delaware, having its principal place of business at 110 West Fayette Street, Suite 300, Syracuse, New York 13202 and an office at 646 Plank Road, Suite 100, Clifton Park, New York, 12065.

The Client intends to design and construct the rehabilitation of the West Trunk Sewer from Little Britain Road to the intersection of Walsh Road and Dickson Street ["**Project**"].

Client engages Arcadis to provide professional engineering services related to the design and construction administration in support of its Project [**Services**].

The location of the Project is Washington Terrace, Newburgh [**Site**], New York [**State**].

Arcadis' Services for the Project are described generally as follows:

Provide engineering design and bidding services for the City of Newburgh West Trunk Sewer Rehabilitation Contract III.

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' obligations under this Agreement are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder. 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.

1.2 Standard of Care. Arcadis shall perform the professional engineering 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 Applicable Codes. The Service Instruments will conform to the generally accepted codes and regulations applicable to the Project at the time of performance.

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

1.6 Contract Documents. The Service Instruments shall incorporate Arcadis' standard construction documents **[Contract Documents**]. In any event, Arcadis shall be an additional insured on all liability and property damage insurance policies which the construction contractor(s) for the Project [**Contractor**] shall be required to provide. All contracts between Client and Contractor for the Project shall require the Contractor to indemnify and hold Client and Arcadis harmless from any and all legal actions and liabilities arising out of the construction of the Project including, but not limited to, injury to or death of any person or injury or destruction of tangible property, not caused by the sole negligence of the party to be indemnified.

1.7 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.

1.8 Hazardous Wastes. Client represents that the Project does not contemplate the performance of services, professional or otherwise, related to hazardous or toxic wastes, material, or substances and other pollutants. Arcadis shall not be responsible for and, to the fullest extent permitted by law, shall be held harmless from all costs and other liabilities arising from the presence in or about the Project of hazardous or toxic wastes, material or substances and other pollutants, whether or not designated as such by law or regulation.

1.9 Construction Phase Services. Arcadis shall provide construction phase Services in accordance with Schedule A and act as Client's representative at the Site in accordance with the General Conditions of the Contract Documents as modified by Schedule D.

1.9.1 In the event the construction phase services are provided by another party, Arcadis shall not be responsible for and Client shall indemnify and hold Arcadis and Arcadis' consultants harmless from all claims, damages, losses and expenses, including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution, acceptance, shop drawing or sample approval or modifications of such documentation issued or carried out by Client or others or construction observation carried out by others. Nothing contained in this paragraph shall be construed to release Arcadis or Arcadis' consultants from liability for failure to perform in accordance with professional standards any duty or responsibility which Arcadis has undertaken or assumed under 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 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 Project.

3.2 Project Criteria. Provide all criteria and information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, and any budgetary limitations. Furnish copies of all design and construction standards which Client will require to be included in the Service Instruments.

3.3 Data. Provide all available information, including previous reports and any other data in the possession of Client relevant to design or construction of the Project. 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 Surveys. Provide engineering surveys to define construction reference points to enable Contractor to lay out Project construction.

3.5 Access. Arrange for Arcadis to enter upon public and private property as necessary.

3.6 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.

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

3.8 Expert Advice. Provide legal, accounting, insurance or other necessary advisory services for the Project including any documents submitted by Arcadis. 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.

3.9 Site Representative. If Client designates a person other than Arcadis to represent Client at the Site, specify the duties, responsibilities and limitations of authority of such other person and the effect on Arcadis' duties and responsibilities in a schedule attached to this Agreement.

3.10 Ancillary Costs. If the Construction Cost includes the cost of the activities described in 3.7 through 3.10, provide an estimate of such costs to Arcadis for Project cost estimating purposes.

3.11 Meetings. Attend the pre-bid conference, bid opening, pre-construction conference, construction progress and other job related meetings, and Substantial Completion and Final Payment inspections.

3.12 Project 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' services, or any defect or non-conformance in the work of any Contractor.

4 PERIODS OF SERVICE

4.1 Time of Performance. Sections 4 and 5 anticipate the orderly and continuous progress of the Services through completion of construction. The time of performance is the period reasonably expected to be required for the design, award of contracts, construction and initial operation of the Project, including any necessary Client or regulatory agency review and approval.

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' Services will occur:

4.4.1 for a study, investigation or planning activity: upon delivery of the final report as specified in Schedule A or B, as appropriate;

4.4.2 for a design activity: when the Bid Set of Contract Documents is delivered as specified in Schedule A;

4.4.3 for a bidding or construction contract negotiation activity: upon issuance by Client of notice of award of the construction contract;

4.4.4 for a construction activity: when written recommendation of final payment for the last prime construction contract of the Project is issued; and

4.4.5 for a startup or operations activity: upon the earlier of successful completion of acceptance testing by the Contractor or beneficial occupancy by Client but, in any event, not later than one year after Substantial Completion.

4.5 Force Majeure. If a force, event, or circumstance beyond Arcadis' control interrupts or delays Arcadis' 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 work performed and Reimbursable Expenses incurred during the period covered by the invoice. Arcadis shall be entitled to invoice for any 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 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 in 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' 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 attorney's 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. The cost of constructing the Project [**Construction Cost**] means the total cost to Client of those portions of the Project designed and specified in the Service Instruments. Construction Cost will not include Arcadis' compensation and expenses, the cost of land, rights of way, or compensation for properties unless specified in Schedule A. 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 paragraphs 3.6 and 3.8 unless otherwise specified in Schedule A.

6.2 Opinions of Cost. Arcadis has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions. Arcadis' opinion of probable Construction Cost is made on the basis of Arcadis' experience and qualifications and represents Arcadis' 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' 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' 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' Services for the Project and Arcadis shall have the right to use or reuse and retain the copyright of such Service Instruments for its purposes, at its sole risk and without liability to Client. Client may retain copies in connection with the use or occupancy of the Project.

7.3.1 **Reuse**. Arcadis does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Project 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 sent 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' employees' Project-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' performance under this Agreement; and

7.4.3 professional liability in the amount of $1,000,000 for legal obligations arising out of Arcadis' 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. All 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 last 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 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 SECTION 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 for Equivalency Project Non-Construction Contracts attached to this Agreement.

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"

8.2.4 **Schedule D** " Construction Phase Services"

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: _____

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

City of Newburgh
83 Broadway
Newburgh, New York 12550
Attn: Mayor's Office

ARCADIS of New York, Inc.

By: _____

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

Arcadis of New York
646 Plank Road, Suite 100
Clifton Park, New York 12065
Attn: A.J. Brooks, PE

Schedule A
Scope of Basic Engineering Services and Related Matters

Task 1 – Field Investigations

Topographic and Utility Survey: Arcadis will engage a woman-owned business enterprise (WBE) surveying subconsultant to complete a full instrument field survey of a portion of the West Trunk corridor between Little Britain Road and Lake Street. The survey will depict road rights of way, surface features, topography (1-foot contour intervals), improvements, and underground utilities as marked out by Dig Safely New York (water, sewer, electric, natural gas). Elevations of the existing utilities, where access is possible through manholes and structures, will be obtained. The survey datum will be NAVD 88 and be completed in AutoCAD format.

Geotechnical Borings: Arcadis intends to engage the services of a minority owned business enterprise (MBE) geotechnical drilling subcontractor to collect subsurface soil data at up to four (4) selected locations to facilitate the understanding of subsurface conditions. The subsurface explorations will be limited to 40-foot deep borings and are only intended to capture soil conditions, and if encountered, proximity to rock and the water table. Boring holes located in paved areas will be backfilled with 1-1/2 sack slurry and cold patched, while boring holes in non-paved areas will be filled with sack slurry and tailings. Prior to drilling, the intended location of each boring will be explored by Ground Penetrating Radar (GPR) to search for potential interferences that could be damaged by, or be damaging to, the drill rig. In addition, Dig Safely, New York will be contacted to mark out the utility locations in the area to support the GPR exploration and drilling.

Natural Resources Assessment: Arcadis will perform a natural resources assessment within the defined project boundaries, including both desktop and field analyses. The desktop analysis will utilize publicly available data, mapping resources and aerial photography to obtain information on the potential for the following natural resources to occur within, or in close proximity to the project site.

Arcadis will conduct a one-day field visit to verify the findings of the desktop analysis and to delineate the areas of identified resources. Aquatic resources identified within the defined project area will be delineated in accordance with the United States Army Corps of Engineers (USACE) Wetlands Delineation Manual (TR-Y-87-1) and the USACE Regional Supplement (TR-12-1). Wetland boundaries will be delineated with pink-glo flagging stamped with “WETLAND BOUNDARY”. Each flag will be denoted alphanumerically with a unique identifier and will be spatially located by a licensed land surveyor. A minimum of two wetland determination plots will be performed for each wetland delineated (one wetland and one upland plot). Arcadis will assess each wetland and waterway delineated to preliminarily identify the appropriate regulatory agency(s).

During the one-day field visit, the Project Site will be assessed for the potential presence of Federal and State protected species and significant natural communities. If the desktop analysis identifies the presence of such resources, Arcadis will assess whether the habitat for the resource is present or absent. Included in this scope will be surveys for bald eagles, which are known to nest in the vicinity.

Trees having a diameter at breast height (DBH) of 12 inches will be measured and survey located. Trees that appear to be dead or diseased will be noted during the survey.

Arcadis will summarize the findings of the desktop evaluation and field assessment in a technical memorandum. The memorandum will include a detailed narrative, figures generated from the desktop review, photograph documentation, completed wetland determination forms and associated delineation mapping. Trees with a 12-inch DBH and larger identified within the project limits will be listed in a table and depicted on project mapping. The approximate limits of areas determined to be potentially suitable for State and Federal threatened and endangered species and State listed species of special concern identified during the desktop analysis will be depicted on project mapping and included in the memorandum.

Drone Captured 3D Point Cloud: Arcadis will scan the interior of approximately 1,100 linear feet of the West Trunk using a drone that will capture a 3D LIDAR point cloud. This will create a digital twin (3D model) that can be used in conjunction with the

topographical and utility survey to accurately locate the West Trunk along a steep stream embankment behind the All Around Gymnastics Studio, the Al Ikhlas Mosque, and the Independence Square Apartments Complex.

Task 2 – Hydraulic Modeling and No-Rise Analysis

Data Collection and Review: Arcadis will obtain and review survey cross sections of Quassaick Creek from the Winona Lake Dam to as far downstream as the Hudson River and record drawings for relevant bridge, culvert, and dam structures along this reach. Arcadis will also review the FEMA FIS and the HEC-2 current effective hydraulic model. Arcadis will convert the effective peak flows for the 10, 50, 100, and 500-year events within the proposed model domain from the Winona Lake Dam to as far downstream as the Hudson River to hydrographs applying the SCS unit hydrograph.

Floodplain Modeling: Arcadis will develop the 1D hydraulic models to support design evaluations. Modeling efforts will include recreating the HEC-2 Current Effective Model for the Quassaick Creek Reach 1 in HEC-RAS as the Duplicate Effective Model. Arcadis will then calibrate the model to the effective peak flows and observed data.

The Corrected Effective Model will be developed from the Duplicate Effective Model. Arcadis will then include collected survey data and other field collected data to create the Existing Conditions (Pre-Project) Model. This modeling effort includes adjusting the terrain topography dataset, landcover data and the floodway modeling. Arcadis will revise the Proposed Conditions (Post-Project) Model to include the 60% design of the West Trunk Sewer Rehabilitation. Arcadis will run two iterations of the hydraulic model including a preliminary run incorporating survey data and draft (pre-60% design) alignment to support design team (confirm design water surface elevations) and a final run incorporating 60% design for No-Rise submission. Arcadis will compare existing and proposed floodplain and floodway elevations within the model domain to confirm no impacts on the floodplain as a result of the proposed project. Arcadis will respond to up to two rounds of questions and comments from floodplain manager on the hydraulic model.

No-Rise Certification Package: Arcadis will prepare the No-Rise Certification package to include a narrative report detailing all analysis procedures and methodology for the development of the HEC-RAS model from the HEC-2 model, a description of the purpose of the request, the scope of the proposed rehabilitation project, and the methodology used to analyze the project effects. The narrative report will also include the Floodway Data Table from the FIS and cross section plots for existing and proposed conditions. The package will also include the model output printout, certified boundary survey, annotated Flood Insurance Rate Map (FIRM), topographic map, design plans, and the No-Rise Certification Form.

Assumptions: The scope and fee for Task 2 are based on the following assumptions:

- Existing studies, including the updated FEMA study and models will be provided to Arcadis by the Client at no cost. The Client should be able to request this information from FEMA at no cost as a participant in the National Flood Insurance Program.
- Record drawings are available for the bridges, dams, and culverts along the modeled reach. If not available, additional survey services will be required. Arcadis has included an allowance of $40,000 that could be used for additional survey if required to complete this task.
- Design will utilize the FEMA 10, 50, 100, and 500-year flows from the FIS or effective model.
- The analysis provided under this proposal only includes a No-Rise evaluation. While the model is being developed to the standards required for a future Conditional Letter of Map Revision (CLOMR) / Letter of Map Revision (LOMR), the work necessary to prepare and submit a CLOMR/LOMR application to FEMA is not included in this proposal but may be completed as additional services upon request by the Client.
- Efforts to respond to floodplain manager comments requesting revisions to the No-Rise submission, modeling and mapping in this scope is limited to up to two rounds of comments. If additional rounds of comments are received from the floodplain manager, work to address these comments can be provided as an additional service upon request.

Deliverables: Deliverables for Task 2 will include the following:

- HEC-RAS models
- FEMA's No-Rise Certification and supporting data, including:
    - Narrative Report

- Model output printout.
- Certified boundary survey.
- Annotated Flood Insurance Rate Maps (FIRM) and topographic map.
- Design plans.
- No-Rise Certification form.

Task 3 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. Due to the complexity and high contractor risk in replacing an approximately 600 feet portion of brick trunk sewer along the stream bank, Arcadis will evaluate options for trenchless replacement of the sewer as well as streambank stabilization if open cut replacement is the recommended option. It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.
- Preliminary construction sequencing.
- Updated plan and profile along with an anticipated drawing list.
- Preliminary list of specifications.
- Preliminary bypass plan.
- Existing Conditions Survey.
- Real Property information and easements.
- Identify permits and regulatory approvals required.

Arcadis will prepare a draft BODR and 30% Design deliverable for Client's review and will schedule a workshop meeting to review the documents with Client and review comments that Client may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to Client. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

Task 4 – Prepare Bid Documents

Arcadis will prepare Bidding Documents (inclusive of Drawings and a Project Manual) for regulatory approval and bidding purposes for West Trunk Sewer Rehabilitation Contract III. The Bidding Documents will be prepared as a single prime contract in accordance with Wick's Law. Applicable funding agency language and requirements will be incorporated into the Bidding Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide Client with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 4) and 90% (ACEE Class 3) submittals. The major elements of the project include the following:

- Replacement/structural repair of up to approximately 600 linear feet of combined sewer.
- Rehabilitation of approximately 4,600 linear feet of combined sewer ranging in size from 24-inches in diameter to 54-inches in diameter.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYSDOT) requirements.
- Repaving and striping as appropriate along the areas disturbed by construction.

Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility. Arcadis will submit the 60% Bidding Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed.

Arcadis will meet with Client representatives at the 60%, 90% and final Bidding Document submission to review the Documents.

Task 5 – Permitting and Regulatory Approvals

Arcadis will submit the 100% Design Documents to NYS EFC and New York State Department of Environmental Conservation (NYSDEC) on behalf of Client. Upon receipt of comments from NYSEFC and NYSDEC, Arcadis will finalize the Bidding Documents and prepare a comment response correspondence. Only one comment response letter per agency has been included in the budget.

Arcadis will support the client in preparing, submitting, and acquiring the necessary permits to complete the project. Arcadis anticipates the following permits will be required:

- NYSDEC, NYSDOS, NYSOGS, and USACE Joint Permit Application and supplementals for freshwater wetlands and protection of waters.

Task 6 – Funding Assistance

Arcadis will continue to support the Client in the solicitation of funding from State and Federal sources as appropriate for the Project including Water Infrastructure Improvement Act (WIIA) and Water Quality Improvement Program (WQIP) grants. Arcadis will monitor funding opportunities to determine if additional funding may become available for the project.

Task 7 – Bidding Assistance

Arcadis will assist the Client with bidding the project. Arcadis will prepare electronic Bidding Documents for Client's use for electronic bidding. We will prepare a bid advertisement for the Client's approval and use. Arcadis will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and prepare up to three addenda as required for the Client's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids and make a recommendation of award.

Preliminary Schedule:

Arcadis understands that time is of the essence to repair/replace the portion of the West Trunk that shows signs of longitudinal fractures. Arcadis will complete the aforementioned scope in Tasks 1, Task 3, and Task 4 on or before March 31, 2027, for submission to NYSEFC.

Schedule B

Additional or Optional Engineering Services

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

a. None at this time. In the event that Additional or Optional Engineering Services are identified and required under this Agreement at a later time, Client will provide Arcadis written authorization to perform such Services.

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 Standard 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 not to exceed $712,900.

Hourly Rates: **Charges for services provided will be in accordance with the attached Summary of Standard Charges.**

C.3 **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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

Schedule D
Construction Phase Services

D.1 CONSTRUCTION PHASE SERVICES

Note: For purposes of this Schedule, the expressions Contract Documents, Shop Drawing, and Change Order shall have the meanings given in the Construction Contract between Client and the Contractor.

1. **General Administration of Construction Contract**. Arcadis shall consult with and advise Client and act as Client's representative as provided in this Agreement. All of Client's instructions to Contractor will be issued through Arcadis who will have authority to act on behalf of Client to the extent provided in this Agreement.

2. **Visits to Site and Observation of Construction**. In connection with observations of the work of Contractor while it is in progress:

2.1 Arcadis shall make visits to the site at intervals appropriate to the various stages of construction as Arcadis deems necessary to observe, as an experienced and qualified design professional, the progress and quality of the Contractor's work (Work). In addition, Arcadis shall provide the services of a Resident Project Representative (Resident) at the site to provide more extensive inspection of the Work. Based on information obtained during such visits and on its inspections, Arcadis shall endeavor to determine whether the Work is proceeding in accordance with the intent of the Contract Documents. Arcadis shall keep Client informed of the progress of the Work.

2.2 The Resident will be Arcadis' agent or employee and under Arcadis' supervision. The duties and responsibilities of the Resident are set forth in Article D.2, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative," below.

2.3 The purpose of Arcadis' visits to and representation by the Resident at the site will be to provide for Client a greater degree of confidence that the completed Work will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor.

2.4 Arcadis shall not, during such visits or as a result of observations or inspections of the Work in progress, supervise, direct or have control over the Work nor shall Arcadis have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing the Work. Arcadis can neither guarantee the performance of the Work by the Contractor nor assume responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3. **Defective Work**. During its visits, Arcadis may disapprove of or reject the Work while it is in progress if Arcadis believes that the Work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

4. **Interpretations and Clarifications**. Arcadis shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare Change Orders for execution by Client, if appropriate.

5. **Shop Drawings**. Arcadis shall review and approve (or take other appropriate action) Shop Drawings, samples and other data which Contractor is required to submit. Such reviews shall be for conformance with the design concept of the Project as a functioning whole and compliance with the information given in the Contract Documents. Any approvals or other actions associated with the reviews shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

6. **Substitutes**. Arcadis shall evaluate and determine the acceptability of substitute or 'equivalent' materials and equipment proposed by Contractor.

7. **Inspections and Tests**. Arcadis shall have authority, as Client's representative, to require special inspection or testing of the work, and shall review all certificates of inspections, testings and approvals required by law or the Contract Documents to determine that both the content of the certificates and the certified inspection or test results comply substantially with such requirements.

8. **Disputes between Client and Contractor**. Arcadis shall act as the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of Client or Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.

9. **Applications for Payment**. Based on Arcadis' on-site observations, on information provided by the Resident, and on review of applications for payment and the accompanying data and schedules, Arcadis shall:

9.1 Recommend in writing payments to Contractor. Such recommendations of payment will constitute a representation to Client that the Work has progressed to the point indicated and that, to the best of Arcadis' knowledge, information and belief, the quality of the Work is generally in accordance with the Contract Documents subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations.

9.2 In the case of unit price Work, include final determinations of quantities and classifications of the Work in the recommendations of payment, subject to any subsequent adjustments allowed by the Contract Documents.

9.3 By recommending any payment Arcadis will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations beyond the responsibilities specifically assigned to Arcadis in this Agreement and the Contract Documents have been made by Arcadis to check the quality or quantity of the Work as it is furnished and performed. Arcadis is not responsible to examine how or for what purposes the Contractor has used the moneys paid on account, or to determine that title to any of the Work, materials or equipment has passed to Client free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

10. **Contractor's Completion Documents**. Arcadis shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests, approvals, and record documents which are to be assembled by Contractor in accordance with the Contract Documents. Such review is limited to determining that their content complies with the requirements of the Contract Documents Arcadis shall transmit the documents to Client with written comments.

11. **Inspections**. Arcadis shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed Work is acceptable so that Arcadis may recommend, in writing, final payment to Contractor. Arcadis may give written notice to Client and the Contractor that the Work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 9.3.

12. **Limitation of Responsibilities**. Arcadis shall not be responsible for the acts or omissions of the Contractor, or of any subcontractor or supplier, or any of the Contractor's or subcontractor's or supplier's agents or employees or any other persons (except Arcadis' own employees and agents) at the site or otherwise furnishing or performing any of the Work. However, nothing contained in paragraphs 1 thru 11, shall be construed to release Arcadis from liability for failure to properly perform the duties and responsibilities assumed by Arcadis in the Contract Documents.

D.2 DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

The duties and responsibilities of the Resident Project Representative (Resident) are limited to those of Arcadis in Schedules A and B and are further described as follows:

1. **General.** The Resident is Arcadis' agent at the site, will act as directed by and under the supervision of Arcadis, and will confer with Arcadis regarding Resident's actions. Resident's dealings in matters pertaining to the on-site Work shall in general be with Arcadis and Contractor, but keeping Client advised as appropriate. Resident's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident shall generally communicate with Client with the knowledge of and under the direction of Arcadis.

2. Duties and Responsibilities. The Resident shall:

2.1 *Schedules*: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Arcadis concerning acceptability.

2.2 *Conferences and Meetings*: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

2.3 *Liaison*:

2.3.1 Serve as Arcadis' liaison with Contractor, working principally through Contractor's superintendent and assist in explaining the intent of the Contract Documents as necessary.

2.3.2 Assist Arcadis in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-site operations.

2.3.2 Assist in obtaining from Client additional details or information, when required for proper execution of the Work.

2.4 *Shop Drawings and Samples*:

2.4.1 Record date of receipt of Shop Drawings and samples.

2.4.2 Receive samples which are furnished at the site by Contractor and notify Arcadis of availability of samples for examination.

2.4.3 Advise Arcadis and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not yet been received and approved by Arcadis.

2.5 *Review of Work, Rejection of Defective Work, Inspections and Tests*:

2.5.1 Conduct on-site inspections of Work in progress to determine whether the Work is proceeding in general compliance with the Contract Documents.

2.5.2 Report to Arcadis whenever Resident believes that any Work is unsatisfactory, faulty or defective, or does not conform to the Contract Documents, has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise Arcadis of Work that Resident believes should be corrected or rejected, should be uncovered for inspection, or requires special testing, inspection or approval.

2.5.3 Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof. Observe, record and report to Arcadis appropriate details relative to the test procedures and startups.

2.5.4 Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Arcadis.

2.6 *Interpretation of Contract Documents*: Report to Arcadis when clarifications and interpretations of the Contract Documents are needed. Transmit to Contractor clarifications and interpretations issued by Arcadis.

2.7 *Modifications*. Consider and evaluate Contractor's suggested changes to Drawings or Specifications and report to Arcadis with Resident's recommendations. Transmit Arcadis' decisions to Contractor.

2.8 *Records*:

2.8.1 Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Construction Contract, Arcadis' clarifications and interpretations of the Contract Documents, progress reports, and

2.8.2 Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions concerning Change Orders or changed conditions, list of job site visitors, daily activities, decisions, general observations, and specific, more detailed observations as in the case of test procedures. Send copies to Arcadis at appropriate intervals.

2.8.3 Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

2.9 *Reports*:

2.9.1 Furnish reports at appropriate intervals to Arcadis concerning progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.

2.9.2 Consult with Arcadis in advance of scheduled major tests, inspections or start of important phases of the Work.

2.9.3 Draft proposed Change Orders, obtaining supporting information from Contractor, and recommend to Arcadis.

2.9.4 Report any accidents or unusual incidents to Arcadis and Client immediately upon occurrence.

2.10 *Payment Requests*: Review Contractor's applications for payment for compliance with the requirements of the Contract Documents and forward with Resident's recommendations to Arcadis. The Resident will note the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

2.11 *Certificates, Maintenance and Operation Manuals*: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be furnished by Contractor are appropriate to the items actually installed and in accordance with the Contract Documents. The Resident will have this material delivered to Arcadis for review and forwarded to Client prior to final payment for the Work.

2.12 *Completion*:

2.12.1 Before Arcadis issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

2.12.2 Determine whether necessary inspections and approvals by public agencies having jurisdiction over the Work have been performed and advise Arcadis accordingly.

2.12.3 Conduct a final inspection of the Work in the company of Arcadis, Client, and Contractor and prepare a final list of items to be completed or corrected.

2.12.4 Verify that all items on final list have been completed or corrected and make recommendations to Arcadis concerning acceptance of the Work.

3. Limitations of Authority. The Resident:

3.1 Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment unless authorized by Arcadis.

3.2 Shall not exceed limitations of Arcadis' authority as set forth in this Agreement or the Contract Documents.

3.3 Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.

3.4 Shall not advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

3.5 Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

3.6 Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.

3.7 Shall not authorize Client to occupy the Project in whole or in part.

3.8 Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Arcadis.

Equivalency Project

Mandatory State Revolving Fund Terms and Conditions

For Equivalency Projects Funded with NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

Identify Contract Type prior to Advertisement for Bid:

☐ **Construction**
- ☐ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☒ **Non-Construction**

Effective October 1, 2025

New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924
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INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document. Recipients, Contractors, Subcontractors, and any other involved entities must also comply with any and all applicable rules and regulations not listed below or in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, surety that is completing performance for a defaulted contractor pursuant to a performance bond, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Equivalency means projects in the amount equal to the funds “directly made available” by an Environmental Protection Agency (EPA) Capitalization Grant and funding for those projects is considered federal funds, or federal financial assistance. The Equivalency designation is indicated in the Intended Use Plan.

Manufactured products means articles, materials, or supplies that have been processed into a specific form and shape or combined with other articles, materials, or supplies to create a product with different properties than the individual articles, materials, or supplies. If an item is classified under Build America, Buy America as an iron or steel product, a construction material, or a section 70917(c) material under 2 CFR § 184.4(e), then it is not a manufactured product.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction Provider means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

Subcontract means an agreement between a Contractor and a Subcontractor.

Subcontractor means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212, this does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all Clean Water State Revolving Fund (CWSRF) projects and for Drinking Water State Revolving Fund (DWSRF) projects are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR FEDERAL DISADVANTAGED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than $10,000.

The Disadvantaged Business Enterprises ("DBE") requirements of this section apply to construction, equipment, services, and/or supplies Contracts.

I. General Provisions

A. Contractors and Subcontractors are required to comply with the following provisions:

1. 40 CFR Part 33 ("Federal DBE Regulations") for contracts under EPA financial assistance agreements, as those terms are defined therein.

2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.

3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction contracts related to any government programs providing federal financial assistance, as those terms are defined therein.

4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction contracts in excess of $10,000, as those terms are defined therein.

5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.

6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.

7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.

B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all DBE and EEO records available within a reasonable time or as otherwise determined by EFC.

C. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions or enforcement proceedings as allowed by the Contract.

D. If any terms or provisions herein conflict with Federal DBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

E. The Contractor and Subcontractor shall not discriminate on the basis of race, color, national origin, age, disability, or sex in the performance of this Contract. The Contractor and Subcontractor shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor and Subcontractor to carry out these requirements is a material breach of this Contract which may result in the termination of this Contract or other legally available remedies.

II. Equal Employment Opportunities (EEO)

A. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.

B. For federally assisted construction Contracts, the Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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, including apprenticeship.

C. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

D. Pursuant to 41 CFR § 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet, if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
2. Has 50 or more employees;
3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
4. Has a Contract, Subcontract, or purchase order amounting to $50,000 or more.

E. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.

F. For federal or federally assisted construction contracts in excess of $10,000, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.

G. The Contractor will include the provisions of Subdivisions II(A) and II(B) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

III. Good Faith Efforts and Fair Share Objectives for DBEs

A. Fair Share Objectives for this Contract are 20%

B. Good Faith Efforts

Pursuant to 40 CFR § 33.301, the Contractor must demonstrate and document “good faith efforts” to provide meaningful participation by DBEs as Subcontractors or Suppliers in the performance of the Contract.

1. For purposes of demonstrating good faith efforts and achieving the fair share objectives established herein, the Contractor should seek out the participation of the following certified entities:
    a. DBEs certified by the Small Business Administration (SBA) directory available at: https://web.sba.gov/pro-net/search/dsp_dsbs.cfm
    b. DBEs certified in New York State: https://nysucp.newnycontracts.com/

2. Participation of Brokers and Truckers/Haulers
    a. Contractors cannot count the participation of a DBE who acts as a Broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE’s prime contract or subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a Broker.
    b. Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a “commercially useful function,” according to the following factors:
        i. The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular

contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.

ii. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

C. DBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the EFC DBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.

2. The Contractor agrees to use such DBE Utilization Plan for the performance of DBEs on the Contract.

3. The Contractor further agrees that a failure to submit and/or use such DBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.

4. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the Recipient in the Quarterly Report immediately following the change. See Section III(E), *Quarterly Report*. At EFC's discretion, an updated DBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a change order is executed the change order and supporting documentation should be submitted to the MBO and a revised Utilization Plan may be required at EFC's discretion.

5. The Contractor shall submit copies of all fully executed subcontracts, agreements, and purchase orders that are referred to in the DBE Utilization Plan to the MBO within 30 days of their execution.

D. Submission of Good Faith Effort Documentation

1. If the Contractor, after making good faith efforts, is unable to meet the DBE fair share objectives, the Contractor must submit documentation showing good faith efforts made by the Contractor to meet the fair share objectives. Such documentation should be submitted to the MBO in accordance with the instructions on the DBE Utilization Plan.

2. If the MBO, upon review of the DBE Utilization Plan and updated Quarterly Reports determines that the Contractor is failing or refusing to comply with the good faith effort requirements or that the good faith efforts are not in the requested format, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within a reasonable time and provide documentation showing good faith efforts as requested.

E. Quarterly Report

1. The Contractor agrees to submit a Quarterly Report to the MBO by the fifteenth business day following the end of each calendar quarter over the term of this Contract documenting the payments made and the progress towards achievement of the DBE fair share objectives of the Contract. The Quarterly Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Quarterly Report must reflect all Utilization Plan revisions, final adjusted payments to subcontractors, and all change orders and be marked as "final".

2. The Contractor agrees to submit any other information as may be requested by the MBO or EFC during the term of the Contract as needed to assist EFC for completion of federal

reporting to EPA.

F. Other Requirements

1. All contracts shall comply with the contract administration requirements outlined at 40 CFR 33.302.

SECTION 3 BUILD AMERICA, BUY AMERICA (BABA) ACT AND AMERICAN IRON AND STEEL (AIS) REQUIREMENTS

The requirements of this section apply to all Contracts and Subcontracts.

I. BABA Requirements

Tthe DWSRF or CWSRF Contract or Subcontract shall be subject to the Build America, Buy America Act, and the regulations promulgated thereafter (Pub. L. No. 117-58, §§ 70901-70953, and 2 CFR Part 184), which requires, among other things, that no SRF funds "may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States."

The Contractor shall submit with their bid or proposal documents an executed BABA Contractor's Certification on the form attached hereto as Attachment 2 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron, steel, manufactured products, and construction materials used in the project be produced in the United States ("BABA Requirement") including iron, steel, manufactured products, and construction materials provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

(a) the Contractor has reviewed and understands the BABA Requirement,
(b) all of the iron, steel, manufactured products, and construction materials covered by the BABA Requirement incorporated in the project will be and/or have been produced in the United States in a manner that complies with the BABA Requirement, unless a waiver of the requirement is approved, and
(c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the BABA Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

II. AIS Requirements

The requirements of this section apply to (1) all contracts for which Part 1 of this section does not apply, (2) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (3) all contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or

Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as Attachment 3 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

(a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
(b) all of the iron and steel products covered by the American Iron and Steel Requirement incorporated in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
(c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 4 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than $2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of $2,000:

(a) Required Contract Clauses

1. Minimum Wages

(i) *Wage rates and fringe benefits*

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

As provided in paragraphs (d) and (e) of this section the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis–Bacon poster (WH–1321) must be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The Davis-Bacon poster (WH-1321) can be found at https://www.dol.gov/whd/regs/compliance/posters/davis.htm . Wage determinations may be obtained from the US Department of Labor's website, https://sam.gov/.

(ii) *Frequently recurring classifications*

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR Part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
2. The classification is used in the area by the construction industry; and,
3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) *Conformance*

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is used in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the Contractor and the laborers and mechanics to be employed in the classification (if

known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(D) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(E) The contracting officer must promptly notify the Contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The Contractor must furnish a written copy of such determination to each affected worker, or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section mustbe paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iv) *Fringe benefits not expressed as an hourly rate*

Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) *Unfunded plans*

If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided,* that the Secretary of Labor has found, upon the written request of the Contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(vi) *Interest*

In the event of a failure to pay all or part of the wages required by the Contract, the Contractor will be required to pay interest on any underpayment of wages.

2. Withholding.

(i) *Withholding requirements*

The Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor, so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by this Contract or any other Federal contract, or federally-assisted contract subject to Davis–Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2).

The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally-assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

In the event of a Contractor's failure to pay any laborer or mechanic, including any apprentice or helper, working on the site of the work (or otherwise working on construction or development of the project under a development statute) all or part of the wages required by the Contract, or upon the Contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the Recipient, Subrecipient at any tier, and/or contracting agency may on its own initiative and after written notice to the Contractor, sponsor, applicant, or owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a Contractor, or a Contractor's bankruptcy estate;

(D) A Contractor's assignee(s)

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Payrolls and basic records.

(i) *Basic record requirements*

(A) Length of record retention

All regular payrolls and other basic records must be maintained by the Contractor and any Subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in a construction or development of the project under a development statute) for a period of at least three years after all the work on the prime contract is completed.

(B) Information required

Such records must contain the name, Social Security number, last known address, telephone number, and email address of each such worker, each worker's correct classification(s) of work actually performed;, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act), daily and weekly number of hours actually worked in total on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits

Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits

under a plan or program described in section 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act, the Contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) *Certified payroll requirements*

(A) Frequency and method of submission

The Contractor or Subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, a copy of all payrolls to the Recipient. The prime contractor is responsible for the submission of all certified payrolls by all Subcontractors. A prime contractor may permit or require Contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the Contractor, the contracting agency, EFC, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the Contractor is unable or limited in its ability to use the electronic system.

(B) Information required

The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i)(B), except that full social security numbers and home addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's social security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/forms or its successor website. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(C) Statement of Compliance

Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor, or the Contractor's or Subcontractor's agent who pays or supervises the payment of the persons employed under the Contract and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information and records are correct and complete;

2. That each laborer or mechanic (including each helper and apprentice) working on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as

specified in the applicable wage determination incorporated into the Contract.

(D) Use of Optional Form WH-347

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.

(E) Signature

The signature by the Contractor, Subcontractor, or the Contractor's or Subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification

The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention

The Contractor or Subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) *Contracts, Subcontracts, and related documents*

The Contractor or Subcontractor must maintain this Contract or Subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The Contractor or Subcontractor must preserve these Contracts, Subcontracts, and related documents during the course of the work and for a period of 3 years after all work on the prime contract is completed.

(iv) *Required disclosures and access*

(A) Required record disclosures and access to workers

The Contractor or Subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents the Recipient, EFC, EPA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statues referenced by 29 CFR § 5.1, available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements

If the Contractor or Subcontractor fails to submit the required records, make them available, or refuses to permit worker interviews during working hours on the job, the federal agency may, after written notice to the Recipient, Contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR § 5.12. In addition, any Contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the Contractor or a person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location

of the records and the volume of production.

(C) Required information disclosures

Contractors and Subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the EPA if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the federal agency is not such a party to the contract, the Contractor, Subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the EPA, Recipient, EFC, or subrecipient at any tier, contracting agency, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and trainees.

(i) *Apprentices*

(A) Rate of pay

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA) Training, or with a State Apprenticeship Agency recognized by the OA, A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program., In the event the OA or a State Apprenticeship Agency recognized by the OA, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits

Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio

The allowable ratio of apprentices to journey workers on the job site in any craft classification must not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(D) Reciprocity of ratios and wage rates

Where a Contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journey worker’s hourly rate) applicable within the locality in which the construction is being

performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ration and wage rate specified in the Contractor's registered program must be observed.

(ii) *Equal employment opportunity*

The use of apprentices and journey workers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Reserved

6. Subcontracts

The Contractor or Subcontractor must insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (11) or a link to the DBRA Requirements for Contractors and Subcontractors Under EPA Grants documents on EPA's Contract Provisions for Davis-Bacon and Related Acts webpage, along with applicable wage determination(s) and such other clauses or contract modifications as the EPA may by appropriate instructions require, and a clause requiring the Subcontractors to include these clauses and wage determination(s) in any lower-tier Subcontracts. The prime Contractor and any Subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of underpayment or loss, due to any workers of lower-tier Subcontractors, and may be subject to debarment, as appropriate.

7 through 9. Reserved

10. Certification of eligibility

(i) By entering into this Contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 40 U.S.C. 6144(b) or 29 CFR 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. § 1001.

11. Anti-Retaliation

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part of 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

For Contracts in Excess of $100,000, in addition to part (a):

(b) Contract Work Hours and Safety Standards Act (CWHSSA)

1. **Overtime requirements**. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages**. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. **Withholding for Unpaid Wages and Liquidated Damages.**

(i) *Withholding process*

The EPA, EFC, Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section, any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(1) of this section, or both, over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A Contractor's assignee(s);

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907

4. **Subcontracts**. The Contractor or Subcontractor must insert in any Subcontracts the clauses set forth in paragraphs (1) through (5) of this section and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The prime contractor is responsible for compliance by any Subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (5). In the event of any violations of these clauses, the prime contractor and any Subcontractor(s) responsible will be liable for any unpaid wages for monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-Retaliation**

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complain, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

SECTION 5 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

In addition, the Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government contracts or federally assisted Construction contracts pursuant to Executive Order 12549.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

SECTION 6 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than $100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of $100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 ("Lobbying Certification") in the form attached hereto as Attachment 4, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 7 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The requirements of this section apply to all Contracts and Subcontracts.

This prohibition is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs (Recipients), are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). EPA funds may not be used to purchase:

a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
b. Telecommunications or video surveillance services provided by such entities or using such equipment.
c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
(1) Procure or obtain, extend or renew a contract to procure or obtain;
(2) Enter into a contract (or extend or renew a contract) to procure; or
(3) Obtain the equipment, services, or systems.

Contractors and Subcontractors shall not procure or install prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, that are recorded in the System for Award Management exclusion list located at https://sam.gov/SAM/.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional permanent signage is required for projects receiving funding from the NYS Bond Act.

If Contractor is expected to provide and install an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Attachment 1 – EFC DBE Utilization Plan

Environmental Facilities Corporation | Department of Health

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. Submit the completed signed (electronic signature box checked and dated) form to the Recipient's Minority Business Officer (MBO) no later than the date of contract execution. Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be obtained from EFC.

If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified DBE, please contact EFC for assistance.

DBEs on this form may include disadvantaged firms certified by the New York State Unified Certification Program (NYSUCP), and disadvantaged firms certified by the Small Business Administration. In addition, the participation of DBEs will be credited according to the following requirements:

- Contractors cannot count the participation of a DBE who acts as a broker or passive conduit of funds without performing, managing, or supervising the work of its contract or subcontract in a manner consistent with normal business practices. If 50% or more of the total dollar amount of a DBE's prime contract or subcontract is subcontracted to a non–DBE, the DBE prime contractor or subcontractor will be presumed to be a broker.
- Contractors may count the participation of a DBE trucker/hauler only if the trucker/hauler is performing a "commercially useful function," according to the following factors:
    - The DBE must be responsible for the management and supervision of the entire trucking/hauling operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE objectives.
    - The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

See the Mandatory Equivalency Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed, signed (electronic signature box checked and dated) form to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

If the Utilization Plan will not meet or exceed the DBE fair share objective, then the good faith effort documentation noted in Section 4 must be submitted with this form.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION					
Recipient/Municipality:		**County:**			
Project No.:		**Contract ID:**		**Registration No. (NYC only):**	
Minority Business Officer:		**Email:**		**Phone #:**	
Address of MBO:					
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				**Date:**	

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION					
Firm Name:			**Contract Type:** ☐ Construction ☐ Other Services		
Is the Prime Firm certified as a DBE? ☐ Yes ☐ No If yes, please include Prime information in Section 3.					
Address:		**Phone #:**		**Fed. Employer ID #:**	
Description of Work:		**Email:**			
Award Date:	**Start Date:**	**Completion Date:**	**DBE Fair Share Objective**	**PROPOSED DBE Participation**	
Total Contract Amount: $ **DBE Eligible Contract Amount: $** (DBE Fair Share Objectives are applied to this amount and includes all change orders, amendments, & specialty waivers)			**Total: 20%** $	**Total:** % $	
If fair share objectives are not met, documentation must be attached: ☐ No Participation ☐ Short of the DBE Fair Share Objective					
☐ **Specialty Equipment/Services:** must be of SIGNIFICANT cost – attach list of cost and type of equipment and good faith effort documentation					

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION			
This Submittal is: ☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:			
DBE Subcontractor Information		**Contract Amount**	**For EFC Use:**
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

SECTION 3: DBE SUBCONTRACTOR INFORMATION continued			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Certifying Entity: ☐ DOT in State of ; or ☐ SBA ☐ Other (indicate entity):	**Start Date:** **Completion Date:**		
Full Contract Amount $			

SECTION 4: GOOD FAITH EFFORT DOCUMENTATION

Utilization Plans that do not meet the Fair Share Objective must be accompanied by the documentation requested in numbers 1 – 7, as listed below. Specialty Equipment Exclusion requests must be accompanied by the documentation requested in number 8 – 12, as listed below. Specialty Services Exclusion requests must be accompanied by the documentation requested in number 13, as listed below. Please contact the MBO and/or EFC for assistance or to request sample documentation.

Provide the following:

1. A letter of explanation detailing the scope of work, DBE search results, and results of good faith efforts that were made.

2. A scope of work that shows what subcontracting opportunities are in the contract. This could be an engineering proposal, schedule of values, or other similar documents.

3. Screenshots of search results (using commodity codes) from DBE Directories of all certified DBEs that were solicited for purposes of complying with your DBE fair share objective. Each search should be saved as an individual file.

4. A log of solicitation results, consisting of the list of DBE firms solicited for the contract and the outcome of the solicitations. The log should be broken out into separate areas for each task that is solicited (e.g., trucking, materials, electricians). The log should show that each firm was contacted twice by two different methods (e.g., email and phone); who was spoken to; what was said; and the final outcome of the solicitation.

5. List of the general circulation, trade association, and DBE oriented publications and dates of publication soliciting for certified DBE participation as a subcontractor/supplier and copies of such solicitations.

6. Description of the negotiations between the contractor and certified DBEs for the purposes of complying with the DBE goals of this contract.

7. Any other information deemed relevant to the request.

EFC and the MBO reserve the right to request additional information and/or documentation.

Documentation for Requests for Specialty Equipment Exclusions:

8. A letter of explanation containing information about the equipment, why the equipment is specialty and why no DBE firms could be utilized to provide the equipment.

9. Copies of the appropriate pages of the technical specification related to the equipment showing the choices for manufacturers or other information that limits the choice of vendor.

10. Letter, email, or screenshot of website from the manufacturer listing their distributors in NYS and the locations.

11. Screenshots of DBE Directory searches for the equipment or service showing that it is not found in the Directory.

12. An invoice or executed purchase order showing the value of the equipment.

NYS Environmental Facilities Corporation
Disadvantaged Business Enterprise (DBE) Utilization Plan

Documentation for Requests for Specialty Service Exclusions:

13. A letter of explanation containing information about the scope of work and why no DBE firms could be subcontracted to provide that service.

SIGNATURE	
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all DBE subcontractors will participate in subcontracts in accordance with the requirements of 40 CFR Part 33. **Name** (Please Type)**:**	**Date:**

Attachment 2 – BABA Contractor's Certification

Environmental Facilities Corporation | Department of Health

BABA CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS PAID FOR WITH EQUIVALENCY FUNDS THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that all iron and steel, manufactured products and construction materials permanently incorporated into the project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA) and the Made in America Office, in accordance with the requirements of the EPA and Pub. L. No. 117-58 and any regulations promulgated thereunder. I will develop and maintain the necessary documentation to demonstrate that the applicable products permanently incorporated into the project were produced in the United States and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – AIS Contractor's Certification

Environmental Facilities Corporation | Department of Health

AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA), in accordance with the requirements of the EPA and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 4 – Lobbying Certification

Environmental Facilities Corporation | Department of Health

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____
Recipient: _____
Project Description: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND ENTER INTO AN AGREEMENT FOR FINAL DESIGN PROFESSIONAL ENGINEERING SERVICES WITH ARCADIS OF NEW YORK INC. FOR PHASE II OF THE LONG TERM CONTROL PLAN FOR THE LIBERTY STREET SEWER SEPARATION BETWEEN ANN STREET AND RENWICK STREET PROJECT IN THE AMOUNT OF $974,900.00

WHEREAS, by Resolution No. 219-2011 of October 24, 2011 and by Resolution No. 303-2015 of November 23, 2015, the City Council approved a Consent Order with the New York State Department of Environmental Conservation to resolve violations at the Wastewater Treatment Plant and for the development of the Long Term Control Plan ("LTCP") and Modification Order on Consent approving a Compliance Schedule for Phase I through V of the LTCP; and

WHEREAS, Arcadis of New York, Inc. has submitted a letter proposal for professional engineering services to complete the final design and the preparation of bid documents for the Liberty Street Sewer Separation between Ann Street and Renwick Street Project included in Phase II of the LTCP Schedule of Compliance; and

WHEREAS, the scope of services will include field investigations, preparation of a basis of design report, preparation of bid documents, and community and stakeholder engagement; and

WHEREAS, funding for the cost of the services an amount not to exceed $974,900.00 shall be derived from financing through New York State Environmental Facilities Corporation Project No. C3-7332-11-04; 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. the amount of $974,900.00 to complete the final design and preparation of bid documents for the Liberty Street Sewer Separation between Ann Street and Renwick Street Project included as part of Phase II of the Long Term Control Plan for the City's Combined Sewer Collection System; 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.

SENT VIA E-MAIL ONLY

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

Arcadis of New York, Inc.
646 Plank Road
Suite 100
Clifton Park, NY 12065
United States
Phone: 518 250 7300
www.arcadis.com

Date: April 3, 2026
Our Ref: 103127603
Subject: Proposal for Engineering Design Services – Liberty Street Reconstruction

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) is pleased to provide the City of Newburgh (City) with this letter proposal for design services for sewer separation on Liberty Street, as required to comply with the Order on Consent schedule for the City's Long Term Control Plan (LTCP). We appreciate the confidence the City has in our ability to deliver results for the improvement of critical infrastructure and regulatory compliance.

Project Understanding

The Liberty Street Reconstruction Project is one of the strategic sewer separation projects identified in the City's LTCP. The Project will eliminate stormwater inflow sources (i.e. catch basins, downspouts, etc.) from the combined sewer and by constructing a new separate, parallel storm sewer that will discharge to the existing CSO outfall sewer downgradient of Regulator No. 4. This project will also address infiltration by providing rehabilitation of the existing combined sewer. Green infrastructure will be used to reduce peak flows to the new, separate storm sewer, and will provide additional benefits including reducing the urban heat effect in the project area. The proposed project will remove approximately 1,546,000 gallons of stormwater from the combined sewer during a 10-year, 24-hour SCS Type III design storm event. This project will also feature aboveground transportation and mobility improvements and replacement of aging water infrastructure and lead service lines in the project area, providing a comprehensive revitalization to a densely populated residential and commercial portion of Newburgh's downtown.

Arcadis assisted the City in obtaining $50,000 engineering planning grant (EPG) to complete planning and preliminary engineering for the project. Arcadis developed a preliminary engineering report (PER) that was submitted New York State (NYS) Department of Environmental Conservation (DEC) to comply with the Order on Consent. The engineering report was approved and accepted by NYS DEC and NYS Environmental Facilities Corporation (EFC) on September 17, 2025. Additionally, Arcadis assisted the City in submitting grant applications for the Green Resiliency Grant (GRG) Program, Water Infrastructure Improvement Act (WIIA), and Water Quality Improvement Program (WQIP), and the 2025 Transportation Alternatives Program (TAP) through the NYSDOT. To date, the City has been notified of a $1.825M GRG and a $10M WQIP award. The City was not selected for a WIIA award during this funding cycle. Arcadis also submitted a Clean Water State Revolving Fund (CWSRF) Finance Application for the project, which the City is working toward closing short term financing for the project.

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The City also applied for a grant through the 2025 Regional Economic Development Council (REDC) NYS Empire State Development Pro Housing Supply Fund Program and was awarded a $6.895M grant.

Arcadis proposes the completion of the design and bidding phases of this project through the following scope of services.

Scope of Services

Task 1 – Field Investigations

Topographic and Utility Survey: Arcadis will work with Badey & Watson, Surveying & Engineering, DPC, a woman owned business enterprise (WBE), to conduct a topographic and utility survey of S. William Street from Liberty Street to S. Colden Street and of Liberty Street from Ann Street to Broadway. S. William Street was identified during preliminary design to be the best alternative for connecting the proposed separate storm sewer to an existing CSO outfall downgradient of CSO Regulator No. 4. This area was not initially included in the preliminary site survey. Utility survey will be a Quality Level B (QL-B) survey, which includes use of electromagnetic-based locating instruments, ground penetrating radar, radar tomography, metal detectors, and optical instruments to gather and record approximate horizontal and vertical positional data.

Design Infiltration Testing and Subsurface Investigation: Additional infiltration and subsurface testing will be conducted by a geotechnical subcontractor per NYS requirements. According to the NYSDEC Stormwater Management Design Manual (July 31, 2024 edition), Design Testing will establish detailed seasonal high water table conditions, boundary conditions such as bedrock, and physical characteristics of the soil to determine suitability for a stormwater infiltration practice – like tree pits. This data is concluded from test pits/borings and permeability tests. Tree pits are considered linear stormwater infiltration practices, so one test pit/boring and one permeability test are required for each 250 linear feet of practice at a minimum. Geotechnical investigations completed in 2025 had variable results with infiltration rates ranging from 0 to 66 inches per hour. Areas with infiltration rates below 3 inches per hour are generally not suitable for infiltration practices without underdrains. Due to the variability in results across the project area, Arcadis recommends completing an additional 12 test pits/borings and 12 permeability tests to supplement those completed in 2025.

Field Investigations: Arcadis will conduct field investigations of properties within the project area during design to document existing conditions and to ensure existing conditions of properties are restored at the conclusion of the project. The investigation will include, at minimum, documentation of building fronts, stairs, landscaping, unique features like coal chutes and vaults, retaining walls, and stormwater connections. Some items documented during field investigations, abandoned coal chutes and vaults for example, may need to be addressed with special consideration during design and construction as they may pose constructability challenges to the proposed sidewalk replacement. Arcadis will coordinate with the City to communicate field investigation efforts to property owners within the project area. Arcadis understands that it may be necessary to prepare informational materials in up to three different languages. Property tenants will receive an informative door hanger at least one week prior to field investigations occurring with contact information to schedule an appointment for an inspection. Photologs and property description data will be compiled in the field, then stored in a Fulcrum database. Arcadis has budgeted a total of 160 hours for completing fieldwork and coordination.

Phase 1 Archaeological Survey: The project is in an archaeologically sensitive area. As such, the State Historic Preservation Office/Office of Parks, Recreation and Historic Preservation (SHPO/OPRHP) recommended in their project determination completion of a Phase 1A Literature Search and Sensitivity Assessment Survey. Arcadis will

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retain the services of a 36 CFR 61 qualified archaeologist to conduct a Phase 1A archaeological survey. The Phase 1A Study would assess the potential archaeological sensitivity of the Project Site with respect to both precontact and historical environmental setting, development history, and past disturbance in order to identify any areas of potential archaeological sensitivity. The Phase 1A Study will also make recommendations regarding the extent of further archaeological analysis (e.g. Phase 1B testing). The Phase 1A Assessment Report will be reviewed by Arcadis and submitted to SHPO/OPRHP via the CRIS portal for review and comment.

Additionally, it is the opinion of SHPO/OPRHP in their initial project determination, that a Phase 1B Investigation should be conducted for all portions of the project that are within the bounds of known archaeological sites. NYS OPRHP has identified the majority of the project corridor from Ann Street to South Williams Street as being within an archaeological buffer area. To this end, Arcadis' archaeological subconsultant will conduct a Phase 1B field survey and reconnaissance to document the presence or absence of archaeological deposits or other cultural resources in addition to the presence of prior disturbance. All fill episodes, disturbance and significant cultural remains and features will be mapped and photographed. Testing methods and field documentation will follow SHPO/OPRHP standards for field investigations as adapted from those of the New York Archaeological Council (NYAC). If encountered, Arcadis' subconsultant will follow the protocol for the discovery of human remains as directed by NYAC's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (1994) and SHPO/OPRHP's Human Remains Protocol (2021). A Phase 1B report will be prepared discussing methods, results, and recommendations for additional investigations during construction, if needed. The report will include tables, maps, figures, and photographs to illustrate the discussion as appropriate. Field records and an artifact catalog (if applicable) will be appended to the final report submitted to SHPO/OPRHP for review and comment.

Task 2 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. The BODR will build upon the PER to further develop the project, which will include but not be limited to the following:

- Material requirements.
- Water main replacement sizing.
- Lead service line replacement.
- Updated modeling required to finalize sizing sewers and to confirm impact of GI practices.
- Identification and recommendations for special site restoration improvements (i.e., coal chutes, window wells, vaults).
- Contracting assumptions, preliminary bidding requirements, and bid items.

It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.
- Preliminary construction sequencing.
- Updated plans and profiles.
- Preliminary drawing index.

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- Preliminary list of specifications.
- Updated existing conditions survey.
- Real Property information and easements.
- Identification of expected permits and regulatory approvals required.

Arcadis will prepare a draft BODR and 30% Design deliverable for the City's review and will schedule a workshop meeting to review the documents with City and to review comments that the City may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to the City. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

Task 3 – Prepare Bid Documents

Arcadis will build upon the BODR to prepare Bid Documents (inclusive of Drawings and a Project Manual) for regulatory approval and bidding purposes for the Liberty Street Reconstruction Project. The Bid Documents will be prepared as a single prime contract in accordance with Wick's Law. Applicable funding agency language and requirements will be incorporated into the Bid Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide the City with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 4) and 90% (ACEE Class 3) submittals. The major design elements of the project include the following:

- Approximately 2,900 linear feet of separate storm sewer along Liberty Street.
- GI practices including tree boxes, permeable pavers, and underdrains on both sides of Liberty Street.
- Supplemental storm lines used to disconnect roof leaders, foundation drains, and sump pumps from the combined sewer. These lines will connect back into the storm sewer running down Liberty Street at each block.
- Rehabilitation of approximately 1,900 linear feet of 18-inch combined sewer.
- Removal and replacement of approximately 1,800 linear feet of waterline, replacing 16 water hydrants, and reconnecting water service lines.
- Replacement of lead service lines and galvanized service lines requiring replacement within project corridor.
- Site restoration including abandonment of coal chutes and vaults, rehabilitation of window wells and vault hatches to remain, and retaining walls and foundation wall restoration.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYS DOT) requirements.
- Full depth, curb to curb road paving and striping along the Liberty Street corridor between Ann Street and Renwick Street.
- Streetscaping, including tree pits and plantings, replacement of sidewalks at intersections along the route to comply with Americans with Disabilities Act (ADA) requirements to the extent practicable and in accordance with City of Newburgh design details.

During the 60% design phase Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility. Arcadis will submit the 60% Bid Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed.

Arcadis will meet with City representatives at the 60%, 90% and final Bid document submission.

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Task 4 – Community and Stakeholder Engagement

Arcadis will engage the services of a WBE subconsultant specializing in community/stakeholder engagement and participation. Arcadis will support the City in scheduling, preparing meeting materials (renderings, streetscaping plans, etc.) and participating in up to six public meetings. Arcadis anticipates two City Council meetings, one Conservation Advisory Council meeting, and three pop-up events which will focus on meeting the community where they are by participating in events where the public will be found (e.g. the Farmer's Market or comparable venue). We are also including up to two days of business drop ins to promote upcoming public meetings, share information about the project, and gather input from business owners and employees. Arcadis will prepare meeting announcements/notifications (door hangers and mailers) in up to three languages. Arcadis will work with the City to identify stakeholders and form focus groups as needed to get community buy-in and comments for the Project.

Materials prepared to support community and stakeholder engagement may include:

- Printed and digital flyers, posters, and fact sheets (multilingual).
- Press releases to broadly advertise public events.
- Social media graphics and content for the City use on their social media channels.
- Meeting announcements, agendas, and summaries (door hangers, mailers, etc.).
- Interactive digital tools for (e.g., StoryMaps, surveys, mapping, dynamic renderings).
- Static Streetscape renderings and landscape plans.
- Project specific website with logo and branding for the project.

Task 5 – Permitting and Regulatory Approvals

Arcadis will submit the 100% Design Documents to New York State (NYS) Environmental Facilities Corporation (EFC), NYS Department of Environmental Conservation (DEC), and Orange County Department of Health (OCDOH) on behalf of the City. Upon receipt of comments from NYSEFC, NYSDEC, and OCDOH Arcadis will finalize the Bid Documents and prepare a comment response correspondence. Only one comment response letter each to NYSEFC/NYSDEC and OCDOH has been included in the budget.

Task 6 – Funding Assistance

Arcadis will assist the City in developing workplans and other required documents in support of finalizing grant agreements for the various grants that the City has successfully obtained. This includes grants from the following programs: GRG, ESD Pro Housing, WQIP, and potentially the 2025 TAP, if awarded.

Task 7 – Bidding Assistance

Arcadis will assist the City with bidding the project. Arcadis will prepare electronic Bid Documents for City's use for electronic bidding. We will prepare a bid advertisement for the City's approval and use. Arcadis will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and storm sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and will prepare up to three addenda as required for the City's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids, and make a recommendation of award.

Engineering Services During Construction

Arcadis will provide engineering services during construction for the duration of the project, which is anticipated to have a 24-month duration. Engineering services will generally include but are not limited to the following:

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- Preconstruction Conference.
- Preparation of supplemental drawings and sketches required during Construction.
- Respond to Contractors' Request for Interpretations (RFIs).
- Review and provide Engineer's determination on Contractor submittals and shop drawings.
- Attend bi-weekly progress meetings.
- Provide full-time construction observation and resident engineering.
- Conduct periodic site visits.
- Perform a site visit and finalize Contractor Punch Lists upon request for Substantial Completion.
- Preparation of Substantial Completion Certifications
- Final Certification of Completed Work.
- Preparation of As-Built Record Documents.
- Prepare Operation and Maintenance Manuals as applicable.

Arcadis will provide a more detailed scope of services and cost proposal for Engineering Services During Construction at the completion of the design phase.

Compensation

Arcadis will complete the scope of services for the Liberty Street Reconstruction Project presented herein for a total not to exceed fee of $974,900 to be compensated on a time and expenses basis using our 2026 standard rate schedule for hours worked plus other direct costs with a markup of 10 percent.

Task	Fee
Task 1 – Field Investigations	$ 177,200.00
Task 2 – Basis of Design Report	$ 76,900.00
Task 3 – Preparation of Bid Documents	$ 483,200.00
Task 4 – Community and Stakeholder Engagement	$ 170,350.00
Task 5 – Permitting and Regulatory Approvals	$ 26,200.00
Task 6 – Funding Assistance	$ 15,500.00
Task 7 – Bidding Assistance	$ 25,550.00
Total Not to Exceed Fee	**$ 974,900.00**

Arcadis is familiar with NYSEFC requirements to make good faith efforts to obtain the services of M/WBE subcontractors, and to that end we are proposing to use up to five different M/WBE subcontractors to achieve a goal of 20% utilization. It is estimated for the scope of services described herein, that the total M/WBE utilization will be approximately $209,000 or 21.4%.

Schedule

The City has submitted an Order on Consent extension request pushing back the compliance dates. Arcadis will complete the aforementioned scope in Task 1 through Task 4 on or before April 30, 2027, for submission to the NYSDEC and NYSEFC in advance of the requested modified Order on Consent compliance submission date of June 1, 2027.

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Mr. Jason Morris, PE
City of Newburgh
April 3, 2026

We look forward to continuing to assist the City improve its critical wastewater infrastructure, and again, appreciate the confidence you have in our people. If you have any questions, please do not hesitate to call us at 518.250.7374 at your earliest convenience.

Sincerely,
Arcadis of New York, Inc.

A.J. Brooks, PE
Principal Engineer

Email: a.j.brooks@arcadis.com
Direct Line: 518.250.7374

CC. M. Kosier, C. Superak – Arcadis

Enclosures:
Standard Rate Schedule for 2026
Partially Executed Agreement

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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

This is an **Agreement** effective as of April _____, 2026 ["**Effective Date**"] City of Newburgh ["**Client**"], a municipal 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 Delaware, having its principal place of business at 110 West Fayette Street, Suite 300, Syracuse, New York 13202 and an office at 646 Plank Road, Suite 100, Clifton Park, New York, 12065.

The Client intends to design and construct a new separate storm sewer, replacement of aging watermains, and a green infrastructure streetscape along Liberty Street between Ann Street and Renwick Street in compliance with the Client's CSO Long Term Control Plan ["**Project**"].

Client engages Arcadis to provide professional engineering services related to the design and construction administration in support of its Project [**Services**].

The location of the Project is Liberty Street, Newburgh [**Site**], New York [**State**].

Arcadis' Services for the Project are described generally as follows:

Provide engineering design and bidding services for the City of Newburgh Liberty Street Reconstruction Project.

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' obligations under this Agreement are solely for the benefit of Client and no other party is intended to benefit or have rights hereunder. 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.

1.2 **Standard of Care**. Arcadis shall perform the professional engineering 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 **Applicable Codes**. The Service Instruments will conform to the generally accepted codes and regulations applicable to the Project at the time of performance.

1.5 **Indemnification**. Arcadis agrees to indemnify and hold Client harmless from all losses and damages resulting from Arcadis' failure to meet the Standard of Care.

1.6 **Contract Documents**. The Service Instruments shall incorporate Arcadis' standard construction documents **[Contract Documents**]. In any event, Arcadis shall be an additional insured on all liability and property damage insurance policies which the construction contractor(s) for the Project [**Contractor**] shall be required to provide. All contracts between Client and Contractor for the Project shall require the Contractor to indemnify and hold Client and Arcadis harmless from any and all legal actions and liabilities arising out of the construction of the Project including, but not limited to, injury to or death of any person or injury or destruction of tangible property, not caused by the sole negligence of the party to be indemnified.

1.7 **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.

1.8 **Hazardous Wastes**. Client represents that the Project does not contemplate the performance of services, professional or otherwise, related to hazardous or toxic wastes, material, or substances and other pollutants. Arcadis shall not be responsible for and, to the fullest extent permitted by law, shall be held harmless from all costs and other liabilities arising from the presence in

or about the Project of hazardous or toxic wastes, material or substances and other pollutants, whether or not designated as such by law or regulation.

1.9 Construction Phase Services. Arcadis shall provide construction phase Services in accordance with Schedule A and act as Client's representative at the Site in accordance with the General Conditions of the Contract Documents as modified by Schedule D.

1.9.1 In the event the construction phase services are provided by another party, Arcadis shall not be responsible for and Client shall indemnify and hold Arcadis and Arcadis' consultants harmless from all claims, damages, losses and expenses, including attorneys' fees arising out of, or resulting from, any interpretation, clarification, substitution, acceptance, shop drawing or sample approval or modifications of such documentation issued or carried out by Client or others or construction observation carried out by others. Nothing contained in this paragraph shall be construed to release Arcadis or Arcadis' consultants from liability for failure to perform in accordance with professional standards any duty or responsibility which Arcadis has undertaken or assumed under 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 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 Project.

3.2 Project Criteria. Provide all criteria and information as to Client's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, and any budgetary limitations. Furnish copies of all design and construction standards which Client will require to be included in the Service Instruments.

3.3 Data. Provide all available information, including previous reports and any other data in the possession of Client relevant to design or construction of the Project. 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 Surveys. Provide engineering surveys to define construction reference points to enable Contractor to lay out Project construction.

3.5 Access. Arrange for Arcadis to enter upon public and private property as necessary.

3.6 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.

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

3.8 Expert Advice. Provide legal, accounting, insurance or other necessary advisory services for the Project including any documents submitted by Arcadis. 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.

3.9 Site Representative. If Client designates a person other than Arcadis to represent Client at the Site, specify the duties, responsibilities and limitations of authority of such other person and the effect on Arcadis' duties and responsibilities in a schedule attached to this Agreement.

3.10 Ancillary Costs. If the Construction Cost includes the cost of the activities described in 3.7 through 3.10, provide an estimate of such costs to Arcadis for Project cost estimating purposes.

3.11 Meetings. Attend the pre-bid conference, bid opening, pre-construction conference, construction progress and other job related meetings, and Substantial Completion and Final Payment inspections.

3.12 Project 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' services, or any defect or non-conformance in the work of any Contractor.

4 PERIODS OF SERVICE

4.1 Time of Performance. Sections 4 and 5 anticipate the orderly and continuous progress of the Services through completion of construction. The time of performance is the period reasonably expected to be required for the design, award of contracts, construction and initial operation of the Project, including any necessary Client or regulatory agency review and approval.

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' Services will occur:

4.4.1 for a study, investigation or planning activity: upon delivery of the final report as specified in Schedule A or B, as appropriate;

4.4.2 for a design activity: when the Bid Set of Contract Documents is delivered as specified in Schedule A;

4.4.3 for a bidding or construction contract negotiation activity: upon issuance by Client of notice of award of the construction contract;

4.4.4 for a construction activity: when written recommendation of final payment for the last prime construction contract of the Project is issued; and

4.4.5 for a startup or operations activity: upon the earlier of successful completion of acceptance testing by the Contractor or beneficial occupancy by Client but, in any event, not later than one year after Substantial Completion.

4.5 Force Majeure. If a force, event, or circumstance beyond Arcadis' control interrupts or delays Arcadis' 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 work performed and Reimbursable Expenses incurred during the period covered by the invoice. Arcadis shall be entitled to invoice for any 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 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 in 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' 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 attorney's 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. The cost of constructing the Project [**Construction Cost**] means the total cost to Client of those portions of the Project designed and specified in the Service Instruments. Construction Cost will not include Arcadis' compensation and expenses, the cost of land, rights of way, or compensation for properties unless specified in Schedule A. 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 paragraphs 3.6 and 3.8 unless otherwise specified in Schedule A.

6.2 Opinions of Cost. Arcadis has no control over the cost of labor, materials, equipment or services furnished by others, or over the Contractor's methods of determining prices, or over competitive bidding or market conditions. Arcadis' opinion of probable Construction Cost is made on the basis of Arcadis' experience and qualifications and represents Arcadis' 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' 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' 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' Services for the Project and Arcadis shall have the right to use or reuse and retain the copyright of such Service Instruments for its purposes, at its sole risk and without liability to Client. Client may retain copies in connection with the use or occupancy of the Project.

7.3.1 **Reuse**. Arcadis does not represent the Service Instruments to be suitable for reuse by Client or others for extensions of the Project 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 sent 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' employees' Project-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' performance under this Agreement; and

7.4.3 professional liability in the amount of $1,000,000 for legal obligations arising out of Arcadis' 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. All 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 last 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 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 SECTION 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 for Non-Construction Contracts attached to this Agreement.

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"

8.2.4 **Schedule D** " Construction Phase Services"

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: _____

Jason Morris, PE * Per Res. ____-2026

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

City of Newburgh
83 Broadway
Newburgh, New York 12550
Attn: Mayor's Office

ARCADIS of New York, Inc.

By: _____

Title: _____

Witness: _____

Date Signed:_____

Address for Giving Notices:

Arcadis of New York
646 Plank Road, Suite 100
Clifton Park, New York 12065
Attn: A.J. Brooks, PE

Schedule A
Scope of Basic Engineering Services and Related Matters

Task 1 – Field Investigations

Topographic and Utility Survey: Arcadis will subcontract with an MWBE firm to conduct a topographic and utility survey of S. William Street from Liberty Street to S. Colden Street and of Liberty Street from Ann Street to Broadway. Utility survey will be a Quality Level B (QL-B) survey, which includes use of electromagnetic-based locating instruments, ground penetrating radar, radar tomography, metal detectors, and optical instruments to gather and record approximate horizontal and vertical positional data.

Design Infiltration Testing and Subsurface Investigation: Additional infiltration and subsurface testing will be conducted by a geotechnical subcontractor per NYS requirements. Up to 12 test pits/borings and 12 permeability will be conducted to supplement those completed in 2025.

Field Investigations: Arcadis will conduct field investigations of properties within the project area to document existing conditions and to identify where there are "special" features that need to be accounted for in the design of the Project. The investigation will include, at minimum, documentation of building fronts, stairs, landscaping, unique features like coal chutes and vaults, retaining walls, and stormwater connections. Some items documented during field investigations, abandoned coal chutes and vaults for example, may need to be addressed with special consideration during design and construction as they may pose constructability challenges to the proposed sidewalk replacement. Arcadis will coordinate with Client to communicate field investigation efforts to property owners within the project area. Arcadis has included the preparation of informational materials in up to three different languages in the scope of this work. Property tenants will receive an informative door hanger at least one week prior to field investigations occurring with contact information to schedule an appointment for an inspection. Photologs and property description data will be compiled in the field, then stored in an electronic database. A total of 160 hours has been budgeted for completing fieldwork and coordination.

Phase 1 Archaeological Survey: Arcadis will retain the services of a 36 CFR 61 qualified archaeologist to conduct a Phase 1A Archaeological Literature Search and Sensitivity Assessment Survey. The Phase 1A Study will assess the potential archaeological sensitivity of the Project Site with respect to both precontact and historical environmental setting, development history, and past disturbance to identify any areas of potential archaeological sensitivity. The Phase 1A Study will also make recommendations regarding the extent of further archaeological analysis (e.g. Phase 1B testing). The Phase 1A Assessment Report will be reviewed by Arcadis and submitted to State Historic Preservation Office/Office of Parks, Recreation and Historic Preservation (SHPO/OPRHP) via the CRIS portal for review and comment.

A Phase 1B Investigation will be conducted for all portions of the project that are within the bounds of known archaeological sites. NYS OPRHP has identified the majority of the project corridor from Ann Street to South Williams Street as being within an archaeological buffer area. Arcadis' archaeological subconsultant will conduct a Phase 1B field survey and reconnaissance to document the presence or absence of archaeological deposits or other cultural resources in addition to the presence of prior disturbance. All fill episodes, disturbance and significant cultural remains and features will be mapped and photographed. Testing methods and field documentation will follow SHPO/OPRHP standards for field investigations as adapted from those of the New York Archaeological Council (NYAC). If encountered, Arcadis' subconsultant will follow the protocol for the discovery of human remains as directed by NYAC's Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State (1994) and SHPO/OPRHP's Human Remains Protocol (2021). A Phase 1B report will be prepared discussing methods, results, and recommendations for additional investigations during construction, if needed. The report will include tables, maps, figures, and photographs to illustrate the discussion as appropriate. Field records and an artifact catalog (if applicable) will be appended to the final report submitted to SHPO/OPRHP for review and comment.

Task 2 – Basis of Design Report

Arcadis will prepare a Basis of Design Report (BODR) that provides major design criteria for the proposed improvements, in accordance with applicable local, State, and Federal codes, rules, regulations, and standards. The BODR will further develop the project, and will include the following:

- Material requirements.
- Water main replacement sizing.
- Lead service line replacement.
- Updated modeling required to finalize sizing sewers and to confirm impact of GI practices.
- Identification and recommendations for special site restoration improvements (i.e., coal chutes, window wells, vaults).
- Contracting assumptions, preliminary bidding requirements, and bid items.

It is anticipated that the design will be developed to the 30% design level at the completion of the BODR, and therefore, the final BODR will serve as part of the 30% design deliverable, inclusive of typical 30% design deliverables as follows:

- Updated cost estimate (AACE Class 4, -20% to +30%).
- Updated project schedule.
- Preliminary construction sequencing.
- Updated plans and profiles.
- Preliminary drawing index.
- Preliminary list of specifications.
- Updated existing conditions survey.
- Real Property information and easements.
- Identification of expected permits and regulatory approvals required.

Arcadis will prepare a draft BODR and 30% Design deliverable for Client's review and will schedule a workshop meeting to review the documents with Client and to review comments that Client may have. Arcadis will then address the comments prior to submitting the final 30% deliverable package to Client. The Basis of Design Report will be transmitted to NYSDEC and NYSEFC along with the final design documents for their review and approval.

Task 3 – Prepare Bid Documents

Arcadis will prepare Bidding Documents as a single prime contract in accordance with Wick's Law. Applicable funding agency language and requirements will be incorporated into the Documents. The Project Manual will be developed utilizing Arcadis' standard documents, which are based on the Engineering Joint Construction Documents Committee (EJCDC) standards. Arcadis will provide Client with review submittals at 60% and 90% design development phases for review and comment. Arcadis will update the construction cost estimate at the 60% (AACE Class 4) and 90% (ACEE Class 3) submittals. The major design elements of the project include the following:

- Approximately 2,900 linear feet of separate storm sewer along Liberty Street.
- GI practices including tree boxes, permeable pavers, and underdrains on both sides of Liberty Street.
- Supplemental storm lines used to disconnect roof leaders, foundation drains, and sump pumps from the combined sewer. These lines will connect back into the storm sewer running down Liberty Street at each block.
- Rehabilitation of approximately 1,900 linear feet of 18-inch combined sewer.
- Removal and replacement of approximately 1,800 linear feet of waterline, replacing 16 water hydrants, and reconnecting water service lines.
- Replacement of lead service lines and galvanized service lines requiring replacement within project corridor.
- Site restoration including abandonment of coal chutes and vaults, rehabilitation of window wells and vault hatches to remain, and retaining walls and foundation wall restoration.
- Plan for traffic maintenance and protection in accordance with New York State Department of Transportation (NYS DOT) requirements.

- Full depth, curb to curb road paving and striping along the Liberty Street corridor between Ann Street and Renwick Street.
- Streetscaping, including tree pits and plantings, replacement of sidewalks at intersections along the route to comply with Americans with Disabilities Act (ADA) requirements to the extent practicable and in accordance with City of Newburgh design details.

Arcadis will meet with utility owners to obtain field information for overall coordination, and request additional information such as field requirements, measurements, and test holes that may be provided by the utility during the 60% design phase. Arcadis will submit the 60% Documents to owners of utilities in the project area for review and comment and will conduct a follow-up teleconference with each utility owner as needed.

Arcadis will meet with Client representatives at the 60%, 90% and final Bid Document submission to review the Documents.

Task 4 – Community and Stakeholder Engagement

Arcadis will engage the services of a WBE subconsultant specializing in community/stakeholder engagement and participation. Arcadis will support Client in scheduling, preparing meeting materials (renderings, streetscaping plans, etc.) and participating in up to six public meetings. Arcadis anticipates that this will include two City of Newburgh Council meetings, one Conservation Advisory Council meeting, and three pop-up events which will focus on meeting the community where they are by participating in events where the public will be found (e.g. the Farmer's Market or comparable venue). Up to two days of business drop-ins to promote upcoming public meetings, share information about the project, and gather input from business owners and employees are included in the scope of this Work. Arcadis will prepare meeting announcements/notifications (door hangers and mailers) in up to three languages. Arcadis will work with Client to identify stakeholders and form focus groups as needed to get community buy-in and comments for the Project. Materials prepared to support community and stakeholder engagement may include:

- Printed and digital flyers, posters, and fact sheets (multilingual).
- Press releases to broadly advertise public events.
- Social media graphics and content for Client use on their social media channels.
- Meeting announcements, agendas, and summaries (door hangers, mailers, etc.).
- Interactive digital tools for (e.g., StoryMaps, surveys, mapping, dynamic renderings).
- Static Streetscape renderings and landscape plans.
- Project specific website with logo and branding for the project.

Task 5 – Permitting and Regulatory Approvals

Arcadis will submit the 100% Design Documents to New York State (NYS) Environmental Facilities Corporation (EFC), NYS Department of Environmental Conservation (DEC), and Orange County Department of Health (OCDOH) on behalf of the Client. Upon receipt of comments from NYSEFC, NYSDEC, and OCDOH Arcadis will finalize the Bid Documents and prepare a comment response correspondence. Only one comment response letter each to NYSEFC/NYSDEC and OCDOH has been included in the budget.

Task 6 – Funding Assistance

Arcadis will assist Client in developing workplans and other required documents in support of finalizing grant agreements for the various grants that Client has successfully obtained. This includes grants from the following programs: GRG, ESD Pro Housing, WQIP, and potentially the 2025 TAP, if awarded.

Task 7 – Bidding Assistance

Arcadis will assist Client with bidding the project. Arcadis will prepare electronic Bid Documents for Client's use for electronic bidding. Arcadis will prepare a bid advertisement for Client's approval and use. Arcadis will conduct a pre-bid meeting with prospective bidders and perform a walk-through of the site and storm sewer alignment. Arcadis will respond to prospective bidders' requests for clarifications and will prepare up to three addenda as required for the Client's distribution. Arcadis will attend the bid opening, tabulate bids, review the three apparent lowest bids, and make a recommendation of award.

Preliminary Work Schedule

Arcadis will complete the aforementioned scope in Task 1 through Task 4 on or before April 30, 2027, for submission to the NYSDEC and NYSEFC in advance of the requested modified Order on Consent compliance submission date of June 1, 2027.

Schedule B

Additional or Optional Engineering Services

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

a. None at this time. In the event that Additional or Optional Engineering Services are identified and required under this Agreement at a later time, Client will provide Arcadis written authorization to perform such Services.

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 Standard 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 not to exceed $974,900.

Hourly Rates: **Charges for services provided will be in accordance with the attached Summary of Standard Charges.**

C.3 **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.

SUMMARY OF STANDARD CHARGES

All rates presented apply to services rendered for Professional Engineering Services during calendar year 2026 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.

No additional fees will be charged without prior written consent.

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

Rate Schedule	
Grade 1 – Technician/Administrator I	$72
Grade 2 – Technician/Administrator II	$80
Grade 3 – Technician/Administrator III	$95
Grade 4 – Technician/Administrator IV	$110
Grade 5 – Professional	$130
Grade 6 – Professional II	$142
Grade 7 – Staff Professional	$165
Grade 8 – Project Professional	$186
Grade 9 – Senior Professional	$205
Grade 10 – Principal	$240
Grade 11 – Associate VP or VP	$280
Grade 12 – VP or Senior VP	$310

Other Direct Costs: All expenses incurred for a project, except in-house services specified below, from outside vendors will be invoiced at cost plus 10%. These items may include but are not limited to: shipping charges; printing; supplies; equipment; traveling expenses; special insurance; licenses; or permits.

Subcontractors: All subcontractor expenses incurred for a project will be invoiced at cost plus 10%

In-house services consist of:

- Transportation - In accordance with current federal mileage reimbursement rate.
- Laboratory – unit prices for sample testing, handling, and storage are available for individual assignments.
- Equipment – a schedule of usage rates for specialty equipment is available for field assignments.

Payment: All invoices are due and payable within 30 days of billing date. Any attorney's fees, court costs, or other related expenses incurred in collecting delinquent accounts shall be paid by the client. Delinquent bills are subject to finance charges of 1.5% per month.

Schedule D
Construction Phase Services

D.1 CONSTRUCTION PHASE SERVICES

Note: For purposes of this Schedule, the expressions Contract Documents, Shop Drawing, and Change Order shall have the meanings given in the Construction Contract between Client and the Contractor.

1. **General Administration of Construction Contract**. Arcadis shall consult with and advise Client and act as Client's representative as provided in this Agreement. All of Client's instructions to Contractor will be issued through Arcadis who will have authority to act on behalf of Client to the extent provided in this Agreement.

2. **Visits to Site and Observation of Construction**. In connection with observations of the work of Contractor while it is in progress:

2.1 Arcadis shall make visits to the site at intervals appropriate to the various stages of construction as Arcadis deems necessary to observe, as an experienced and qualified design professional, the progress and quality of the Contractor's work (Work). In addition, Arcadis shall provide the services of a Resident Project Representative (Resident) at the site to provide more extensive inspection of the Work. Based on information obtained during such visits and on its inspections, Arcadis shall endeavor to determine whether the Work is proceeding in accordance with the intent of the Contract Documents. Arcadis shall keep Client informed of the progress of the Work.

2.2 The Resident will be Arcadis' agent or employee and under Arcadis' supervision. The duties and responsibilities of the Resident are set forth in Article D.2, "Duties, Responsibilities and Limitation of Authority of Resident Project Representative," below.

2.3 The purpose of Arcadis' visits to and representation by the Resident at the site will be to provide for Client a greater degree of confidence that the completed Work will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by Contractor.

2.4 Arcadis shall not, during such visits or as a result of observations or inspections of the Work in progress, supervise, direct or have control over the Work nor shall Arcadis have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor furnishing and performing the Work. Arcadis can neither guarantee the performance of the Work by the Contractor nor assume responsibility for Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.

3. **Defective Work**. During its visits, Arcadis may disapprove of or reject the Work while it is in progress if Arcadis believes that the Work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.

4. **Interpretations and Clarifications**. Arcadis shall issue necessary interpretations and clarifications of the Contract Documents and in connection therewith prepare Change Orders for execution by Client, if appropriate.

5. **Shop Drawings**. Arcadis shall review and approve (or take other appropriate action) Shop Drawings, samples and other data which Contractor is required to submit. Such reviews shall be for conformance with the design concept of the Project as a functioning whole and compliance with the information given in the Contract Documents. Any approvals or other actions associated with the reviews shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto.

6. **Substitutes**. Arcadis shall evaluate and determine the acceptability of substitute or 'equivalent' materials and equipment proposed by Contractor.

7. **Inspections and Tests**. Arcadis shall have authority, as Client's representative, to require special inspection or testing of the work, and shall review all certificates of inspections, testings and approvals required by law or the Contract Documents to determine that both the content of the certificates and the certified inspection or test results comply substantially with such requirements.

8. **Disputes between Client and Contractor**. Arcadis shall act as the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the work thereunder and make decisions on all claims of Client or Contractor relating to the acceptability of the Work or the interpretation of the requirements of the Contract Documents.

9. **Applications for Payment**. Based on Arcadis' on-site observations, on information provided by the Resident, and on review of applications for payment and the accompanying data and schedules, Arcadis shall:

9.1 Recommend in writing payments to Contractor. Such recommendations of payment will constitute a representation to Client that the Work has progressed to the point indicated and that, to the best of Arcadis' knowledge, information and belief, the quality of the Work is generally in accordance with the Contract Documents subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendations.

9.2 In the case of unit price Work, include final determinations of quantities and classifications of the Work in the recommendations of payment, subject to any subsequent adjustments allowed by the Contract Documents.

9.3 By recommending any payment Arcadis will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations beyond the responsibilities specifically assigned to Arcadis in this Agreement and the Contract Documents have been made by Arcadis to check the quality or quantity of the Work as it is furnished and performed. Arcadis is not responsible to examine how or for what purposes the Contractor has used the moneys paid on account, or to determine that title to any of the Work, materials or equipment has passed to Client free and clear of any lien, claims, security interests or encumbrances, or that there may not be other matters at issue between Client and Contractor that might affect the amount that should be paid.

10. **Contractor's Completion Documents**. Arcadis shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests, approvals, and record documents which are to be assembled by Contractor in accordance with the Contract Documents. Such review is limited to determining that their content complies with the requirements of the Contract Documents Arcadis shall transmit the documents to Client with written comments.

11. **Inspections**. Arcadis shall conduct an inspection to determine if the work is substantially complete and a final inspection to determine if the completed Work is acceptable so that Arcadis may recommend, in writing, final payment to Contractor. Arcadis may give written notice to Client and the Contractor that the Work is acceptable (subject to any conditions therein expressed), but any such recommendation and notice will be subject to the limitations expressed in paragraph 9.3.

12. **Limitation of Responsibilities**. Arcadis shall not be responsible for the acts or omissions of the Contractor, or of any subcontractor or supplier, or any of the Contractor's or subcontractor's or supplier's agents or employees or any other persons (except Arcadis' own employees and agents) at the site or otherwise furnishing or performing any of the Work. However, nothing contained in paragraphs 1 thru 11, shall be construed to release Arcadis from liability for failure to properly perform the duties and responsibilities assumed by Arcadis in the Contract Documents.

D.2 DUTIES, RESPONSIBILITIES AND LIMITATIONS OF AUTHORITY OF RESIDENT PROJECT REPRESENTATIVE

The duties and responsibilities of the Resident Project Representative (Resident) are limited to those of Arcadis in Schedules A and B and are further described as follows:

1. **General.** The Resident is Arcadis' agent at the site, will act as directed by and under the supervision of Arcadis, and will confer with Arcadis regarding Resident's actions. Resident's dealings in matters pertaining to the on-site Work shall in general be with Arcadis and Contractor, but keeping Client advised as appropriate. Resident's dealings with subcontractors shall only be through or with the full knowledge and approval of Contractor. Resident shall generally communicate with Client with the knowledge of and under the direction of Arcadis.

2. Duties and Responsibilities. The Resident shall:

2.1 *Schedules*: Review the progress schedule, schedule of Shop Drawing submittals and schedule of values prepared by Contractor and consult with Arcadis concerning acceptability.

2.2 *Conferences and Meetings*: Attend meetings with Contractor, such as preconstruction conferences, progress meetings, job conferences and other project-related meetings, and prepare and circulate copies of minutes thereof.

2.3 *Liaison*:

2.3.1 Serve as Arcadis' liaison with Contractor, working principally through Contractor's superintendent and assist in explaining the intent of the Contract Documents as necessary.

2.3.2 Assist Arcadis in serving as Client's liaison with Contractor when Contractor's operations affect Client's on-site operations.

2.3.2 Assist in obtaining from Client additional details or information, when required for proper execution of the Work.

2.4 *Shop Drawings and Samples*:

2.4.1 Record date of receipt of Shop Drawings and samples.

2.4.2 Receive samples which are furnished at the site by Contractor and notify Arcadis of availability of samples for examination.

2.4.3 Advise Arcadis and Contractor of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not yet been received and approved by Arcadis.

2.5 *Review of Work, Rejection of Defective Work, Inspections and Tests*:

2.5.1 Conduct on-site inspections of Work in progress to determine whether the Work is proceeding in general compliance with the Contract Documents.

2.5.2 Report to Arcadis whenever Resident believes that any Work is unsatisfactory, faulty or defective, or does not conform to the Contract Documents, has been damaged, or does not meet the requirements of any inspection, test or approval required to be made. Advise Arcadis of Work that Resident believes should be corrected or rejected, should be uncovered for inspection, or requires special testing, inspection or approval.

2.5.3 Verify that tests, equipment and systems startups, and operating and maintenance training are conducted in the presence of appropriate personnel, and that Contractor maintains adequate records thereof. Observe, record and report to Arcadis appropriate details relative to the test procedures and startups.

2.5.4 Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to Arcadis.

2.6 *Interpretation of Contract Documents*: Report to Arcadis when clarifications and interpretations of the Contract Documents are needed. Transmit to Contractor clarifications and interpretations issued by Arcadis.

2.7 *Modifications*. Consider and evaluate Contractor's suggested changes to Drawings or Specifications and report to Arcadis with Resident's recommendations. Transmit Arcadis' decisions to Contractor.

2.8 *Records*:

2.8.1 Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and samples, reproductions of original Contract Documents including all Addenda, Change Orders, Field Orders, additional Drawings issued subsequent to the execution of the Construction Contract, Arcadis' clarifications and interpretations of the Contract Documents, progress reports, and

2.8.2 Keep a diary or log book, recording Contractor hours on the job site, weather conditions, data relative to questions concerning Change Orders or changed conditions, list of job site visitors, daily activities, decisions, general observations, and specific, more detailed observations as in the case of test procedures. Send copies to Arcadis at appropriate intervals.

2.8.3 Record names, addresses and telephone numbers of all Contractors, subcontractors and major suppliers of materials and equipment.

2.9 *Reports*:

2.9.1 Furnish reports at appropriate intervals to Arcadis concerning progress of the Work and of Contractor's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.

2.9.2 Consult with Arcadis in advance of scheduled major tests, inspections or start of important phases of the Work.

2.9.3 Draft proposed Change Orders, obtaining supporting information from Contractor, and recommend to Arcadis.

2.9.4 Report any accidents or unusual incidents to Arcadis and Client immediately upon occurrence.

2.10 *Payment Requests*: Review Contractor's applications for payment for compliance with the requirements of the Contract Documents and forward with Resident's recommendations to Arcadis. The Resident will note the relationship of the payment requested to the schedule of values, Work completed, and materials and equipment delivered at the site but not incorporated in the Work.

2.11 *Certificates, Maintenance and Operation Manuals*: During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be furnished by Contractor are appropriate to the items actually installed and in accordance with the Contract Documents. The Resident will have this material delivered to Arcadis for review and forwarded to Client prior to final payment for the Work.

2.12 *Completion*:

2.12.1 Before Arcadis issues a Certificate of Substantial Completion, submit to Contractor a list of observed items requiring completion or correction.

2.12.2 Determine whether necessary inspections and approvals by public agencies having jurisdiction over the Work have been performed and advise Arcadis accordingly.

2.12.3 Conduct a final inspection of the Work in the company of Arcadis, Client, and Contractor and prepare a final list of items to be completed or corrected.

2.12.4 Verify that all items on final list have been completed or corrected and make recommendations to Arcadis concerning acceptance of the Work.

3. Limitations of Authority. The Resident:

3.1 Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment unless authorized by Arcadis.

3.2 Shall not exceed limitations of Arcadis' authority as set forth in this Agreement or the Contract Documents.

3.3 Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.

3.4 Shall not advise on, issue directions relative to, or assume control over any aspect of the means, methods, techniques, sequences or procedures of construction unless such advice or directions are specifically required by the Contract Documents.

3.5 Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.

3.6 Shall not accept Shop Drawings or sample submittals from anyone other than Contractor.

3.7 Shall not authorize Client to occupy the Project in whole or in part.

3.8 Shall not participate in specialized field or laboratory tests or inspections conducted by others except as specifically authorized by Arcadis.

Environmental Facilities Corporation | Department of Health

KATHY HOCHUL
Governor

MAUREEN A. COLEMAN
President and CEO

Mandatory State Revolving Fund Terms and Conditions

For Contracts Funded with the NYS Clean Water State Revolving Fund or Drinking Water State Revolving Fund

Identify Contract Type prior to Advertisement for Bid:

☐ **Construction**

- ☐ **Treatment Works and Drinking Water Projects**
- ☐ **Non-Treatment Works**

☒ **Non-Construction**

Effective October 1, 2025

New York State Environmental Facilities Corporation
625 Broadway, Albany, NY 12207-2997
P: (518) 402-6924
www.efc.ny.gov

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INTRODUCTION

The terms and conditions below must be incorporated verbatim into contracts receiving SRF financial assistance. Additional information relating to each of the requirements is included in the companion guidance document. Recipients, Contractors, Subcontractors, and any other involved entities must also comply with any and all applicable rules and regulations not listed below or in the companion guidance document.

REQUIRED CONTRACT LANGUAGE

COMMONLY USED TERMS

The following commonly used terms are defined herein as follows:

Broker means a firm that does not itself perform, manage or supervise the work of its contract or subcontract in a manner consistent with the normal business practices for contractors or subcontractors in its line of business.

Construction means the process by which a contractor or subcontractor builds, alters, repairs, remodels, improves or demolishes infrastructure.

Contract means an agreement between a Recipient and a Contractor.

Contractor means all bidders, prime contractors, surety that is completing performance for a defaulted contractor pursuant to a performance bond, non-construction service providers, and consultants as hereinafter defined, unless specifically referred to otherwise.

Manufacturer means a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.

MBO is designated and employed by the Recipient as a Minority Business or Compliance Officer responsible for MWBE/DBE/SDVOB/EEO reporting and compliance.

Non-Construction Provider means any individual or business enterprise that provides one or more of the following: legal, engineering, financial advisory, technical, or other professional services, supplies, commodities, equipment, materials, or travel.

Recipient means the party, other than EFC, to a grant agreement or a project finance agreement with EFC through which funds for the payment of amounts due thereunder are being paid in whole or in part. Responsible through Project Finance Agreement (PFA) to comply with EFC requirements.

State means the State of New York.

Subcontract means an agreement between a Contractor and a Subcontractor.

Subcontractor means any individual or business enterprise that has an agreement, purchase order, or any other contractual arrangement with a Contractor.

Supplier means a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business.

Treatment Works is defined in Clean Water Act (CWA) Section 212. This does not include nonpoint source projects as defined in CWA Section 319 and estuary management program projects as defined in CWA Section 320.

SECTION 1 FEDERAL ARCHITECTURAL AND ENGINEERING PROCUREMENT REQUIREMENTS

Any Architectural and Engineering (A/E) services for all CWSRF projects and for DWSRF projects are required to be procured in compliance with 40 USC 1101 et. seq., and 48 CFR Part 36 Subpart 36.6. The Recipient must certify compliance to receive financing. Disregard this section if it does not apply to this Contract.

SECTION 2 REQUIREMENTS AND PROCEDURES FOR BUSINESS PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR WOMEN AND MINORITY GROUP MEMBERS

The Equal Employment Opportunities requirements of this section apply to all Contracts and Subcontracts, with the exception of: (1) the requirements under Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A which apply only to construction Contracts and Subcontracts; and (2) the Federal Affirmative Action Regulations requirements which apply only to construction Contracts and Subcontracts greater than $10,000.

The Minority- and Women- Owned Business Enterprises ("MWBE") participation requirements of this section apply to the Contracts Meeting Article 15-A Thresholds.

> ***Contracts Meeting Article 15-A Thresholds*** *means Contracts or Subcontracts meeting the thresholds under New York State Executive Law Article 15-A as follows:*
> *a) Non-Construction Provider Contracts greater than $25,000;*
> *b) Non-Construction Provider Contracts that are initially under $25,000 but subsequent change orders or contract amendments increase the Contract value to above $25,000;*
> *c) Construction Contracts greater than $100,000; and,*
> *d) Construction Contracts that are initially under $100,000 but subsequent change orders or contract amendments increase the Contract value to above $100,000.*

Disregard this section if it does not apply to this Contract or Subcontract.

I. General Provisions

A. Contractors and Subcontractors are required to comply with the following provisions:

1. New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State Contracts meeting Article 15-A thresholds.

2. Title VI of the Civil Rights Act of 1964 and 40 CFR Part 7 ("Title VI") for any program or activity receiving federal financial assistance, as those terms are defined therein.

3. Title VII of the Civil Rights Act of 1964 and 41 CFR Part 60-1 Subpart A ("Title VII") for construction Contracts related to any government programs providing federal financial assistance, as those terms are defined therein.

4. 41 CFR Part 60-4 ("Federal Affirmative Action Regulations") for federal or federally assisted construction Contracts in excess of $10,000, as those terms are defined therein.

5. Section 504 of the Rehabilitation Act of 1973 ("Section 504") for any program or activity receiving federal financial assistance, as those terms are defined therein.

6. The Age Discrimination Act of 1975 ("Age Discrimination Act") for any program or activity receiving federal financial assistance, as those terms are defined therein.

7. Section 13 of the Federal Water Pollution Control Act ("Clean Water Act") Amendments of 1972 ("Section 13") for any program or activity receiving federal financial assistance under the Clean Water Act, as those terms are defined therein.

B. Upon request from the Recipient and/or EFC, Contractor will provide complete responses to inquiries and all MWBE and EEO records available within a reasonable time or as otherwise determined by EFC.

C. Failure to comply with all of the requirements herein may result in a finding by the Recipient that the Contractor is non-responsive, non-responsible, and/or has breached the Contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to subsection III(E) of this section, or enforcement proceedings as allowed by the Contract.

D. If any terms or provisions herein conflict with Executive Law Article 15-A, the MWBE Regulations, Title VI, Title VII, or Federal Affirmative Action Regulations, such law and regulations shall supersede these requirements.

II. Equal Employment Opportunities (EEO)

A. Each Contractor and Subcontractor performing work on the Contract shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

B. The Contractor shall comply with the provisions of the Human Rights Law (Executive Law Article 15), Title VI, Title VII, the Federal Affirmative Action Regulations, Section 504, Age Discrimination Act, Section 13, and all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

C. Contractors and Subcontractors shall have instituted grievance procedures to assure the prompt and fair resolution of complaints when a violation of Title VI of the Civil Rights Act of 1964 or Title 40 CFR Part 7 is alleged.

D. Pursuant to 40 CFR § 7.95, the Contractor shall display a copy of the EEO notice at the project site in a visible location. The notice shall accommodate individuals with impaired vision or hearing and should be provided in languages other than English where appropriate. The notice must also identify the employee responsible for its EEO compliance. See guidance document for sample notice.

E. The Contractor will include the provisions of Subdivisions II(A) and II(C) in every Subcontract in such a manner that the requirements of these subdivisions will be binding upon each Subcontractor as to work in connection with the Contract.

F. The Contractor and Subcontractor will comply with the requirements of 41 CFR § 60-1.4(b) and (c), and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender

identity, or national origin. The Contractor and Subcontractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be 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, including apprenticeship.

G. ***For construction contracts in excess of $10,000***, the Contractor and Subcontractor will comply with the Affirmative Action Regulations and such provisions are hereby incorporated by reference. These provisions require, in part, that the Contractor and Subcontractor place affirmative action goals on Contracts and Subcontracts, as established by the United States Department of Labor. See guidance document for goals.

H. Pursuant to 41 CFR Section 60-1.7 for federally assisted construction Contracts, Contractor and Subcontractor will annually file an EEO-1 Report with the Joint Reporting Committee for the Office of Federal Contract Compliance Programs (OFCCP) and the Equal Employment Opportunity Commission (EEOC) according to the instructions provided at https://www.eeoc.gov/employers/eeo-1-survey/eeo-1-instruction-booklet, if Contractor or Subcontractor:

1. Is not exempt from compliance pursuant to 41 CFR § 60-1.5;
2. Has 50 or more employees;
3. Is a prime Contractor or first tier Subcontractor; or Subcontractor below the first tier which performs construction work at the site of construction; and
4. Has a Contract, Subcontract, or purchase order amounting to $50,000 or more.

III. Business Participation Opportunities for MWBEs

Applicable to Contracts Meeting Article 15-A Thresholds

A. Contract Goals

1. ***New York State certified MWBE participation goals for this contract are 20%***. For projects funded from the sources listed below, the goals may be achieved through any combination of MBE and/or WBE participation.
   a. CWSRF, DWSRF & Green Innovation Grant Program (GIGP).
   b. NYS Water Infrastructure Improvement Act Grants that are also receiving EFC financing.
   c. NYS Intermunicipal Grants that are also receiving EFC financing.

2. For purposes of providing meaningful participation by MWBEs on the Contract and achieving the MWBE Contract Goals established in Section III-A hereof, the Contractor should reference the directory of New York State Certified MWBEs found at https://ny.newnycontracts.com.

3. The Contractor understands that only sums paid to MWBEs for the performance of a commercially useful function, as defined in 5 NYCRR § 140.1, may be applied towards achievement of applicable MWBE participation goals.

   a. For construction and construction-related services Contracts or Subcontracts, the portion of the Contract or Subcontract with an MWBE serving as a Supplier, and so designated in ESD's Directory, that shall be deemed to represent the commercially useful function performed by the MWBE shall be 60% of the total value of the Contract or Subcontract. The portion of a Contract or Subcontract with an MWBE serving as a Broker, as denoted by NAICS code 425120, that shall be deemed to represent the commercially useful function performed by the MWBE shall be the monetary value for fees, or the markup percentage, charged by the MWBE.
   b. For Non-Construction Provider Contracts or Subcontracts, the portion of a Contract or Subcontract with an MWBE serving as a Broker that shall be deemed to represent the commercially useful function performed by the MWBE shall be 25% of the total value of the contract.

4. Where MWBE Contract Goals have been established herein, pursuant to 5 NYCRR § 142.8, the Contractor must document "good faith efforts" to provide meaningful participation by MWBEs as Subcontractors or Suppliers in the performance of the Contract.

5. In accordance with Section 316-a of Article 15-A and 5 NYCRR § 142.13, the Contractor acknowledges that if it is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of Contract and the Contractor shall be liable to the Recipient for liquidated or other appropriate damages, as set forth herein.

B. MWBE Utilization Plan

1. The Contractor represents and warrants that Contractor has submitted a completed copy of the MWBE Utilization Plan with all required bid forms to the MBO no later than the execution date of this Contract.

2. The Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this section.

3. The Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, the Recipient shall be entitled to any remedy provided herein, including but not limited to, a finding that the Contractor is not responsive.

4. The Contractor must report any changes to the Utilization Plan after Contract award and during the term of the Contract to the MBO. The Contractor shall indicate the changes to the MBO in the Monthly MWBE Contractor Compliance Report immediately following the change. At EFC's discretion, an updated MWBE Utilization Plan form and good faith effort documentation may be required to be submitted. When a Utilization Plan is revised due to execution of a change order, the change order should be submitted to the MBO with the Monthly MWBE Contractor Compliance Report or revised Utilization Plan.

5. The Contractor shall submit copies of all fully executed Subcontracts, agreements, and purchase orders that are referred to in the MWBE Utilization Plan to the MBO within 30 days of their execution.

C. Request for Waiver

1. If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver to the MBO documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request aligns with the documentation identified on the Request for Waiver form, the MBO shall forward the request to EFC for evaluation, and EFC will issue a written notice of acceptance or denial within twenty (20) days of receipt.

2. If the MBO, upon review of the MWBE Utilization Plan and updated Quarterly MWBE Contractor Compliance Reports determines that the Contractor is failing or refusing to comply with the MWBE Contract Goals and no waiver has been issued in regard to such non-compliance, the Recipient may issue a notice of deficiency to the Contractor. The Contractor must respond to the notice of deficiency within seven (7) business days of receipt. Such response may include a request for partial or total waiver of MWBE Contract Goals.

D. Monthly MWBE Contractor Compliance Report ("Monthly MWBE Report")

1. The Contractor agrees to submit a report to the MBO by the third business day following the end of each month over the term of this Contract documenting the payments made and the

progress towards achievement of the MWBE goals of the Contract. The Monthly MWBE Report must be supplemented with proof of payment by the Contractor to its Subcontractors (e.g., copies of both sides of a cancelled check) and proof that Subcontractors have been paid within 30 days of receipt of payment from the Recipient. The final Monthly MWBE Report must reflect all Utilization Plan revisions and change orders.

E. Liquidated Damages - MWBE Participation

1. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, if it has been determined by the Recipient or EFC that the Contractor has willfully and intentionally failed to comply with the MWBE participation goals, the Contractor shall be obligated to pay to Recipient liquidated damages or other appropriate damages, as specified herein and as determined by the Recipient or EFC.

2. Liquidated damages shall be calculated as an amount not to exceed the difference between:

   a. All sums identified for payment to MWBEs had the Contractor achieved the approved MWBE participation goals; and,
   b. All sums actually paid to MWBEs for work performed or materials supplied under this Contract.

3. The Recipient and EFC reserve the right to impose a lesser amount of liquidated damages than the amount calculated above based on the circumstances surrounding the Contractor's non-compliance.

4. In the event a determination has been made by the Recipient or EFC which requires the payment of damages identified herein and such identified sums have not been withheld, Contractor shall pay such damages to the Recipient within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day the Contractor has filed a complaint with the Empire State Development Corporation – Division of Minority and Women's Business Development ("ESD") pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the damages shall be payable if the Director of ESD renders a decision in favor of the Recipient.

SECTION 3 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN-OWNED BUSINESSES

The requirements of this section apply to all Construction Contracts and Subcontracts

A. New York State Veterans' Service Law Article 3, and 9 NYCRR Part 252, and/or any other related regulations promulgated thereto, provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. New York State recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of EFC Contracts.

   In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as Subcontractors or Suppliers, as protégés, or in other partnering or supporting roles.

B. Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: https://sdves.ogs.ny.gov/business-search.

C. Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or

VeteransDevelopment@ogs.ny.gov to discuss methods of maximizing participation by SDVOBs on the Contract.

SECTION 4 AMERICAN IRON AND STEEL (AIS) REQUIREMENT

The requirements of this section apply to (1) all Construction Contracts and Subcontracts for DWSRF projects and CWSRF Treatment Works projects and (2) all Contracts for the purchase of iron and steel products for a DWSRF project or CWSRF Treatment Works project. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor shall submit with their bid or proposal documents an executed AIS Contractors Certification on the form attached hereto as Attachment 2 acknowledging to and for the benefit of the Recipient of the Clean Water State Revolving Fund ("CWSRF") or the Drinking Water State Revolving Fund ("DWSRF") financial assistance that the Contractor understands the goods and services under this Agreement are being funded with monies made available by the New York State Environmental Facilities Corporation ("EFC") through the CWSRF or the DWSRF and that such funding is subject to certain statutory restrictions requiring that certain iron and steel products used in the project be produced in the United States ("American Iron and Steel Requirement") including iron and steel products provided by the Contractor pursuant to this Agreement.

The Contractor hereby represents and warrants that:

(a) the Contractor has reviewed and understands the American Iron and Steel Requirement,
(b) all of the iron and steel products covered by the American Iron and Steel Requirement used in the project will be and/or have been produced in the United States in a manner that complies with the American Iron and Steel Requirement, unless a waiver of the requirement is approved, and
(c) the Contractor will provide any further verified information, certification or assurance of compliance with this paragraph, or information necessary to support a waiver of the American Iron and Steel Requirement, as may be requested by the Recipient.

Notwithstanding any other provision of this Agreement, any failure to comply with this paragraph by the Contractor shall permit the Recipient to recover as damages against the Contractor any loss, expense, or cost (including without limitation attorney's fees) incurred by the Recipient resulting from any such failure (including without limitation any impairment or loss of funding, whether in whole or in part, from the EFC or any damages owed to the EFC by the Recipient). While the Contractor has no direct contractual privity with the EFC, as a lender to the Recipient for the funding of this project, the Recipient and the Contractor agree that the EFC is a third-party beneficiary and neither this paragraph, nor any other provision of this Agreement necessary to give this paragraph force or effect, shall be amended or waived without the prior written consent of the EFC.

SECTION 5 DAVIS-BACON (DB) PREVAILING WAGE REQUIREMENTS

The requirements of this section apply to all Construction Contracts and Subcontracts greater than $2,000 for either DWSRF projects or CWSRF Treatment Works projects. Disregard this section if it does not apply to this Contract or Subcontract.

For Contracts in Excess of $2,000:

(a) Required Contract Clauses

1. Minimum Wages

(i) *Wage rates and fringe benefits*

All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate

on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

As provided in paragraphs (d) and (e) of this section the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act (40 U.S.C. 3141(2)(B)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *provided,* that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (1)(ii) of this section) and the Davis–Bacon poster (WH–1321) must be posted at all times by the Contractor and its Subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

The Davis-Bacon poster (WH-1321) can be found at https://www.dol.gov/whd/regs/compliance/posters/davis.htm . Wage determinations may be obtained from the US Department of Labor's website, https:/sam.gov/.

(ii) *Frequently recurring classifications*

(A) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in 29 CFR Part 1, a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph (a)(1)(iii) of this section, provided that:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;
2. The classification is used in the area by the construction industry; and,
3. The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(B) The Administrator will establish wage rates for such classifications in accordance with paragraph (a)(1)(iii)(A)(3) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

(iii) *Conformance*

(A) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the Contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a

classification in the wage determination; and
2. The classification is used in the area by the construction industry; and,
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(C) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to DBAconformance@dol.gov. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification request within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(D) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to DBAconformance@dol.gov, refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30–day period that additional time is necessary.

(E) The contracting officer must promptly notify the Contractor of the action taken by the Wage and Hour Division under paragraphs (a)(1)(iii)(C) and (D) of this section. The Contractor must furnish a written copy of such determination to each affected worker, or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph (a)(1)(iii)(C) or (D) of this section must be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iv) *Fringe benefits not expressed as an hourly rate*

Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(v) *Unfunded plans*

If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *provided,* that the Secretary of Labor has found, upon the written request of the Contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis–Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(vi) *Interest*

In the event of a failure to pay all or part of the wages required by the Contract, the Contractor will be required to pay interest on any underpayment of wages.

2. Withholding.

(i) *Withholding requirements*

The Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor, so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in paragraph (a) of this section for violations of this contract, or to satisfy any such liabilities required by this Contract or any other Federal contract, or federally-assisted contract subject to Davis–Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2).

The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally-assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

In the event of a Contractor's failure to pay any laborer or mechanic, including any apprentice or helper, working on the site of the work (or otherwise working on construction or development of the project under a development statute) all or part of the wages required by the Contract, or upon the Contractor's failure to submit the required records as discussed in paragraph (a)(3)(iv) of this section, the Recipient, Subrecipient at any tier, and/or contracting agency may on its own initiative and after written notice to the Contractor, sponsor, applicant, or owner, or other entity, as the case may be, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(i) of this section, or both over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a Contractor, or a Contractor's bankruptcy estate;

(D) A Contractor's assignee(s)

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907.

3. Payrolls and basic records.

(i) *Basic record requirements*

(A) Length of record retention

All regular payrolls and other basic records must be maintained by the Contractor and any Subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in a construction or development of the project under a development statute) for a period of at least three years after all the work on the prime contract is completed.

(B) Information required

Such records must contain the name, Social Security number, last known address, telephone number, and email address of each such worker, each worker's correct classification(s) of work

actually performed;, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act), daily and weekly number of hours actually worked in total on each covered contract; deductions made; and actual wages paid.

(C) Additional records relating to fringe benefits

Whenever the Secretary of Labor has found under 29 CFR § 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 40 U.S.C. 3141(2)(B) of the Davis–Bacon Act, the Contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(D) Additional records relating to apprenticeship. Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

(ii) *Certified payroll requirements*

(A) Frequency and method of submission

The Contractor or Subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, a copy of all payrolls to the Recipient. The prime contractor is responsible for the submission of all certified payrolls by all Subcontractors. A prime contractor may permit or require Contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the Contractor, the contracting agency, EFC, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the Contractor is unable or limited in its ability to use the electronic system.

(B) Information required

The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i)(B), except that full social security numbers and home addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker (e.g., the last four digits of the worker's social security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site at https://www.dol.gov/agencies/whd/government-contracts/construction/forms or its successor website. It is not a violation of this section for a prime Contractor to require a Subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to the Recipient (or the applicant, sponsor, or owner).

(C) Statement of Compliance

Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the Contractor or Subcontractor, or the Contractor's or Subcontractor's agent who pays or supervises the payment of the persons employed under the Contract and must certify the following:

1. That the certified payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information and records are correct and complete;

2. That each laborer or mechanic (including each helper and apprentice) working on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3; and

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the Contract.

(D) Use of Optional Form WH-347

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(C) of this section.

(E) Signature

The signature by the Contractor, Subcontractor, or the Contractor's or Subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(F) Falsification

The falsification of any of the above certifications may subject the Contractor or Subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 3729.

(G) Length of certified payroll retention

The Contractor or Subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

(iii) *Contracts, Subcontracts, and related documents*

The Contractor or Subcontractor must maintain this Contract or Subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The Contractor or Subcontractor must preserve these Contracts, Subcontracts, and related documents during the course of the work and for a period of 3 years after all work on the prime contract is completed.

(iv) *Required disclosures and access*

(A) Required record disclosures and access to workers

The Contractor or Subcontractor must make the records required under paragraphs (a)(3)(i) through (iii) of this section, and any other documents the Recipient, EFC, EPA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statues referenced by 29 CFR § 5.1, available for inspection, copying, or transcription by authorized representatives of the Recipient, EFC, EPA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(B) Sanctions for non-compliance with records and worker access requirements

If the Contractor or Subcontractor fails to submit the required records, make them available, or refuses to permit worker interviews during working hours on the job, the federal agency may, after written notice to the Recipient, Contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records

available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to 29 CFR § 5.12. In addition, any Contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under 29 CFR part 6 any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the Contractor or a person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(C) Required information disclosures

Contractors and Subcontractors must maintain the full Social Security number and last known address, telephone number, and email address of each covered worker, and must provide them upon request to the EPA if the agency is a party to the contract, or to the Wage and Hour Division of the Department of Labor. If the federal agency is not such a party to the contract, the Contractor, Subcontractor, or both, must, upon request, provide the full Social Security number and last known address, telephone number, and email address of each covered worker to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the EPA, Recipient, EFC, or subrecipient at any tier, contracting agency, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

4. Apprentices and trainees.

(i) *Apprentices*

(A) Rate of pay

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA) Training, or with a State Apprenticeship Agency recognized by the OA, A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program., In the event the OA or a State Apprenticeship Agency recognized by the OA, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(B) Fringe benefits

Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(C) Apprenticeship ratio

The allowable ratio of apprentices to journey workers on the job site in any craft classification must not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph (a)(4)(i)(D) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(4)(i)(A) of this section, must be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program must be paid not less than the applicable wage rate on the wage

determination for the work actually performed.

(D) Reciprocity of ratios and wage rates

Where a Contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journey worker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ration and wage rate specified in the Contractor's registered program must be observed.

(ii) *Equal employment opportunity*

The use of apprentices and journey workers under this part must be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Reserved

6. Subcontracts

The Contractor or Subcontractor must insert in any Subcontracts the clauses contained in 29 CFR § 5.5(a)(1) through (11) or a link to the DBRA Requirements for Contractors and Subcontractors Under EPA Grants documents on EPA's Contract Provisions for Davis-Bacon and Related Acts webpage, along with applicable wage determination(s) and such other clauses or contract modifications as the EPA may by appropriate instructions require, and a clause requiring the Subcontractors to include these clauses and wage determination(s) in any lower-tier Subcontracts. The prime Contractor and any Subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of underpayment or loss, due to any workers of lower-tier Subcontractors, and may be subject to debarment, as appropriate.

7 through 9. Reserved

10. Certification of eligibility

(i) By entering into this Contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government Contracts by virtue of 40 U.S.C. 3144(b) or 29 CFR 5.12(a).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 40 U.S.C. 6144(b) or 29 CFR 5.12(a).

(iii) The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, 18 U.S.C. § 1001.

11. Anti-Retaliation

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part of 29 CFR part 1 or 3;

(ii) Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or 29 CFR part 1 or 3;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or 29 CFR part 1 or 3; or

(iv) Informing any other person about their rights under the DBA, Related Acts, this part, or 29 CFR part 1 or 3.

For Contracts in Excess of $100,000, in addition to part (a):

(b) Contract Work Hours and Safety Standards Act (CWHSSA)

1. **Overtime requirements**. No Contractor or Subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; Liability for Unpaid Wages; Liquidated Damages**. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any Subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such Contractor and Subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of $31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

3. **Withholding for Unpaid Wages and Liquidated Damages.**

(i) *Withholding process*

The EPA, EFC, Recipient, Subrecipient at any tier, and/or contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime Contractor or any Subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section, any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor (as defined in 29 CFR 5.2). The necessary funds may be withheld from the Contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the Contractor liability for which the funds were withheld.

(ii) *Priority to withheld funds*

The Department has priority to funds withheld or to be withheld in accordance with paragraph (a)(2)(i) or (b)(3)(1) of this section, or both, over claims to those funds by:

(A) A Contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;

(B) A contracting agency for its reprocurement costs;

(C) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;

(D) A Contractor's assignee(s);

(E) A Contractor's successor(s); or

(F) A claim asserted under the Prompt Payment Act, 31 U.S.C. 3901-3907

4. **Subcontracts**. The Contractor or Subcontractor must insert in any Subcontracts the clauses set forth in paragraphs (1) through (5) of this section and also a clause requiring the Subcontractors to include these clauses in any lower-tier Subcontracts. The prime contractor is responsible for compliance by any Subcontractor or lower-tier subcontractor with the clauses set forth in paragraphs (1) through (5). In the event of any violations of these clauses, the prime contractor and any Subcontractor(s) responsible will be liable for any unpaid wages for monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

5. **Anti-Retaliation**

It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

(i) Notifying any Contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

(ii) Filing any complain, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWSSA or this part;

(iii) Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

(iv) Informing any other person about their rights under CWHSSA or this part.

SECTION 6 REQUIREMENTS REGARDING SUSPENSION AND DEBARMENT

The requirements of this section apply to all Contracts and Subcontracts.

Contractor and any Subcontractors shall comply with, Subpart C of 2 CFR Part 180 as implemented and supplemented by 2 CFR Part 1532. The Contractor is not a debarred or suspended party under 2 CFR Part 180 or 2 CFR Part 1532, or 29 CFR § 5.12. Neither the Contractor nor any of its Subcontractors have contracted with, or will contract with, any debarred or suspended party under the foregoing regulations.

The Contractor and any Subcontractors have not been debarred from or deemed ineligible for Government Contracts or federally assisted Construction Contracts pursuant to Executive Order 12549.

The Contractor and any Subcontractors have not been deemed ineligible to submit a bid on or be awarded a public contract or subcontract pursuant to Article 8 of the State Labor Law, specifically Labor Law § 220-b. In addition, neither the Contractor nor any Subcontractors have contracted with, or will contract with, any party that has been deemed ineligible to submit a bid on or be awarded a public contract or subcontract under Labor Law § 220-b.

In addition, the Contractor and any Subcontractors have not been deemed ineligible to submit a bid and have not contracted with and will not contract with any party that has been deemed ineligible to submit a bid under Executive Law § 316.

SECTION 7 RESTRICTIONS ON LOBBYING

The requirements of this section apply to all Contracts and Subcontracts greater than $100,000. Disregard this section if it does not apply to this Contract or Subcontract.

The Contractor and any Subcontractor bidding or proposing a Contract or Subcontract in excess of $100,000 shall submit with their bid or proposal documents an executed Certification Regarding Lobbying pursuant to 40 CFR Part 34 (“Lobbying Certification”) in the form attached hereto as Attachment 3, consistent with the prescribed form provided in Appendix A to 40 CFR Part 34.

SECTION 8 CONSTRUCTION SIGNS

The requirements of this section apply to all EFC projects. Additional permanent signage is required for projects receiving funding from the NYS Bond Act.

If Contractor is expected to provide an EFC Construction Sign, a specification will be included in the enclosed contract documents.

ATTACHMENTS (Required Forms)

Attachment 1 – EFC MWBE Utilization Plan

Environmental Facilities Corporation | Department of Health

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

Instructions for Contractors & Service Providers:

Contractors and Service Providers must complete Sections 2 and 3. Submit the completed (electronic signature box checked and dated) form to the Recipient's Minority Business Officer (MBO) no later than the date of contract execution. Incomplete forms will be found deficient. If more than 10 subcontractors are used, additional pages for Section 3 can be found on EFC's website.

If the prime contract is being performed by the parties to a Joint Venture, Teaming Agreement, or Mentor-Protégé Agreement that includes a certified MWBE, please contact EFC for assistance.

MWBE firms must be certified by the NYS Empire State Development Corporation (ESD) in order to be counted towards satisfaction of MWBE participation goals. The utilization of certified MWBEs for non-commercially useful functions may not be counted towards utilization of certified MWBEs in the Utilization Plan. Please note whether a firm is serving as a broker or supplier on the contract. A broker is denoted by NAICS code 425120 and is designated as a broker in ESD's MWBE Directory. A supplier is denoted by a NAICS code beginning with 423 or 424, or a NIGP code that does not begin with the number 9 and is designated as a supplier in ESD's MWBE Directory. If a firm is serving as a broker, please additionally provide the percentage of the broker's commission on the contract.

See the Mandatory Terms and Conditions or consult your designated MBO for further guidance.

Instructions for Minority Business Officers (MBO):

The MBO must complete Section 1. Email the completed (electronic signature box checked and dated) to your EFC Program Compliance Specialist.

The subject heading of the email to the EFC Program Compliance Specialist should follow the format "UP, Project Number, Contractor." EFC will review the Utilization Plan and email the MBO an acceptance or denial.

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 1: MUNICIPAL INFORMATION							
Recipient/Municipality:				**County:**			
Project No.:		**Program ID:**		**Contract ID:**		**Registration No. (NYC only):**	
Minority Business Officer:		**Email:**		**Phone #:**			
Address of MBO:							
Electronic Signature of MBO: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and belief.				**Date:**			

SECTION 2: PRIME CONTRACTOR / SERVICE PROVIDER INFORMATION					
Firm Name:				**Contract Type:** ☐ Construction ☐ Other Services	
Prime Firm is Certified as: ☐ MBE ☐ WBE ☐ N/A ☐ Other: If yes, please include Prime information in Section 3. If dual certified, you must select either MBE or WBE.					
Address:		**Phone #:**		**Fed. Employer ID #:**	
Description of Work:		**Email:**			
Award Date:	**Start Date:**	**Completion Date:**	**MWBE GOAL Total**	**PROPOSED MWBE Participation**	
Total Contract Amount: $ **MWBE Eligible Contract Amount:** $ (MWBE Goals are applied to this amount and includes all change orders, amendments, & specialty waivers)			**Total:** % $	**Total:** % $	

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: MWBE SUBCONTRACTOR INFORMATION			
This Submittal is:	☐ The First/Original Utilization Plan ☐ Revised Utilization Plan #:		
NYS Certified M/WBE Subcontractor Info		**Contract Amount:**	**For EFC Use:**
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			

NYS Environmental Facilities Corporation
Minority- & Women- Owned Business Enterprise (MWBE) Utilization Plan

SECTION 3: M/WBE SUBCONTRACTOR INFORMATION continued			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			
Business Name:	**Fed. Employer ID#:**		
Address:	**Phone #:**		
Scope of Work:	**Email:**		
Select Only One: ☐ MBE ☐ WBE ☐ Other:	**Start Date:**		
Select Only One: ☐ Broker % ☐ Supplier ☐ N/A	**Completion Date:**		
Full Contract Amount: $			

SIGNATURE	
Electronic Signature of Contractor: ☐ I certify that the information submitted herein is true, accurate and complete to the best of my knowledge and that all MWBE subcontractors will perform a commercially useful function. **Name** (Please Type)**:**	**Date:**

Attachment 2 – AIS Contractor's Certification

Environmental Facilities Corporation | Department of Health

AIS CONTRACTOR CERTIFICATION

FOR CONSTRUCTION CONTRACTS FUNDED THROUGH
THE NYS CLEAN WATER STATE REVOLVING FUND, OVERFLOW AND STORMWATER GRANTS
OR
THE NYS DRINKING WATER STATE REVOLVING FUND VIA THE
NYS ENVIRONMENTAL FACILITIES CORPORATION

Project Title: _____

Contractor's Name: _____

Contract ID: _____

SRF Project No.: _____

SRF Recipient Name: _____

I certify that the iron and steel products permanently incorporated into the public water system or wastewater treatment works project under this construction contract will be and/or have been produced in the United States or have been waived by the United States Environmental Protection Agency (EPA), in accordance with the requirements of the EPA and 33 U.S.C. § 1388, 42 U.S.C. § 300j-12(a)(4) and any regulations promulgated thereunder. I will develop and maintain necessary documentation to demonstrate that the iron and steel products permanently incorporated into the project were produced in the United States, and make such documentation available to The New York State Environmental Facilities Corporation or their authorized representatives, upon request.

Signature: _____

Name (print): _____

Title: _____

Date: _____

Attachment 3 – Lobbying Certification

Environmental Facilities Corporation | Department of Health

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND
COOPERATIVE AGREEMENTS
40 CFR Part 34

SRF Project No.: _____
Recipient: _____
Project Description: _____

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____
Name: _____
Title: _____
Company Name: _____
Date: _____
Contract ID: _____

Prudential

Tiana Davila
Account Manager
Group Insurance

The Prudential Insurance Company of America
Phone: 732-278-5006
Email: tiana.davila@prudential.com

March 4, 2026
David Melby
Rose & Kiernan Inc.
RE: Renewal Coverage: BADD, BGL, OGL
Control Number: 52887
Policy Holder Name: City of Newburgh

On behalf of Prudential, I would like to thank you for the opportunity to provide coverage over the recent policy period. As is customary this time of year, we have reviewed the rating and plan design for City of Newburgh with Prudential.
The renewal evaluation has been completed and effective: June 1, 2026, the following renewal rates will apply.

Optional Group Life

	Current Rates per	Rate Action	
Employee & Spouse			
15-24	0.097	0%	0.097
25-29	0.117	0%	0.117
30-34	0.122	0%	0.122
35-39	0.154	0%	0.154
40-44	0.203	0%	0.203
45-49	0.300	0%	0.300
50-54	0.499	0%	0.499
55-59	0.837	0%	0.837
60-64	1.329	0%	1.329
65-69	2.214	0%	2.214
70-74	3.383	0%	3.383
75-100	3.383	0%	3.383
Child	0.100	0%	0.100

BGL

	Current Rates per $1000	Rate Action	Quoted Rate per $1000
	0.135	0%	0.135

BADD

	Current Rates per $1000	Rate Action	Quoted Rate per $1000
	0.011	0%	0.011

NOTE: The rate for one or more coverage(s) offered under the Group Contract depends upon support from the rate charged for other coverages under the Group Contract. Premiums paid by the Plan for one coverage will cover some or all of the cost of another Plan coverage. Prudential is quoting this rate on the basis that the employer has reviewed the rate structure as described and will, if accepted, represent and warrant that (i) such arrangement is consistent with the requirement for use of plan assets and its fiduciary responsibilities under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"); (ii) the coverages are being offered to the participants under a single ERISA plan; and (iii) the Plan's rate

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structure is consistent with Plan documents and related communications to participants.

Since this is your plan decision, and Prudential does not provide tax or legal advice, you are encouraged to consult your own counsel.

Producer Disclosure: As a condition of this proposal, Prudential requires the producer to fully disclose to client all commissions and fees payable to the producer by Prudential in connection with the proposed insurance coverage(s) and services. Prudential further requires that client consent, in writing, to the payment of all such commissions and fees by Prudential to the producer, a copy of which consent must be provided to Prudential at the point of sale.

Cannabis Disclosure: Prudential Group Insurance will not do business with entities engaged directly in cannabis activities in the United States. In addition, Prudential Group Insurance will not do business with a person or entity that does business or is affiliated with entities engaged directly in cannabis activities in the United States (affiliation may be determined based upon a particular ownership percentage of the equity of such business, or upon sharing a common parent with such a business).

DOL Fiduciary Disclosure: These materials are for informational or educational purposes. In providing these materials, Prudential (i) is not acting as fiduciary, as defined by the Department of Labor, to ERISA plans, plan participants or beneficiaries and is not giving fiduciary capacity and (ii) is not undertaking to provide impartial investment advice as Prudential will receive compensation for its products and services.

Basic AD & D Renewal
A census was used in our evaluation of the June 1, 2026 renewal. Based on the current inforce rate to new manual rate relationship, it has been determined that the BADD rate will continue at 0.011 per 1000, as of the renewal effective date. A 24 month rate guarantee will apply through June 1, 2028, subject to the terms and conditions of your group insurance contract.
Basic Group Life Renewal
A census was used in our evaluation of the June 1, 2026 renewal. Based on the current inforce rate to new manual rate relationship, it has been determined that the BGL rate will continue at 0.135 per 1000, as of the renewal effective date. A 24 month rate guarantee will apply through June 1, 2028, subject to the terms and conditions of your group insurance contract.
Optional Group Life Renewal
A census was used in our evaluation of the June 1, 2026 renewal. Based on the current inforce rate to new manual rate relationship, it has been determined that the OGL rates will continue as of the renewal effective date. A 24 month rate guarantee will apply through June 1, 2028, subject to the terms and conditions of your group insurance contract.
We appreciate the opportunity to provide Life coverages to City of Newburgh and we look forward to continuing to work with you to meet our client's benefit needs.
Please review the attached "Notice Regarding Producer" Compensation and share it with your client. The client's payment of premium after the renewal date indicates that you and your client have received the notice and agree with its contents.
Please feel free to contact me with any questions you may have regarding the renewal.
Sincerely,
Tiana Davila
Account Manager

NOTICE REGARDING PRODUCER COMPENSATION

External Producer

This section applies only if your producer is receiving commission and/or supplemental compensation.

External producers are individuals or entities who represent you, the client, in the solicitation, negotiation or effectuation of the sale of insurance as their producer or consultant of record. The specific functions of external producers may vary but can include guidance through the proposal process and coordination of the client's data with one or more carriers. External producers are not Prudential employees and may have brokerage relationships with other insurance carriers. Please contact your producer for further information regarding their role during the proposal process and for information about any possible alternative quotes received from other insurance carriers.

Producers who place business with Prudential may be eligible to receive commissions and supplemental compensation unless you advise us otherwise.

Commissions are payable as a percentage of paid premiums, a fixed dollar amount, or as a dollar amount based on the total number of eligible lives or enrolled lives for as long as the producer is recognized as the Producer of Record on your policy.

Under Prudential's Supplemental Commission Program (SCP), supplemental compensation ranges from 0% to 10% of group insurance premium on Critical Illness, Accident, and Voluntary AD&D products and 0% to 7% of group insurance premium on all other products. The actual percentage payable under Prudential's SCP is determined based on the aggregate annual premium due on eligible cases that your producer has inforce with Prudential. The cost of supplemental compensation is not charged directly to policies. As a result, your rates are unaffected whether or not your producer receives supplemental compensation. You or your producer can elect to opt out of Prudential's SCP.

More information about eligibility criteria and payment calculation under Prudential's SCP is available to clients on Prudential's website at www.prudential.com/SCP. Questions regarding producer compensation may be e-mailed to GrpIns@prudential.com. Or, if you would like to speak with someone about producer compensation, contact your Prudential representative or call (888) 598-5671 from 8am to 5pm Eastern time.

Internal Producer

This section only applies if your contract is issued in the State of New York

Internal producers, including without limitation, sales representatives, account executives and other employees providing sales support, are individuals employed by The Prudential Insurance Company of America (Prudential) who are responsible for representing Prudential and our product portfolio during the proposal process. Prudential provides sales compensation to such internal producers when business is placed with our clients. Compensation varies based on the products placed, volume of premium and cases placed with Prudential but generally can be identified as production payments, goal-based payments, profitability, and/or direct or indirect compensation related to high achievement. An internal producer may be entitled to one or all of these types of compensation. Prudential is providing this disclosure on behalf of any and all such internal producers employed by Prudential in connection with the sales activity described herein.

You may obtain information about expected producer compensation, including information about alternative quotes, if any, based in whole or part on the sale and additional information about the specific internal producers involved in this transaction. This additional information regarding internal producer compensation may be requested via e-mail by writing to Sales.Data.and.Compensation@prudential.com, or by calling 973-548-5100.

Life Insurance Mode of Settlement

Prudential may make a range of settlement and payment options available to group life insurance beneficiaries based upon the type of life insurance coverage and agreement between Prudential and the Contract Holder. Subject to applicable state and federal law, the standard method of settling group term life insurance benefits of $5,000 or more is via a retained asset account, such as Prudential's Alliance Account whereby funds are held with Prudential.

Regardless of the type of insurance, when a group life insurance benefit is paid via Prudential's Alliance Account, the full amount of life insurance proceeds payable to the claimant is settled in a single distribution by the establishment of an interest-bearing Alliance Account in the beneficiary's name. Beneficiaries are notified of claim approval resulting in Alliance Account settlement and are mailed a welcome kit containing a personalized draft book with drafts that the beneficiary can use as he/she would use bank checks. Alliance Account kits also contain disclosures explaining the operation of the account. The beneficiary can access all funds immediately, may leave funds in the account as long as desired, and preserves the ability to transfer all or some funds to other settlement options as available. Statements are mailed at least quarterly, or as frequently as monthly based on activity in the account. The Alliance Account has no monthly charges, per check charges or check reorder charges but may incur fees for special services such as stop payment requests, requests for check copies, or requests for priority delivery of additional checks; a complete list of applicable fees is available upon request. The Alliance Account begins earning interest immediately and continues earning interest until all funds are withdrawn or the account is closed based on any minimum balance requirement, in which event a close-out check is sent to the beneficiary. Interest is accrued daily, compounded daily, and credited monthly. The interest rate may change at any time, subject to a minimum rate applicable for successive 90 day periods, and is adjusted at Prudential's discretion based on variable economic factors and may be more or less than the rate Prudential earns on the funds in the account. Changes in the minimum interest rate, if any, are communicated to Alliance accountholders in advance via their quarterly statements or by calling customer support. Alliance Accounts include dedicated customer support and can obtain information 24-hours a day via an automated system. State law requires that if there is no account activity and we have not had contact with the accountholder after a number of years (which time period varies by state), the account may be considered dormant. If the Alliance Account becomes dormant, the accountholder will be mailed a check for the remaining balance plus interest, at their last address shown on our records. If the accountholder does not timely cash that check, their funds will be transferred to the state as unclaimed property. If the funds are transferred to the state, the accountholder may claim those funds from the state but may be charged a fee by the state. Once the funds are transferred to the state, we no longer have any liability with respect to the accountholder's Alliance Account.

The Alliance Account is backed by the financial strength of The Prudential Insurance Company of America. All funds are held within Prudential's general account. It is not FDIC insured because it is not a bank product. Funds held in the Alliance Account are guaranteed by State Guaranty Associations. Please contact the National Organization of Life and Health Insurance Guaranty Associations (www.nolhga.com) to learn more about coverage or limitations. State Guaranty Fund coverages are not determined by Prudential. For further information, the State Department of Insurance may also be contacted. Prudential may contract with third parties to provide a check clearing, account servicing and processing support. Alliance is not available for payments less than $5,000, payments to individuals residing outside the United States and its territories, and certain other payments. These payments will be paid by check. Beneficiaries may wish to consult a tax advisor regarding interest earned on the account. Prudential's Alliance Account is a registered trademark of The Prudential Insurance Company of America. Questions about Prudential's Alliance Account can be directed to Alliance Customer Service toll free at 877-255-4262 or by writing to Prudential Alliance Account, PO BOX 41582, Philadelphia, PA 19176.

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT RENEWAL WITH PRUDENTIAL INSURANCE COMPANY TO PROVIDE LIFE INSURANCE COVERAGE FOR A TWO-YEAR RENEWAL TERM

WHEREAS, the City of Newburgh provides life insurance coverage to its non-bargaining unit employees, sworn police officers and firefighters; and

WHEREAS, Prudential Insurance Company has provided the City with a contract for the renewal period beginning June 1, 2026 and ending May 31, 2028 with no changes to the current rates; and

WHEREAS, it is in the best interests of the City of Newburgh to enter into an agreement for the renewal period with Prudential Insurance Company to provide such coverage and appropriate and necessary related services;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager is hereby authorized to enter into a contract with Prudential Insurance Company to provide life insurance coverage for the renewal period beginning June 1, 2026 and ending May 31, 2028.

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN ITS CAPACITY AS THE RESPONSIBLE ENTITY UNDER THE NATIONAL ENVIRONMENTAL POLICY ACT ("NEPA"), FINDING THAT THE PROPOSED REHABILITATION OF THE BOURNE APARTMENTS AND THE KENNEY APARTMENTS IS CATEGORICALLY EXCLUDED FROM AN ENVIRONMENTAL IMPACT STATEMENT OR ENVIRONMENTAL ASSESSMENT, IS SUBJECT TO 24 CFR SECTION 58.5, AND FINDING NO SIGNIFICANT IMPACT

WHEREAS, Contour Housing Partners, LLC is in contract to acquire two (2) parcels of real property known as 150 Smith Street and 55 Walsh Road, Newburgh, New York (Section 12, Block 5, Lot 1 and Section 43, Block 1, Lot 3), respectively, and more commonly known as the "Bourne and Kenney Apartments" (collectively the "Property"); and

WHEREAS, Contour Housing Partners, LLC proposes to rehabilitate the Property post-acquisition (the "Project"); and

WHEREAS, the Property and the Project are regulated in part by the United States Department of Housing and Urban Development, and as such, the Project is subject to federal environmental review procedures as set forth in 24 CFR Part 58 (the "Regulations"); and

WHEREAS, pursuant to the Regulations, the City of Newburgh is the "Responsible Entity" for making certain findings in the environmental review process for the Project; and

NOW THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that pursuant to pursuant to 24 CFR §58.35(a)(3)(ii), the Project is categorically excluded from an Environmental Impact Statement or Environmental Assessment, is subject to review under authorities listed in 24 CFR §58.5, and finds no significant impact under the National Environmental Policy Act ("NEPA"); and

BE IT FURTHER RESOLVED, that no formal compliance steps or mitigation is required pursuant to 24 CFR §58.5; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and hereby is authorized to sign and file any and all other documents that may be necessary in connection with complying with the Regulations for the Project.

HILLMANN
CONSULTING

U.S. Department of Housing and Urban Development
24 CFR Part 58 Environmental Assessment

The Bourne
150 Smith Street
Newburgh, New York 12550

Prepared For:

Pennrose, LLC
45 Main Street
Suite 539
Brooklyn, NY 11201

City of Newburgh
123 Grand Street
1st Floor
Newburgh, NY 12550

U.S. Department of Housing & Urban Development

Hillmann Project Number Z35384

March 5, 2026

March 5, 2026

Mr. David Marin
Pennrose, LLC
45 Main Street, Suite 539
Brooklyn, NY 11201

RE: U.S. Department of Housing and Urban Development
24 CFR Part 58 Environmental Review
The Bourne
150 Smith Street
Newburgh, New York 12550
Hillmann Project No: Z35384

Dear Mr. Marin:

Hillmann Consulting, LLC, is pleased to provide the findings of the U.S. Department of Housing and Urban Development (HUD) 24 CFR Part 58 Environmental Review (Part 58 Review) of the above referenced site. This Part 58 Review was performed in accordance with the scope of work of our contract agreement and may be relied upon by the above (cover page) named entities.

Per Title 24, Subtitle A, Part 58, Subpart D § 58.35 (a) (3) (ii) the proposed Project, a multifamily residential tenant-in-place rehab, is categorically excluded from an Environmental Impact Statement or Environmental Assessment and finding of no significant impact under NEPA, but subject to § 58.5 as follows:

- Unit density is not proposed to be modified;
- No change in land-use;
- Cost of rehabilitation is < 75% of the total estimated cost of replacement post-rehabilitation.

We appreciate the opportunity to provide environmental consulting services. If you have any questions concerning this report, or if we can assist you in any other matter, please contact our office at 908-688-7800.

Sincerely,
Hillmann Consulting, LLC

Etan Hindin
Senior Project & Account Manager

Greg Parrish
Senior Project Manager

SUPPORTING DOCUMENTS

- Site Vicinity & Layout Figures;
- Project Narrative / Scope of Work;
- Site Photographs;
- Supporting Figures and Reports.

U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

This is a suggested format that may be used by Responsible Entities to document completion of a Categorically Excluded Subject to Section 58.5 environmental review.

Project Information

Project Name: The Bourne Apartments

Responsible Entity: City of Newburgh

Grant Recipient (if different than Responsible Entity): Pennrose, LLC

State/Local Identifier: Newburgh, NY (Block 5, Lot 1; APN 331100 12-5-1)

Preparer: Hillmann Consulting on behalf of Pennrose, LLC

Certifying Officer Name and Title: TBD

Grant Recipient (if different than Responsible Entity): Pennrose, LLC

Consultant (if applicable): Hillmann Consulting
1600 Route 22 East
Union, NJ 07083
Office: (908) 688-7800

Direct Comments to: Etan Hindin, Senior Project Manager, Hillmann Consulting | ehindin@hillmann.com

Project Location:

The Bourne Apartments ("The Bourne") is an affordable housing development located at 150 Smith Street, Newburgh, New York (collectively, the "Project Site'). The Project Site is comprised of one parcel, Block 5, Lot 1 / Parcel Number 331100 12-5-1, spanning 1.23 acres.

Constructed in 1954, the Project Site includes one (1) affordable housing multifamily building, with 85 residential tenant units. (See **Attachment A**: site location/vicinity figure.) The Project Site is bound by Water Street to the east, South Street to the south, and Smith Street to the west. The development features one parking lot, an indoor basketball court, and a community room. The development is in a residential area, surrounded by vacant land, a school, and other residential properties.

Description of the Proposed Project [24 CFR 50.21 & 58.32]**:**

The project involves the acquisition and substantial rehabilitation of a multifamily property in Newburgh, New York, known as the Bourne Apartments. The purpose of this project is to restore The Bourne Apartments to safe, quality, affordable housing. The property has fallen into a state of disrepair, and requires significant investment to improve living standards for its residents. To ensure the community remains affordable, the project will be issued an allocation of Section 8 Project-Based Vouchers. The HAP contract will be between the project owner and the Newburgh Housing Authority, and allow low-income residents of Newburgh, including current tenants of the Project Site, to remain in their renovated homes.

The Project Site is comprised of 85 affordable units, offering a mix of studio through four-bedroom apartments restricted to households earning up to 60% of the Area Median Income (AMI). All units are currently income-restricted under the Low-Income Housing Tax Credit (LIHTC) program.

The Bourne Apartments comprises a single nine-story residential building situated on a 1.2-acre site overlooking the Hudson River. The 85-unit property is served by two elevators—one providing access to the north (odd-numbered) units and the other to the south (even-numbered) units. The first floor includes the main entrance, a management and leasing office, and a small atrium, while the basement level houses a maintenance area, indoor basketball court, and community room. The site also features a rear courtyard and playground facing the Hudson River, a community laundry facility on the main level, and surface parking for residents.

The property requires comprehensive modernization to address aging building systems, deferred maintenance, and energy inefficiency. Informed by the findings of an Integrated Physical Needs Assessment, the redevelopment will undertake a semi-occupied, phased rehabilitation with work sequenced to minimize resident disruption and ensure continuous occupancy in most cases. Hard costs for the project include costs for both The Bourne Apartments and The Kenney Apartments and total approximately $54 million. The Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 for The Kenney Apartments will be provided under separate cover.

At Bourne, improvements will focus on replacement of obsolete steam systems, modernization of elevators, installation of high-efficiency HVAC and domestic hot water equipment, and extensive interior renovations including new kitchens, bathrooms, flooring, and ENERGY STAR appliances. Structural and building-envelope upgrades include targeted roof, window and door replacement, targeted masonry repair, and air-sealing.

The Project Site will receive new fire alarm and life-safety systems, hardwired smoke and CO detectors, LED lighting, camera and access-control systems, and rehabilitated community and outdoor recreation areas. Common spaces, including the community room, gymnasium, and laundry facilities, will be redesigned to support on-site management functions and resident services programming.

The project will utilize federal and state historic tax credits to help finance the construction. As part of the historic requirements, the project will retain its design integrity from the mid-20th century, and ensure any modifications comply with requirements from both the NY State Historic Preservation Office and the National Park Service.

Level of Environmental Review Determination:
Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5:_____

Funding Information

Grant Number	HUD Program	Funding Amount
TBD	Housing Choice Voucher Program	160 Section 8 Project-Based Vouchers (total for The Bourne and The Kenney)

Estimated Total HUD Funded Amount: TBD

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]**:**

Total development cost of $90 million, inclusive of costs for The Bourne and The Kenney. The project also plans to utilize federal historic tax credits as administered and certified by the National Park Service, in partnership with the IRS.

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations

STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards 24 CFR Part 51 Subpart D	Yes ☐ No ☒	The Project Site is not within 15,000 feet of a military airport or 2,500 feet of a civilian airport. No Runway Clear Zones were identified within or near the proposed Project. The nearest airport, New York Stewart International Airport (SWF), is located approximately 4.16 miles west of the Project. The proposed Project will not alter the height or spatial layout of the existing multi-family residential development. Attachment B: Airport Hazard Figure
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes ☐ No ☒	The Project Site is not within the Coastal Barrier Resources System, as amended by the Coastal Barrier Improvement Act of 1990, and has no potential to impact a CBRS Unit (16 U.S.C. 3501) Attachment C : CBRS figures
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes ☐ No ☒	The Project Site is not located within a Special Flood Hazard Area.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes ☐ No ☒	A Review of the USEPA Green Book on Nonattainment Areas Criteria Pollutants indicated the following for the project county (Orange): No excursions from National Ambient Air Quality Standards (NAAQS) listed. Given the nature of the proposed Project, with sustainability and energy efficiency at the forefront of the scope of work, building emissions are anticipated to decrease. Additionally, the Proposed Project would not generate any additional vehicular traffic; therefore, no exceedances of the National Ambient Air Quality Standard ("NAAQS") associated with carbon monoxide ("CO") or particulate matter ("PM") would occur. Furthermore, the Proposed Project does not

		include a transportation or industrial component; therefore, the Proposed Project would not result in any new stationary source of pollutants. The Proposed Project would not adversely affect the State Implementation Plan ("SIP"). Attachment D: USEPA Green Book excerpt.
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes ☐ No ☒	The Project Site is not located within a designated Coastal Zone Boundary or within Waterfront Revitalization Program boundaries; therefore, the Proposed Project would not violate the Coastal Zone Management Act. The Project Site is located within the City of Newburgh Local Waterfront Revitalization Program (LWRP) boundaries that were approved in 2001. This program is a locally-prepared land and water use plan for the City of Newburgh. The Project Site will not alter the character or land use of the Bourne, or create ground disturbance, that will adversely impact the City of Newburgh LWRP. Attachment E: Coastal Zone Boundary Map
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes ☒ No ☐	A Phase I Environmental Site Assessment (ESA) was completed by Hillmann Consulting, LLC, dated November 5, 2025. No Recognized Environmental Concerns (RECs) were identified, and no further investigation is recommended. Pre-renovation HAZMAT testing for potential Asbestos Containing materials (ACM), and Lead-Based Paint (LBP) will be performed in accordance with applicable regulations within the context of the proposed Project. If identified, any applicable ACM and/or LBP mitigation will be performed during renovations.

		Post-renovation radon testing will be performed in accordance with the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2023). In the event of exceedances, re-sampling and/or mitigation will be implemented as applicable. Attachment F: Excerpt of Phase I ESA Text.
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes ☐ No ☒	The Project Site is located in Newburgh, a developed urban area. According to information obtained through the U.S. Fish and Wildlife Service's IPaC website, the Federally Listed Endangered and Threatened Species and Candidate Species located near the Project Site are: The Indiana Bat (*Myotis sodalist*) is listed as Endangered, the Northern Long-Eared Bat (*Myotis septentrionalis*) is listed as Endangered, The Tricolored Bat (*Perimyotis subflavus*) is listed as Proposed Endangered, the Monarch Butterfly (*Danaus plexippus*) is listed as Proposed Threatened, the Small Whorled Pogonia (*Isotria medeoloides*) is listed as Threatened. However, there are no critical habitats at the Property for these species. Given the scope of work, none of the endangered, threatened, or candidate species identified through the IPaC USFWS online tool are anticipated to be impacted. Attachment G: U.S. Fish and Wildlife Services IPaC results February 6, 2026
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes ☐ No ☒	The Proposed Project does not include development, construction, or rehabilitation that will increase residential densities, or a conversion of properties from non-residential to residential. No significant explosive and flammable hazards were identified within proximity of the potential effect on the Proposed Project.

		Attachment H: EDR Radius Map
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes ☐ No ☒	The Proposed Project would not cause disturbance of Prime, Unique, or Statewide Important Farmland, nor would the Proposed Project involve the conversion of farmland to non-agricultural use. Therefore, the Proposed Project would not violate the Farmland Protection Policy Act. No land-use conversion is included in the Proposed Project and no farmland-protected property is impacted by the proposed action.
Floodplain Management Executive Order 11988, particularly section 2(a); 24 CFR Part 55	Yes ☐ No ☒	According to FEMA Preliminary FIRM 2009 map, the Project Site is not located within a Special Flood Hazard Area. The FEMA FIRMette indicates that the proposed project is in a Zone X, or area of minimal flood hazard. No revisions or amendments are listed as pending for the Proposed Project Flood Insurance Rate Map (FIRM) panel (36071C0144E). Therefore, the proposed rehabilitation would not have any impact on floodplain management. Attachment I: FEMA Floodplain Map Sources: https://www.fema.gov/flood-maps
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes ☒ No ☐	This project has been admitted to the Historic Preservation Program, which will yield tax credits aiding in its capital financing. This is memorialized through the Part 1 approval, granted concurrently by SHPO and the National Park Service. Attachment J: Part 1 Approval
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes ☐ No ☒	Hillmann assessed the Project Site proximity to industrial zones, major highways, active rail lines, civil and military airfields or other potential sources of excessive noise. Major roadways within 1,000-ft, railroads within

		3,000-ft and military or FAA-regulated airfields within 15-miles were considered. No industrial facilities were identified that would adversely impact Project Site noise levels. **Airport** Airport contour maps attached indicate the Project is not within close proximity to any airport noise contours. **Railroad** The proposed Project is located 125-ft west of the CSX River Line. **Major Roadway** One (1) Major Roadway was identified within 1,000-ft of the proposed Project as follows: • Water Street, adjoins the Project to the east with an annual average daily traffic (AADT) of 12,419 and Truck AADT of 363. The above findings (supporting figures and data attached) were analyzed using the HUD Day/Night Noise Level Calculator Electronic Assessment Tool. NYSDOT data and USDOT data were consulted and included. Where unavailable, conservative estimates or accepted default inputs were used with the following results: **The Bourne –** 65 dB. The proposed Project is not above the HUD acceptable area defined as not exceeding 65dB. Attachment K: DNL assessment and supporting figures.

Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes ☐ No ☒	The Project Site is not located above a sole source aquifer. The nearest to the Project Site is the Ramapo River Basin Aquifer Systems Sole Source Aquifer (SSA). Rehabilitation and operation of the Proposed Project would not adversely affect the Ramapo River Basin Aquifer Systems sole source aquifer or drinking water supplies. Groundwater is not used as a potable water supply in the area, and the Proposed Project would not result in groundwater withdrawal or have the potential to affect the quality of the Ramapo River Basin Aquifer Systems sole source aquifer. Therefore, the Proposed Project would not have the potential to result in adverse impacts to groundwater resources on or in the vicinity of the Project Site and would not violate 40 CFR 149. Attachment L : FWS Sole Source Aquifer Map
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes ☐ No ☒	No wetlands were identified within or adjacent to the proposed Project using the FWS.Gov Wetlands mapper. The nearest wetland is an E1UBL Estuarine and Marine Deepwater habitat (Hudson River) located 340 feet east of the Project. Attachment M: FWS.gov figure
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes ☐ No ☒	The proposed Project does not contain and is not in proximity to Wild and Scenic Rivers as mapped by Rivers.gov, which shows the nearest Wild and Scenic designated river, approximately 30 miles to the east-northeast in Connecticut – the Housatonic Wild and Scenic River. Attachment N: Rivers.gov Wild and Scenic Rivers map
Environmental Justice Executive Order 12898	Yes ☐ No ☒	While the Executive Order was overturned on January 21, 2025 and no longer required by Order, Hillmann notes that no adverse conditions were identified that would present

		environmental justice concerns. The proposed Project will improve conditions for future occupants and the surrounding area.
HUD Other Environmental Considerations 24 CFR 50.3(i) & 24 CFR 35	Yes ☐ No ☒	No high pressure pipelines, fall hazards such as high voltage transmission lines / support structures), oil or gas wells, sour gas wells, slush pits, or filled ground were identified

Field Inspection (Date and completed by)**:** October 10, 2025, Mr. Trevor Wescott, Hillmann Consulting, LLC

Summary of Findings and Conclusions: Detailed in Phase I ESA

Mitigation Measures and Conditions

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure
Contamination and Toxic Substances [24 CFR Part 50.3(i) & 58.5(i)(2)]	Pre-renovation HAZMAT testing for potential Asbestos Containing materials (ACM), and Lead-Based Paint (LBP) will be performed in accordance with applicable regulations within the context of the proposed Project. If identified, any applicable ACM and/or LBP mitigation will be performed during renovations. Post-renovation radon testing will be performed in accordance with the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2023). In the event of exceedances, re-sampling and/or mitigation will be implemented as applicable.
National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Part 1 approval with SHPO will be adhered to through construction completion and certification of the preservation work.

Determination:

☐ This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR

☐ This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain "Authority to Use Grant Funds"** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR

☐ This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: _____Date:_____

Name/Title/Organization: _____

_____

Responsible Entity Agency Official Signature:

_____Date:_____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

NPS Form 10-168 (Rev. 6/2023)
National Park Service
OMB Control No. 1024-0009

RECEIVED
12/30/25
NYSOPRHP
Division for Historic Preservation

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 1 – EVALUATION OF SIGNIFICANCE

25PR11860

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.	NPS Project Number 50444

1. Historic Property Name Anne F. Bourne Apartments

Street 150 Smith Street

City Newburgh County Orange State NY Zip 12550

Name of Historic District or National Register property

☐ National Register district ☐ certified state or local district ☐ potential district ☐ National Register property

2. Nature of Request (check only one box)

☐ certification that the building contributes to the significance of the above-named historic district or National Register property for rehabilitation purposes.
☐ certification that the building contributes to the significance of the above-named historic district for a charitable contribution for conservation purposes.
☐ certification that the building does not contribute to the significance of the above-named district or National Register property.
☒ preliminary determination for individual listing in the National Register.
☐ preliminary determination that a building located within a potential historic district contributes to the significance of the district.
☐ preliminary determination that a building outside the period or area of significance contributes to the significance of the district.

3. Project Contact (if different from applicant)

Name Eryn Boyce Company The Public Archaeology Laboratory, Inc.

Street 26 Main Street City Pawtucket State RI

Zip 02860 Telephone (401) 288-6318 Email Address eboyce@palinc.com

4. Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable]:

☐ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or
☒ if I am not the fee simple owner of the above described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011).

For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Dylan Salmons Signature Date 12/23/2025

Applicant Entity Contour Housing Partners LLC SSN or TIN 88-2762171

Street 1301 North 31st Street City Philadelphia State PA

Zip 19121 Telephone (267) 386-8463 Email Address dsalmons@pennrose.com

NPS Official Use Only

The National Park Service has reviewed the Historic Preservation Certification Application – Part 1 for the above-named property and has determined that the property:

☐ contributes to the significance of the above-named district or National Register property and is a "certified historic structure" for rehabilitation purposes.
☐ contributes to the significance of the above-named district and is a "certified historic structure" for a charitable contribution for conservation purposes.
☐ does not contribute to the significance of the above-named district or National Register property.

Preliminary Determinations:

☒ appears to meet the National Register Criteria for Evaluation and will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer according to the procedures set forth in 36 CFR Part 60.
☐ does not appear to meet the National Register Criteria for Evaluation and will likely not be listed in the National Register.
☐ appears to contribute to the significance of a potential historic district, which will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer.
☐ appears to contribute to the significance of a registered historic district if the period or area of significance as documented in the National Register nomination or district documentation on file with the NPS is expanded by the State Historic Preservation Officer.
☐ does not appear to qualify as a certified historic structure.

ROGER REED Digitally signed by ROGER REED Date: 2026.02.25 13:23:15 -05'00'

Date National Park Service Authorized Signature

☒ NPS Comments Attached

NPS Form 10-168e (Rev. 6/2023)
National Park Service
OMB Control No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
COMMENTS

Historic Property Name	**Anne F. Bourne Apartments**	Project Number	**50444**
Property Address, City, State	**150 Smith St, Newburgh, NY**		

These comments respond to the Historic Preservation Certification Application –

☒ **Part 1** ☐ **Part 2** ☐ **Part 3** ☐ **Amendment**

The National Park Service (NPS) has reviewed the Historic Preservation Certification Application – Part 1 for the property cited above and concurs with the SHPO opinion that the property will likely be listed if nominated by NY SHPO.

The subject property is to be nominated along with a second public housing project, the John T. Kenney Apartments (#50445), both built by the Newburgh Housing Authority: " Construction on both the Anne F. Bourne Apartments, a '10 story elevator type apartment building of reinforced concrete construction containing 86 dwelling units, gymnasium, and community facilities,' and the John T. Kenney Apartments, which consisted of '120 garden type dwelling units of wood frame and brick veneer construction,' began in 1952 with the demolition of all existing buildings on the sites and was completed in 1954. The first tenants moved into the buildings that year."

Both projects are to be nominated under Criterion A for Community Planning and Development and Social History. Although the two properties are separate nominations, both should address one important aspect under Social History. The Kenney Apartments are a low-rise complex whose occupants were not minorities, while the high-rise Bourne Apartments were occupied by minorities. While this segregation may not have been explicitly intentional, it is an important part of the story.

Program regulations also require NPS to review the rehabilitation work as a single overall project, and to issue rehabilitation certification on the merits of the overall project. Consequently, if you intend to submit Part 2 of the application, the Description of Rehabilitation Work, it must describe all proposed work on the property, although the 20% investment tax credit is based only on costs for the rehabilitation of "certified historic structures".

If you have any questions, contact Roger Reed at roger_reed@nps.gov.

The National Park Service has reviewed and approved the application noted above.

ROGER REED Digitally signed by ROGER REED
Date: 2026.02.25 13:25:43 -05'00'

Date | National Park Service Signature

HILLMANN
CONSULTING

U.S. Department of Housing and Urban Development
24 CFR Part 58 Environmental Assessment

The Kenney
55 Walsh Road
Newburgh, New York 12550

Prepared For:

Pennrose, LLC
45 Main Street
Suite 539
Brooklyn, NY 11201

City of Newburgh
123 Grand Street
1st Floor
Newburgh, NY 12550

U.S. Department of Housing & Urban Development

Hillmann Project Number Z35384

March 5, 2026

HILLMANN
CONSULTING

March 5, 2026

Mr. David Marin
Pennrose, LLC
45 Main Street, Suite 539
Brooklyn, NY 11201

RE: U.S. Department of Housing and Urban Development
24 CFR Part 58 Environmental Review
The Kenney
55 Walsh Road
Newburgh, New York 12550
Hillmann Project No: Z35384

Dear Mr. Marin:

Hillmann Consulting, LLC, is pleased to provide the findings of the U.S. Department of Housing and Urban Development (HUD) 24 CFR Part 58 Environmental Review (Part 58 Review) of the above referenced site. This Part 58 Review was performed in accordance with the scope of work of our contract agreement and may be relied upon by the above (cover page) named entities.

Per Title 24, Subtitle A, Part 58, Subpart D § 58.35 (a) (3) (ii) the proposed Project, a multifamily residential tenant-in-place rehab, is categorically excluded from an Environmental Impact Statement or Environmental Assessment and finding of no significant impact under NEPA, but subject to § 58.5 as follows:

- Unit density is not proposed to be modified;
- No change in land-use;
- Cost of rehabilitation is < 75% of the total estimated cost of replacement post-rehabilitation.

We appreciate the opportunity to provide environmental consulting services. If you have any questions concerning this report, or if we can assist you in any other matter, please contact our office at 908-688-7800.

Sincerely,
Hillmann Consulting, LLC

Etan Hindin
Senior Project & Account Manager

Greg Parrish
Senior Project Manager

SUPPORTING DOCUMENTS

- Site Vicinity & Layout Figures;
- Project Narrative / Scope of Work;
- Site Photographs;
- Supporting Figures and Reports.

U.S. Department of Housing and Urban Development
451 Seventh Street, SW
Washington, DC 20410
www.hud.gov

espanol.hud.gov

Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5

Pursuant to 24 CFR 58.35(a)

This is a suggested format that may be used by Responsible Entities to document completion of a Categorically Excluded Subject to Section 58.5 environmental review.

Project Information

Project Name: The Kenney Apartments

Responsible Entity: City of Newburgh

Grant Recipient (if different than Responsible Entity): Pennrose, LLC

State/Local Identifier: Newburgh, NY (Block 1, Lot 3; APN 331100 43-1-3)

Preparer: Hillmann Consulting on behalf of Pennrose, LLC

Certifying Officer Name and Title: TBD

Grant Recipient (if different than Responsible Entity): Pennrose, LLC

Consultant (if applicable): Hillmann Consulting
1600 Route 22 East
Union, NJ 07083
Office: (908) 688-7800

Direct Comments to: Etan Hindin | Senior Project Manager, Environmental
ehindin@hillmann.com

Project Location:

The Kenney Apartments ("The Kenney") is an affordable housing development located at 55 Walsh Road, Newburgh, New York (collectively, the "Project Site'). The Project Site is comprised of one parcel, Block 1, Lot 3 / Parcel Number 331100 43-1-3, spanning 6.5 acres.

Constructed between 1948 and 1955, the Project Site includes six (6) affordable housing multifamily buildings, with 120 residential tenant units. (See **Attachment A**: site location/vicinity figure.) The Project Site is bound by South William Street to the north, Kenney Court to the east, Dickson Street to the south, and Walsh Road to the west. The development is in a mixed-use commercial and residential area, surrounded by retail stores, a park, commercial, NY DOT, and other residential properties.

Description of the Proposed Project [24 CFR 50.21 & 58.32]**:**

The project involves the acquisition and substantial rehabilitation of one multifamily property in Newburgh, New York, known as the Kenney Apartments. The purpose of this project is to restore The Kenney Apartments to safe, quality, affordable housing. The property has fallen into a state of disrepair, and requires significant investment to improve living standards for its residents. To ensure the community remains affordable, the project will be issued an allocation of Section 8 Project-Based Vouchers. The HAP contract will be between the project owner and the Newburgh Housing Authority, and allow low-income residents of Newburgh, including current tenants of the Project Site, to remain in their renovated homes.

The Project Site is comprised of 120 affordable units, offering a mix of studio through four-bedroom apartments restricted to households earning up to 60% of the Area Median Income (AMI). All units are currently income-restricted under the Low-Income Housing Tax Credit (LIHTC) program.

The Kenney Apartments consist of six two-story residential buildings spanning approximately 6.5 acres. The 120-unit community features a mix of apartment and duplex-style residences, complemented by open green space, interconnected pedestrian walkways, and an on-site laundry facility. A separate maintenance building includes a large second-floor community room that cannot be utilized due to deferred maintenance issues.

The Project Site requires comprehensive modernization to address aging building systems, deferred maintenance, and energy inefficiency. Informed by the findings of an Integrated Physical Needs Assessment, the redevelopment will undertake a semi-occupied, phased rehabilitation with work sequenced to minimize resident disruption and ensure continuous occupancy in most cases. Hard costs for the project include costs for both The Kenney Apartments and The Bourne Apartments and total approximately $54 million. The Environmental Review for Activity/Project that is Categorically Excluded Subject to Section 58.5 for The Bourne Apartments will be provided under separate cover.

The scope contemplates system replacements, new water heaters, upgraded insulation, and full interior reconstruction of all units. Accessibility improvements, ADA-compliant site circulation, and selective sidewalk and ramp replacement will be implemented to achieve current code compliance.

The Project Site will receive new fire alarm and life-safety systems, hardwired smoke and CO detectors, LED lighting, camera and access-control systems, and rehabilitated community and outdoor recreation areas. Common spaces, including the community room, gymnasium, and laundry facilities, will be redesigned to support on-site management functions and resident services programming.

The project will utilize federal and state historic tax credits to help finance the construction. As part of the historic requirements, the project will retain its design integrity from the mid-20th

century, and ensure any modifications comply with requirements from both the NY State Historic Preservation Office and the National Park Service.

Level of Environmental Review Determination:
Categorically Excluded per 24 CFR 58.35(a), and subject to laws and authorities at §58.5:_____

Funding Information

Grant Number	HUD Program	Funding Amount
TBD	Housing Choice Voucher Program	160 Section 8 Project-Based Vouchers (total for The Kenney and The Bourne)

Estimated Total HUD Funded Amount: TBD

Estimated Total Project Cost (HUD and non-HUD funds) [24 CFR 58.32(d)]**:**

Total development cost of $90 million, inclusive of costs for The Kenney and The Bourne. The project also plans to utilize federal historic tax credits as administered and certified by the National Park Service, in partnership with the IRS.

Compliance with 24 CFR 50.4, 58.5, and 58.6 Laws and Authorities

Record below the compliance or conformance determinations for each statute, executive order, or regulation. Provide credible, traceable, and supportive source documentation for each authority. Where applicable, complete the necessary reviews or consultations and obtain or note applicable permits of approvals. Clearly note citations, dates/names/titles of contacts, and page references. Attach additional documentation as appropriate.

Compliance Factors: Statutes, Executive Orders, and Regulations listed at 24 CFR §58.5 and §58.6	Are formal compliance steps or mitigation required?	Compliance determinations
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.6		
Airport Hazards	Yes No	The Project Site is not within 15,000 feet of a military airport or 2,500 feet of a civilian airport.

24 CFR Part 51 Subpart D	☐ ☒	No Runway Clear Zones were identified within or near the proposed Project. The nearest airport, New York Stewart International Airport (SWF), is located approximately 3.18 miles west of the Project. The proposed Project will not alter the height or spatial layout of the existing multi-family residential development. Attachment B: Airport Hazard Figure
Coastal Barrier Resources Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 [16 USC 3501]	Yes No ☐ ☒	The Project Site is not within the Coastal Barrier Resources System, as amended by the Coastal Barrier Improvement Act of 1990, and has no potential to impact a CBRS Unit (16 U.S.C. 3501) Attachment C: CBRS figures
Flood Insurance Flood Disaster Protection Act of 1973 and National Flood Insurance Reform Act of 1994 [42 USC 4001-4128 and 42 USC 5154a]	Yes No ☐ ☒	The Project Site is not located within a Special Flood Hazard Area.
STATUTES, EXECUTIVE ORDERS, AND REGULATIONS LISTED AT 24 CFR 50.4 & 58.5		
Clean Air Clean Air Act, as amended, particularly section 176(c) & (d); 40 CFR Parts 6, 51, 93	Yes No ☐ ☒	A Review of the USEPA Green Book on Nonattainment Areas Criteria Pollutants indicated the following for the project county (Orange): No excursions from National Ambient Air Quality Standards (NAAQS) listed. Given the nature of the proposed Project, with sustainability and energy efficiency at the forefront of the scope of work, building emissions are anticipated to decrease. Additionally, the Proposed Project would not generate any additional vehicular traffic; therefore, no exceedances of the National Ambient Air Quality Standard ("NAAQS") associated with carbon monoxide ("CO") or particulate matter ("PM") would occur. Furthermore, the Proposed Project does not include a transportation or industrial component; therefore, the Proposed Project would not result in any new stationary source of pollutants. The Proposed Project would not

		adversely affect the State Implementation Plan ("SIP"). Attachment D: USEPA Green Book excerpt.
Coastal Zone Management Coastal Zone Management Act, sections 307(c) & (d)	Yes ☐ No ☒	The Project Site is not located within a designated Coastal Zone Boundary or within Waterfront Revitalization Program boundaries; therefore, the Proposed Project would not violate the Coastal Zone Management Act. Attachment E: Coastal Zone Boundary Map
Contamination and Toxic Substances 24 CFR Part 50.3(i) & 58.5(i)(2)	Yes ☒ No ☐	A Phase I Environmental Site Assessment (ESA) was completed by Hillmann Consulting, LLC, dated November 5, 2025. No Recognized Environmental Concerns (RECs) were identified, and no further investigation is recommended. Pre-renovation HAZMAT testing for potential Asbestos Containing Materials (ACM), and Lead-Based Paint (LBP) will be performed in accordance with applicable regulations within the context of the proposed Project. If identified, any applicable ACM and/or LBP mitigation will be performed during renovations. Post-renovation radon testing will be performed in accordance with the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2023). In the event of exceedances, re-sampling and/or mitigation will be implemented as applicable. Attachment F: Excerpt of Phase I ESA Text.
Endangered Species Endangered Species Act of 1973, particularly section 7; 50 CFR Part 402	Yes ☐ No ☒	The Project Site is located in Newburgh, a developed urban area. According to information obtained through the U.S. Fish and Wildlife Service's IPaC website, the

		Federally Listed Endangered and Threatened Species and Candidate Species located near the Project Site are: The Indiana Bat (*Myotis sodalist*) is listed as Endangered, the Northern Long-Eared Bat (*Myotis septentrionalis*) is listed as Endangered, The Tricolored Bat (*Perimyotis subflavus*) is listed as Proposed Endangered, the Monarch Butterfly (*Danaus plexippus*) is listed as Proposed Threatened, the Small Whorled Pogonia (*Isotria medeoloides*) is listed as Threatened. However, there are no critical habitats at the Property for these species. Given the scope of work, none of the endangered, threatened, or candidate species identified through the IPaC USFWS online tool are anticipated to be impacted. Attachment G: U.S. Fish and Wildlife Services IPaC results February 6, 2026
Explosive and Flammable Hazards 24 CFR Part 51 Subpart C	Yes ☐ No ☒	The Proposed Project does not include development, construction, or rehabilitation that will increase residential densities, or a conversion of properties from non-residential to residential. No significant explosive and flammable hazards were identified within proximity of the potential effect on the Proposed Project. Attachment H: EDR Radius Map
Farmlands Protection Farmland Protection Policy Act of 1981, particularly sections 1504(b) and 1541; 7 CFR Part 658	Yes ☐ No ☒	The Proposed Project would not cause disturbance of Prime, Unique, or Statewide Important Farmland, nor would the Proposed Project involve the conversion of farmland to non-agricultural use. Therefore, the Proposed Project would not violate the Farmland Protection Policy Act. No land-use conversion is included in the Proposed Project and no farmland-protected property is impacted by the proposed action.
Floodplain Management	Yes ☐ No ☒	According to FEMA Preliminary FIRM 2009 map, the Project Site is not located within a Special Flood Hazard Area.

Executive Order 11988, particularly section 2(a); 24 CFR Part 55		The FEMA FIRMette indicates that the proposed project is in a Zone X, or area of minimal flood hazard. No revisions or amendments are listed as pending for the Proposed Project Flood Insurance Rate Map (FIRM) panel (36071C0332E). Therefore, the proposed rehabilitation would not have any impact on floodplain management. Attachment I: FEMA Floodplain Map Sources: https://www.fema.gov/flood-maps
Historic Preservation National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Yes ☒ No ☐	This project has been admitted to the Historic Preservation Program, which will yield tax credits aiding in its capital financing. This is memorialized through the Part 1 approval, granted concurrently by SHPO and the National Park Service. Attachment J: Part 1 Approval
Noise Abatement and Control Noise Control Act of 1972, as amended by the Quiet Communities Act of 1978; 24 CFR Part 51 Subpart B	Yes ☐ No ☒	Hillmann assessed the Project Site proximity to industrial zones, major highways, active rail lines, civil and military airfields or other potential sources of excessive noise. Major roadways within 1,000-ft, railroads within 3,000-ft and military or FAA-regulated airfields within 15-miles were considered. The properties to the south of the Project Site are zoned as Industrial and currently occupied by the Newburgh Convention Center, warehouses, and offices. No industrial facilities were identified that would adversely impact Project Site noise levels. **Airport** Airport contour maps attached indicate the Project is not within close proximity to any airport noise contours.

		Railroad The proposed Project is located 800-ft north of the CSX Newburgh Industrial Track. **Major Roadway** One (1) Major Roadway was identified within 1,000-ft of the proposed Project as follows: • Lake Street (NY State Route 32), 290-ft from the Project with an annual average daily traffic (AADT) of 13,171 and Truck AADT of 648. The above findings (supporting figures and data attached) were analyzed using the HUD Day/Night Noise Level Calculator Electronic Assessment Tool. NYSDOT data were consulted and included. Where unavailable, conservative estimates or accepted default inputs were used with the following results: **The Kenney –** 64 dB. The proposed Project is not above the HUD acceptable area defined as not exceeding 65dB. Attachment K: DNL assessment and supporting figures.
Sole Source Aquifers Safe Drinking Water Act of 1974, as amended, particularly section 1424(e); 40 CFR Part 149	Yes ☐ No ☒	The Project Site is not located above a sole source aquifer. The nearest to the Project Site is the Ramapo River Basin Aquifer Systems Sole Source Aquifer (SSA). Rehabilitation and operation of the Proposed Project would not adversely affect the Ramapo River Basin Aquifer Systems sole source aquifer or drinking water supplies. Groundwater is not used as a potable water supply in the area, and the Proposed Project would not result in groundwater withdrawal or have the potential to affect the quality of the Ramapo River Basin Aquifer Systems sole source aquifer. Therefore, the Proposed Project would not have the potential to result

		in adverse impacts to groundwater resources on or in the vicinity of the Project Site and would not violate 40 CFR 149. **Attachment L** : FWS Sole Source Aquifer Map
Wetlands Protection Executive Order 11990, particularly sections 2 and 5	Yes ☐ No ☒	No wetlands were identified within or adjacent to the proposed Project using the FWS.Gov Wetlands mapper. The nearest wetland is a R3UBH Riverine habitat (Quassaic Creek) located 580 feet southwest of the proposed Project. **Attachment M**: FWS.gov figure
Wild and Scenic Rivers Wild and Scenic Rivers Act of 1968, particularly section 7(b) and (c)	Yes ☐ No ☒	The proposed Project does not contain and is not in proximity to Wild and Scenic Rivers as mapped by Rivers.gov, which shows the nearest Wild and Scenic designated river, approximately 30 miles to the east-northeast in Connecticut – the Housatonic Wild and Scenic River. **Attachment N**: Rivers.gov Wild and Scenic Rivers map
Environmental Justice Executive Order 12898	Yes ☐ No ☒	While the Executive Order was overturned on January 21, 2025 and no longer required by Order, Hillmann notes that no adverse conditions were identified that would present environmental justice concerns. The proposed Project will improve conditions for future occupants and the surrounding area.
HUD Other Environmental Considerations 24 CFR 50.3(i) & 24 CFR 35	Yes ☐ No ☒	No high pressure pipelines, fall hazards such as high voltage transmission lines / support structures), oil or gas wells, sour gas wells, slush pits, or filled ground were identified

Field Inspection (Date and completed by)**:** October 10, 2025

Summary of Findings and Conclusions: Detailed in Phase I ESA

Mitigation Measures and Conditions

Summarize below all mitigation measures adopted by the Responsible Entity to reduce, avoid, or eliminate adverse environmental impacts and to avoid non-compliance or non-conformance with the above-listed authorities and factors. These measures/conditions must be incorporated into project contracts, development agreements, and other relevant documents. The staff responsible for implementing and monitoring mitigation measures should be clearly identified in the mitigation plan.

Law, Authority, or Factor	Mitigation Measure
Contamination and Toxic Substances [24 CFR Part 50.3(i) & 58.5(i)(2)]	Pre-renovation HAZMAT testing for potential Asbestos Containing Materials (ACM), and Lead-Based Paint (LBP) will be performed in accordance with applicable regulations within the context of the proposed Project. If identified, any applicable ACM and/or LBP mitigation will be performed during renovations. Post-renovation radon testing will be performed in accordance with the American Association of Radon Scientists and Technologists, Protocol for Conducting Radon and Radon Decay Product Measurements in Multifamily Buildings (ANSI-AARST MAMF-2023). In the event of exceedances, re-sampling and/or mitigation will be implemented as applicable.
National Historic Preservation Act of 1966, particularly sections 106 and 110; 36 CFR Part 800	Part 1 approval with SHPO will be adhered to through construction completion and certification of the preservation work.

Determination:

☐ This categorically excluded activity/project converts to Exempt, per 58.34(a)(12) because there are no circumstances which require compliance with any of the federal laws and authorities cited at §58.5. **Funds may be committed and drawn down after certification of this part** for this (now) EXEMPT project; OR

☐ This categorically excluded activity/project cannot convert to Exempt because there are circumstances which require compliance with one or more federal laws and authorities cited at §58.5. Complete consultation/mitigation protocol requirements, **publish NOI/RROF and obtain "Authority to Use Grant Funds"** (HUD 7015.16) per Section 58.70 and 58.71 before committing or drawing down any funds; OR

☐ This project is now subject to a full Environmental Assessment according to Part 58 Subpart E due to extraordinary circumstances (Section 58.35(c)).

Preparer Signature: _____Date:_____

Name/Title/Organization: _____

_____

Responsible Entity Agency Official Signature:

_____Date:_____

Name/Title: _____

This original, signed document and related supporting material must be retained on file by the Responsible Entity in an Environmental Review Record (ERR) for the activity/project (ref: 24 CFR Part 58.38) and in accordance with recordkeeping requirements for the HUD program(s).

NPS Form 10-168 (Rev. 6/2023)
National Park Service
OMB Control No. 1024-0009

RECEIVED
12/30/25
NYSOPRHP
Division for Historic Preservation

HISTORIC PRESERVATION CERTIFICATION APPLICATION
PART 1 – EVALUATION OF SIGNIFICANCE

25PR11859

Instructions: This page must bear the applicant's original signature and must be dated. The National Park Service certification decision is based on the descriptions in this application form. In the event of any discrepancy between the application form and other, supplementary material submitted with it (such as architectural plans, drawings and specifications), the application form takes precedence. A copy of this form will be provided to the Internal Revenue Service.	NPS Project Number 50445

1. Historic Property Name John T. Kenney Apartments

Street 55 Walsh Road

City Newburgh County Orange State NY Zip 12550

Name of Historic District or National Register property

☐ National Register district ☐ certified state or local district ☐ potential district ☐ National Register property

2. Nature of Request (check only one box)

☐ certification that the building contributes to the significance of the above-named historic district or National Register property for rehabilitation purposes.
☐ certification that the building contributes to the significance of the above-named historic district for a charitable contribution for conservation purposes.
☐ certification that the building does not contribute to the significance of the above-named district or National Register property.
☒ preliminary determination for individual listing in the National Register.
☐ preliminary determination that a building located within a potential historic district contributes to the significance of the district.
☐ preliminary determination that a building outside the period or area of significance contributes to the significance of the district.

3. Project Contact (if different from applicant)

Name Eryn Boyce Company The Public Archaeology Laboratory, Inc.

Street 26 Main Street City Pawtucket State RI

Zip 02860 Telephone (401) 288-6318 Email Address eboyce@palinc.com

4. Applicant

I hereby attest that the information I have provided is, to the best of my knowledge, correct. I further attest that [check one or both boxes, as applicable]:

☐ I am the owner of the above-described property within the meaning of "owner" set forth in 36 CFR § 67.2 (2011), and/or
☒ if I am not the fee simple owner of the above described property, the fee simple owner is aware of the action I am taking relative to this application and has no objection, as noted in a written statement from the owner, a copy of which (i) either is attached to this application form and incorporated herein, or has been previously submitted, and (ii) meets the requirements of 36 CFR § 67.3(a)(1) (2011).

For purposes of this attestation, the singular shall include the plural wherever appropriate. I understand that knowing and willful falsification of factual representations in this application may subject me to fines and imprisonment under 18 U.S.C. § 1001, which, under certain circumstances, provides for imprisonment of up to 8 years.

Name Dylan Salmons Signature [signature] Date 12/23/2025

Applicant Entity Contour Housing Partners LLC SSN or TIN 88-2762171

Street 1301 North 31st Street City Philadelphia State PA

Zip 19121 Telephone (267) 386-8643 Email Address dsalmons@pennrose.com

NPS Official Use Only

The National Park Service has reviewed the Historic Preservation Certification Application – Part 1 for the above-named property and has determined that the property:

☐ contributes to the significance of the above-named district or National Register property and is a "certified historic structure" for rehabilitation purposes.
☐ contributes to the significance of the above-named district and is a "certified historic structure" for a charitable contribution for conservation purposes.
☐ does not contribute to the significance of the above-named district or National Register property.

Preliminary Determinations:

☐ appears to meet the National Register Criteria for Evaluation and will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer according to the procedures set forth in 36 CFR Part 60.
☐ does not appear to meet the National Register Criteria for Evaluation and will likely not be listed in the National Register.
☒ appears to contribute to the significance of a potential historic district, which will likely be listed in the National Register of Historic Places if nominated by the State Historic Preservation Officer.
☐ appears to contribute to the significance of a registered historic district if the period or area of significance as documented in the National Register nomination or district documentation on file with the NPS is expanded by the State Historic Preservation Officer.
☐ does not appear to qualify as a certified historic structure.

ROGER REED Digitally signed by ROGER REED Date: 2026.02.25 13:31:32 -05'00'

Date National Park Service Authorized Signature

☒ NPS Comments Attached

NPS Form 10-168e (Rev. 6/2023)
National Park Service
OMB Control No. 1024-0009

HISTORIC PRESERVATION CERTIFICATION APPLICATION
NATIONAL PARK SERVICE
COMMENTS

Historic Property Name	**Kenney Apartments**	Project Number	**50445**
Property Address, City, State	**55 Walsh Road Newburgh, NY**		

These comments respond to the Historic Preservation Certification Application –

☒ **Part 1** ☐ **Part 2** ☐ **Part 3** ☐ **Amendment**

The National Park Service (NPS) has reviewed the Historic Preservation Certification Application – Part 1 for the property cited above and concurs with the SHPO opinion that the property will likely be listed if nominated by the OH SHPO The proposed nomination meets National Register Criterion C (Architecture) with a period of significance of 1964.

The subject property is to be nominated along with a second public housing project, the Bourne Apartments (#50444), both built by the Newburgh Housing Authority: " Construction on both the Anne F. Bourne Apartments, a '10 story elevator type apartment building of reinforced concrete construction containing 86 dwelling units, gymnasium, and community facilities,' and the John T. Kenney Apartments, which consisted of '120 garden type dwelling units of wood frame and brick veneer construction,' began in 1952 with the demolition of all existing buildings on the sites and was completed in 1954. The first tenants moved into the buildings that year."

Both projects are to be nominated under Criterion A for Community Planning and Development and Social History. Although the two properties are separate nominations, both should address one important aspect under Social History. The Kenney Apartments are a low-rise complex whose occupants were not minorities, while the high-rise Bourne Apartments were occupied by minorities. While this segregation may not have been explicitly intentional, it is an important part of the story.

Because the subject property contains more than one building and those buildings were functionally related historically to serve an overall purpose, program regulations require the NPS to determine which of the buildings contribute to the significance of the historic property and are therefore considered to be "certified historic structures" when listed. The following building contributes to the proposed areas of significance:

- Six Multi-unit Apartment Houses, 1952-1954

Program regulations also require NPS to review the rehabilitation work as a single overall project, and to issue rehabilitation certification on the merits of the overall project rather than for each structure. Consequently, if you intend to submit Part 2 of the application, the Description of Rehabilitation Work, it must describe all proposed work on the property, although the 20% investment tax credit is based only on costs for the rehabilitation of "certified historic structures".

If you have any questions, contact NY SHPO or Roger Reed at roger_reed@nps.gov.

The National Park Service has reviewed and approved the application noted above.

ROGER REED Digitally signed by ROGER REED
Date: 2026.02.25 13:32:13 -05'00'

Date — National Park Service Signature

RESOLUTION NO.: _____-2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO SAMUEL Z. MANDEL AND ANN MANDEL TO THE PREMISES KNOWN AS 59 BROADWAY (SECTION 37, BLOCK 2, LOT 3)

WHEREAS, on February 16, 1979, the Newburgh Urban Renewal Agency conveyed property located at 59 Broadway, being more accurately described on the official Tax Map of the City of Newburgh as Section 37, Block 2, Lot 3, to Samuel Z. Mandel and Ann Mandel; and

WHEREAS, by Resolution 105-2010, the City of Newburgh assumed all of the assets and liabilities of the Newburgh Community Development Agency (f/k/a Newburgh Urban Renewal Agency); and

WHEREAS, attorney for the current owner, 59-61 Broadway Properties LLC (Walter Mandel, managing member), has requested a release of the restrictive covenants contained in the deed from the Newburgh Urban Renewal Agency; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development 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, any and all of the numbered restrictive covenants contained in the aforementioned deed for which the City may have an interest.

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, as successor in interest to the all of the assets and liabilities of the Newburgh Urban Renewal Agency pursuant to Newburgh City Council Resolution 105-2010, 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 59 Broadway (Section 37, Block 2, Lot 3) on the Official Tax Map of the City of Newburgh, from any and all of the numbered restrictive covenants contained in a deed dated February 16, 1979, from the NEWBURGH URBAN RENEWAL AGENCY to SAMUEL Z. MANDEL AND ANN MANDEL, recorded in the Orange County Clerk's Office on February 22, 1979, in Liber 2124, Page 448 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: _____, 2026

THE CITY OF NEWBURGH

By: _____
Jason Morris, Interim City Manager
Pursuant to Res. No.: _____-2026

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

On the ____ day of _____ in the year 2026, before me, the undersigned, a Notary Public in and for said State, personally appeared JASON MORRIS, 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.: 105 - 2010

OF

MAY 10, 2010

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ACCEPTING AND ASSUMING ALL THE ASSETS AND LIABILTIES OF THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY, ALL WITHOUT CONSIDERATION, PURSUANT TO SUB-SECTION 554(19) OF THE GENERAL MUNICIPAL LAW, AND REQUESTING THE GOVERNOR AND STATE LEGISLATURE TO INTRODUCE AND ADOPT LEGISLATION DISSOLVING THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY BY THE REPEAL OF SECTION 601 OF THE GENERAL MUNICIPAL LAW

WHEREAS, in 1964 and again in 1965, the Newburgh Urban Renewal Agency (NURA) was created by the State Legislature; and

WHEREAS, in 1976, the State Legislature changed the name of the Newburgh Urban Renewal Agency to the Newburgh Community Development Agency (NCDA); and

WHEREAS, pursuant to Section 601 of the General Municipal Law, the NCDA is an urban renewal agency; and

WHEREAS, since there are no extant urban renewal plans in the City of Newburgh, there is no public purpose in maintaining the NCDA; and

WHEREAS, the NCDA wishes to convey, grant, assign, and otherwise transfer and the City Council of the City of Newburgh (City) wishes to accept and assume all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor entity the NURA, and all of the NCDA's remaining liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

WHEREAS, the State Independent Authorities Budget Office (IABO) has advised that the NCDA is listed as an active public authority in the records of the IABO with the full authority to act;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby accepts and assumes all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor NURA, and all of the NCDA's liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

BE IT FURTHER RESOLVED, that the Corporation Counsel is hereby directed to prepare and record and the City Manager is hereby directed to execute and accept delivery of any and all deeds, assignments, instruments, agreements, and any and all other necessary documents to effect such acceptance and assumption by the City; and

BE IT FURTHER RESOLVED, that the Governor and State Legislature are hereby requested to introduce and adopt legislation dissolving the NCDA by the repeal of Section 601 of the General Municipal Law.

Councilwoman Bell suggested tabling this at this time.

Mayor Valentine asked Corporation Counsel if we don't act on this then where does the NCDA go being that we just abolished it?

Corporation Counsel, Bernis Nelson said that the NCDA must have a recipient of its assignments so if the Council does not accept and assume assignments then there is no assignment. She said that there was a question concerning the use of the NCDA as a land bank. Neither the City nor the NCDA are engaging in Urban Renewal at the current time but the powers are there if the City wishes to exercise them. In regard to a land bank, the municipality has the power to do that because it has to do with holding property and disposing of property as it wishes. There was also a question concerning track records and the disposition of waterfront property. A good deal of the property on the waterfront was disposed of by the Community Development Agency and it was not subject to the protections which are in both our City Charter and State Law as to waterfront property because Urban Renewal Law supersedes those laws. There was also a question as to how property was acquired by Urban Renewal and then later the Community Development Agency which she doesn't know but she thinks that most likely it was pursuant to the Urban Renewal Plan. The Urban Renewal Agency and the Community Development Agency were acting in the power of acquisition and undertaking the power of condemnation at that time instead of the City so when it was condemned it was taken in their name.

Councilwoman Bello moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 4

Nays - Councilwoman Bell - 1

ADOPTED

RESOLUTION NO.: _____-2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO SAMUEL Z. MANDEL AND ANN MANDEL TO THE PREMISES KNOWN AS 75 BROADWAY (SECTION 37, BLOCK 2, LOT 2)

WHEREAS, on June 13, 1979, the Newburgh Urban Renewal Agency conveyed property located at 75 Broadway, being more accurately described on the official Tax Map of the City of Newburgh as Section 37, Block 2, Lot 2, to Samuel Z. Mandel and Ann Mandel; and

WHEREAS, by Resolution 105-2010, the City of Newburgh assumed all of the assets and liabilities of the Newburgh Community Development Agency (f/k/a Newburgh Urban Renewal Agency); and

WHEREAS, attorney for the current owner, Brewster Family Properties LLC (Walter Mandel, managing member), has requested a release of the restrictive covenants contained in the deed from the Newburgh Urban Renewal Agency; and

WHEREAS, this Council believes it is in the best interest of the City of Newburgh and its further development 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, any and all of the numbered restrictive covenants contained in the aforementioned deed for which the City may have an interest.

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, as successor in interest to the all of the assets and liabilities of the Newburgh Urban Renewal Agency pursuant to Newburgh City Council Resolution 105-2010, 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 75 Broadway (Section 37, Block 2, Lot 2) on the Official Tax Map of the City of Newburgh, from any and all of the numbered restrictive covenants contained in a deed dated June 13, 1979, from the NEWBURGH URBAN RENEWAL AGENCY to SAMUEL Z. MANDEL AND ANN MANDEL, recorded in the Orange County Clerk's Office on June 20, 1979, in Liber 2134, Page 342 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: _____, 2026

THE CITY OF NEWBURGH

By: _____
Jason Morris, Interim City Manager
Pursuant to Res. No.: _____-2026

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

On the ____ day of _____ in the year 2026, before me, the undersigned, a Notary Public in and for said State, personally appeared JASON MORRIS, 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.: 105 - 2010

OF

MAY 10, 2010

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ACCEPTING AND ASSUMING ALL THE ASSETS AND LIABILTIES OF THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY, ALL WITHOUT CONSIDERATION, PURSUANT TO SUB-SECTION 554(19) OF THE GENERAL MUNICIPAL LAW, AND REQUESTING THE GOVERNOR AND STATE LEGISLATURE TO INTRODUCE AND ADOPT LEGISLATION DISSOLVING THE NEWBURGH COMMUNITY DEVELOPMENT AGENCY BY THE REPEAL OF SECTION 601 OF THE GENERAL MUNICIPAL LAW

WHEREAS, in 1964 and again in 1965, the Newburgh Urban Renewal Agency (NURA) was created by the State Legislature; and

WHEREAS, in 1976, the State Legislature changed the name of the Newburgh Urban Renewal Agency to the Newburgh Community Development Agency (NCDA); and

WHEREAS, pursuant to Section 601 of the General Municipal Law, the NCDA is an urban renewal agency; and

WHEREAS, since there are no extant urban renewal plans in the City of Newburgh, there is no public purpose in maintaining the NCDA; and

WHEREAS, the NCDA wishes to convey, grant, assign, and otherwise transfer and the City Council of the City of Newburgh (City) wishes to accept and assume all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor entity the NURA, and all of the NCDA's remaining liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

WHEREAS, the State Independent Authorities Budget Office (IABO) has advised that the NCDA is listed as an active public authority in the records of the IABO with the full authority to act;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York hereby accepts and assumes all of the NCDA's remaining assets, including but not limited to real property, personal property, and mortgage loans held in the NCDA's name and in the name of its predecessor NURA, and all of the NCDA's liabilities if any, all without consideration, pursuant to Sub-Section 554(19) of the General Municipal Law; and

BE IT FURTHER RESOLVED, that the Corporation Counsel is hereby directed to prepare and record and the City Manager is hereby directed to execute and accept delivery of any and all deeds, assignments, instruments, agreements, and any and all other necessary documents to effect such acceptance and assumption by the City; and

BE IT FURTHER RESOLVED, that the Governor and State Legislature are hereby requested to introduce and adopt legislation dissolving the NCDA by the repeal of Section 601 of the General Municipal Law.

Councilwoman Bell suggested tabling this at this time.

Mayor Valentine asked Corporation Counsel if we don't act on this then where does the NCDA go being that we just abolished it?

Corporation Counsel, Bernis Nelson said that the NCDA must have a recipient of its assignments so if the Council does not accept and assume assignments then there is no assignment. She said that there was a question concerning the use of the NCDA as a land bank. Neither the City nor the NCDA are engaging in Urban Renewal at the current time but the powers are there if the City wishes to exercise them. In regard to a land bank, the municipality has the power to do that because it has to do with holding property and disposing of property as it wishes. There was also a question concerning track records and the disposition of waterfront property. A good deal of the property on the waterfront was disposed of by the Community Development Agency and it was not subject to the protections which are in both our City Charter and State Law as to waterfront property because Urban Renewal Law supersedes those laws. There was also a question as to how property was acquired by Urban Renewal and then later the Community Development Agency which she doesn't know but she thinks that most likely it was pursuant to the Urban Renewal Plan. The Urban Renewal Agency and the Community Development Agency were acting in the power of acquisition and undertaking the power of condemnation at that time instead of the City so when it was condemned it was taken in their name.

Councilwoman Bello moved and Councilwoman Angelo seconded that the resolution be adopted.

Ayes - Councilwoman Angelo, Councilwoman Bello, Councilman Dillard, Mayor Valentine - 4

Nays - Councilwoman Bell - 1

ADOPTED

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A COOPERATION AGREEMENT WITH NEW CITY PARKS, INC. FOR THE DELANO-HITCH RECREATION PARK REHABILITATION PROJECT

WHEREAS, New City Parks, Inc. ("NCP") works with small cities and their underserved communities to create and rehabilitate parks to improve health and well-being of residents; and

WHEREAS, NCP proposes to bring its programs and services to the City of Newburgh, and the City desires to collaborate with NCP for the purpose of improving and rehabilitating the Delano-Hitch Recreation Park located at 401 Washington Street, Newburgh, New York, pursuant to the terms and conditions contained in this Agreement; and

WHEREAS, the City and the NCP wish to define their goals, objectives and responsibilities with respect to the rehabilitation and improvement of Delano-Hitch Recreation Park by entering into a cooperation agreement; and

WHEREAS, the City Council finds that it is in the best interest of the City of Newburgh to enter into such cooperation agreement;

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Newburgh that the City Manager be and he hereby is authorized to execute the attached cooperation agreement with New City Parks, Inc. for the Delano-Hitch Recreation Park Rehabilitation Project.

COOPERATION AGREEMENT
BETWEEN
THE CITY OF NEWBURGH AND NEW CITY PARKS, INC.

This Cooperation Agreement (the "Agreement") is made this ___ day of _____, 2026 by and between the City of Newburgh, New York, a New York municipal corporation (the "City"), having a principal office located at 83 Broadway, Newburgh, NY 12550, and New City Parks, a New York not-for-profit corporation ("NCP"), having a principal office located at 71 W. 23 Street, Suite 903, New York, NY 10010.

RECITALS

WHEREAS, NCP works with small cities and their underserved communities to create and rehabilitate parks to improve health and well-being of residents; and

WHEREAS, NCP proposes to bring its programs and services to the City, and the City desires to collaborate with NCP for the purpose of improving and rehabilitating the Delano-Hitch Recreation Park located at 401 Washington Street, Newburgh, New York, pursuant to the terms and conditions contained in this Agreement;

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

1. Project Description. The goal of the Delano-Hitch Recreation Park Rehabilitation Project is to transform the Park into a welcoming, safe, high-quality, and well-programmed public park and will include community outreach, schematic design development/planning phase, environmental review, preparation of final design documents and bid specifications, construction estimates and assistance with securing funding for Phase 1 & 2 design and construction (the "Project").

2. Good Faith Cooperation. The Parties shall coordinate and cooperate in good faith with each other to achieve the objectives of this Agreement. Each Party is dedicated to working together toward the shared goals of accomplishing the Project.

3. Project Organization and Time Frame. The Parties recognize that the Project will progress in two phases:

   3.1. Phase 1
   - 3.1.1. Community outreach conducted by NCP between May 20, 2026 and June 1, 2026 to scope and plan the initial Phase 1 of the Project. NCP will work with the City, local partners, and other stakeholders, and this outreach shall inform the scope, including design, engineering, and cost, of Phase I.
   - 3.1.2. The Phase 1 scope will depend on the total amount of funding that the Parties may secure within 18 months of the date of the execution of this Agreement.

DRAFT

3.1.3. The Phase 1 budget is estimated to be in the range of $1.5 million to $2 million.
3.1.4. Upon completion of community outreach, NCP shall prepare a Phase 1 Concept Plan which shall be provided to the City no later than June 9, 2026. The Phase 1 Concept Plan shall include a tot-lot in a location consistent with NCP's overall design approach and informed by community outreach.
3.1.5. NCP will prepare an application for the NY PLAYS grant program, administered by the Dormitory Authority of the State of New York ("DASNY grant") for submission on or before June 15, 2026. NCP shall provide the City with a draft of the DASNY grant application for review by June 9, 2026.
3.1.6. The City shall review and provide comments on the Phase 1 Concept Plan and DASNY grant application by June 11, 2026 and approval no later than June 15, 2026.
3.1.6.1. The Phase 1 Concept Plan shall be reviewed and approved by the respective City Department Heads of the Engineering, Planning and Development, Public Works, and Recreation departments, in addition to the City Manager's Office. The City agrees to coordinate and expedite review and approval of the Phase 1 Concept Plan through its designated project contacts under Paragraph 8 of this Agreement.
3.1.7. Upon the City's approval of the Phase 1 Concept Plan, NCP shall update the Master Plan accordingly.
3.1.8. Upon the City's approval of the DASNY grant application, the City shall submit the grant application.
3.1.9. Phase 1 construction is anticipated to begin in the fall of 2027 or spring of 2028 and is entirely dependent upon the receipt of adequate grant funding, in addition to any required grant match funds.

3.2. Phase 2
3.2.1. Community outreach and stakeholder engagement conducted by NCP between July 6, 2026 and July 15, 2026 in order to determine whether to include a new soccer or football field; improve the baseball fields and basketball courts; running track restoration; improvements to the drainage systems, secondary parking lot, pedestrian access, sidewalk connections; lighting; new plantings, and stadium renovations.
3.2.2. Phase 2 community outreach and stakeholder engagement must include organizations that have recreational programming at Delano Hitch Park.
3.2.3. Upon completion of community outreach, NCP shall prepare a Phase 2 Concept Plan which shall be provided to the City no later than July 20, 2026.
3.2.4. NCP will prepare an application for the New York Environmental Protection Fund ("EPF") grant program for submission on or before July 28, 2026. NCP shall provide the City with a draft of the EPF grant application for review by July 20, 2026.
3.2.5. The City shall review and provide comments on the Phase 2 Concept Plan and EPF grant application by July 24, 2026, and approval no later than July 28, 2026.

DRAFT

3.2.5.1. The Phase 2 Concept Plan shall be reviewed and approved by the respective City Department Heads of the Engineering, Planning and Development, Public Works, and Recreation departments, in addition to the City Manager's Office. The City agrees to coordinate and expedite review and approval of the Phase 2 Concept Plan through its designated project contacts under Paragraph 8 of this Agreement.

3.2.6. Upon the City's approval of the Phase 2 Concept Plan, NCP shall update the Master Plan accordingly.

3.2.7. Upon the City's approval of the EPF grant application, the City shall submit the grant application.

3.2.8. Upon receipt of sufficient funding for the construction of Phase 2, the Parties shall confer regarding the development of a Phase 2 construction schedule, which shall be incorporated through a modification to this Agreement under Paragraph 11.6.

4. Funding.

4.1. The Parties agree to work jointly to secure adequate funding for the Project as follows including, but not limited to, submitting applications for funding through the NY PLAYS and NY EPF grant programs and other state, regional and federal funds. To the extent necessary, the City agrees to use NY EPF funding to satisfy any matching requirements of the anticipated NY PLAYS funding.

4.2. The Parties agree to work jointly to satisfy any matching requirements.

4.3. The Parties shall work collaboratively to develop a plan for administration of any awarded funding, including compliance with all associated requirements.

5. Construction, Maintenance, Stewardship, and Programming.

5.1. NCP will provide ongoing technical support to the City in the procurement and management of any contractors retained by the City to complete construction of the Project.

5.2. In advance of construction procurement, the Parties shall confer regarding the development of all necessary construction drawings. NCP shall work to identify additional funding for the cost of construction drawings. If additional funding cannot be identified, the costs of construction drawings shall be included in the appropriate grant application(s).

5.3. Initially, and if needed, NCP will collaborate with local partners and City for future programming and stewardship initiatives, in addition to the City's recreational leagues.

5.4. The City will be responsible for ongoing park maintenance, including during the construction period, and will work with NCP to identify basic minimum maintenance services and recreational programming opportunities for the revitalized parks.

6. Responsibilities of NCP.

6.1. NCP agrees to facilitate the Project by: (a) leading community outreach and public financing efforts, using the NCP 2023 Master Plan as a baseline from which to begin discussions; and (b) completing the necessary design, engineering, and budgeting.

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6.2. Coordinate with the City to develop a plan for the administration of any grants awarded, compliance with all grant requirements, and the development, management and administration of related grant contracts and sub-recipient grant contracts.
6.3. NCP may engage consultants and contractors to complete the design, planning, and engineering components of the Project at no cost to the City. All plans prepared by NCP and submitted to any grant program, the City, or any other agency, shall be prepared, signed and sealed by a Licensed Professional Engineer registered in New York State.
6.4. Disclose the amount of administration fee, if any, to be paid to NCP from any grant or other funding secured for the Project.
6.5. Cooperate with the City in the performance of its obligations under this Agreement.
6.6. NCP's obligations under this Agreement are subject to the availability of Project funding to be jointly pursued and administered as set forth herein.

7. Responsibilities of the City.
7.1. The City will prioritize the Project as a capital funding priority and support NCP efforts to secure private and public funds for the Project. The City is not obligated to appropriate City funds for the Project, or to provide any match that a grant funding source may require unless the City determines it feasible to provide in-kind contributions or subsequently identifies available City funding.
7.2. Collaborate with NCP in completion of the Project including, but not limited to, convening leadership of all relevant City departments and agencies to: describe NCP's role on the Project; ensure the coordination of information and responsibilities among the City's key staff; and authorize NCP's access to necessary information.
7.3. Cooperate with the NCP in the performance of its obligations under this Agreement.
7.4. The City is not obligated to pay the costs and expenses incurred by NCP, its consultants, vendors, and contractors, in the planning, preparation, or management of the construction of the Project.

8. Designated Project Contacts.
8.1. For day-to-day coordination of the Project, City designates Lisa Ponce and Jonathan Midler to work with NCP, and NCP designates Emily Neye, Emmanuel Thingue, Shannon Hui and Chanda Bennett to work with the City.
8.2. The Interim and/or future City Manager and Rose Harvey will communicate on an as needed basis to address decisions requiring executive authority.
8.3. Meetings may occur in person or virtual as may be necessary and appropriate to facilitate and administer the Project.

9. Confidential Information. The Parties acknowledge that they may reveal certain proprietary and confidential information to each other during the term of this Agreement and in the course of the Project. The Parties agree to maintain the confidentiality of all such information created in the development of the Project to the greatest extent feasible and unless otherwise required by law.

10. Publicity. Each Party shall use reasonable efforts to consult with the other Party before issuing statements to the press or the public related to the Project. Public statements

related to the Project should recognize (i) the City, the Mayor and Council, and other involved units of government; (ii) NCP; and (3) Project donors. The City agrees to acknowledge NCP by name and logo in press communications, presentations and if the Project is completed on permanent signs mutually agreed on by the Parties.

11. General Terms.

11.1. Term; Termination.

11.1.1. The term of this Agreement shall be two years from the date of execution unless extended pursuant to Paragraph 11.1.2 or sooner terminated pursuant to Paragraph 11.1.3.

11.1.2. This Agreement may be extended upon the mutual, written agreement of the Parties as necessary to complete the Project or for the purpose of completing additional phases of the Park revitalization, the conditions of which shall be set forth in a modification of this Agreement pursuant to Paragraph 11.6.

11.1.3. Either party may terminate this Agreement by providing at least sixty days' prior written notice to the other party.

11.1.4. Notwithstanding the above, if the City is not awarded sufficient funding for the Project, either party may terminate the Agreement with thirty (30) days' notice.

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

11.3. Subcontracting/Assignment. Except as set forth in Paragraph 6.3, this Agreement may not be assigned or subcontracted to any other party.

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

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

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

If to NCP:
Rose Harvey
Founder, President and CEO
New City Parks, Inc.
71 W 23rd Street
New York, NY 10010

With a copy to:
General Counsel
New City Parks, Inc.
71 W 23rd Street
New York, NY 10010

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

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

11.6. Modification. This Agreement may not be modified except by a writing signed by both Parties to this Agreement.

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

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

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IN WITNESS WHEREOF, the parties have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: _____, 2026 CITY OF NEWBURGH

By: _____
Name: Jason Morris
Title: Interim City Manager
Per Res.: _____-2026

DATED: _____, 2026 NEW CITY PARKS, INC.

By: _____
Name: Rose Harvey
Title: Founder, President and CEO

Approved as to form:

_____
MICHELLE KELSON, Corporation Counsel

_____
NANCY BLOOM, City Comptroller

DRAFT

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED A NEW YORK PLACES FOR LEARNING, ACTIVITY, AND YOUTH SOCIALIZATION (NY PLAYS) INITIATIVE PROGRAM GRANT NOT TO EXCEED $2,500,000.00 WITH A 20% MATCH FOR THE DELANO-HITCH RECREATION PARK REHABILITATION PROJECT

WHEREAS, the New York Places for Learning, Activity, and Youth Socialization (NY PLAYS) Initiative, overseen by New York State Office of Parks, Recreation, and Historic Preservation and administered by Dormitory Authority of the State of New York, is a competitive grant program that supports the design, construction, and renovation of public playgrounds across New York State and helps communities expand access to safe, welcoming outdoor spaces that promote physical activity, emotional well-being, and in-person social connection for children and families; and

WHEREAS, through NY PLAYS, local municipalities can apply for grants to fund the design, construction, major renovation, and equipping of a playground, along with other related capital costs necessary to effectuate the NY PLAYS initiative; and

WHEREAS, the City of Newburgh, as an underserved community, proposes to apply for and accept if awarded a NY PLAYS Program grant to fund the design, renovation and construction of playground facilities in the Delano-Hitch Recreation Park; and

WHEREAS, such grant funds shall be in an amount not to exceed $2,500,000.00 with a 20% match to be provided through other funding options;

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 New York Places for Learning, Activity, and Youth Socialization (NY PLAYS) Initiative grant in an amount not to exceed $2,500,000.00 with a 20% match to fund the construction of the Delano-Hitch Recreation Park Rehabilitation 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.

City of Newburgh

GRANT APPLICATION FORM

Grant Requestor:
Please complete the following form and submit the form along with either a hard copy of the grant announcement or the grant announcement website address to the City of Newburgh Grants Administrator for processing. You will be notified when your grant request has been approved to be sent for City Council Resolution.

NOTE: All fields are required unless marked "OPTIONAL."

SECTION A. COMPLETED BY GRANT REQUESTOR		
NAME OF PROJECT FOR GRANT: Delano-Hitch Recreation Park Rehabilitation Project	NAME OF DEPARTMENT REQUESTING GRANT: Planning and Development	NAME OF DEPARTMENT HEAD/SPONSOR AUTHORIZING GRANT: Jonathan Midler
NAME OF GRANT/NAME OF AWARDING AGENCY: Dormitory Authority of the New York State (DASNY) New York State Office of Parks, Recreation & Historic Preservation (OPRHP) Places for Learning, Activity and Youth Socialization (NY Plays) Initiative	GRANT SUBMITTAL DATE: Due date: June 15, 2026, by 3 pm. The grant application has not been completed or submitted yet. The City anticipates submitting it by the deadline if matching funds can be found by New City Parks.	AMOUNT OF AWARD: The City is requesting $2,500,000 – this is the maximum potential grant award.
MATCH REQUIRED? IF YES, AMOUNT AND TYPE: (EX. CASH, IN-KIND) Yes, a 20% match is required ($500,000). The outside funding source for the match will be obtained by New City Parks.	AMOUNT REQUIRED BY THE CITY OF NEWBURGH: $500,000.00 Matching funding source to be determined by New City Parks. The City reserves the right to withdraw the application or reject any future grant award if an adequate match cannot be obtained.	(OPTIONAL) ANY ADDITIONAL GRANT CONDITIONS: Each application must be for a single project location. The project is for the construction of a playground at Delano-Hitch Recreation Park Rehabilitation Project. Grant funds are not allowed for the construction or rehabilitation of athletic playing fields, courts, nature trails, or bike paths.

City of Newburgh

GRANT APPLICATION FORM

PROJECT PLAN:

Scope of Project: The project is for the construction of a new playground at Delano-Hitch Recreation Park. Specific project improvements will be guided by community outreach in May 2026, but could include a destination playground, new picnic pavilion, pedestrian paths, furnishings, and plantings.

Key Stakeholders:

- Residents of the City of Newburgh, with a focus on the youth and their families
- New City Parks
- City Council
- City Manager's Office
- Recreation Department
- Planning & Development Department
- Engineering Department
- Department of Public Works
- Water Department
- Organizations with recreational programming at Delano-Hitch Recreation Park

Project Timeline: (ex. Dates)

Application Submission Period ..... June 15, 2026
Grant Award Announced..... Quarter 3 2026
Engineering and Design Plans Finalized..... Quarter 1, 2027
Construction Commence..... Quarter 2, 2027
Construction Complete..... Quarter 3 2028

SECTION B. FOR REVIEW BY CITY COMPTROLLER

GRANT MATCH REQUIREMENT REVIEWED? YES/NO:

COMMENTS:

IN-KIND SERVICES REQUIREMENT REVIEWED? YES/NO

COMMENTS:

STAFFING ISSUES REVIEWED? YES/NO:

COMMENTS:

ANY ADDITIONAL COMMENTS:

City of Newburgh

GRANT APPLICATION FORM

→ APPROVED BY CITY COMPTROLLER? YES/NO

CITY COMPTROLLER SIGNATURE: _____

DATE: 5/15/2026

NOTE: IF GRANT APPROVED, CITY COMPTROLLER WILL FORWARD TO CITY MANAGER FOR REVIEW. IF GRANT NOT APPROVED, CITY COMPTROLLER TO RETURN TO GRANTS COORDINATOR FOR FURTHER REVIEW BY PROJECT SPONSOR.

SECTION C: FOR REVIEW BY CITY MANAGER

→ APPROVED BY CITY MANAGER? YES/NO

CITY MANAGER SIGNATURE: _____

DATE: 5-15-26

SECTION D: FOR REVIEW BY CORPORATION COUNSEL

→ APPROVED BY CORPORATION COUNSEL FOR RESOLUTION? YES/NO

CORPORATION COUNSEL SIGNATURE: _____

DATE: 5/15/26

DATE RESOLUTION TO BE SENT TO CITY COUNCIL MEETING:

5/21/26 Work Session

5/26/26 Council meeting

NEW YORK STATE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION

DORMITORY AUTHORITY OF THE STATE OF NEW YORK

NEW YORK PLACES FOR LEARNING, ACTIVITY, AND YOUTH SOCIALIZATION (NY PLAYS) INITIATIVE

REQUEST FOR APPLICATIONS (RFA)

Kathy Moser
Acting Commissioner
New York State Office of Parks, Recreation, & Historic Preservation

Lisa Gomez
Chair
Dormitory Authority of the State of New York

Robert Rodriguez
President & CEO
Dormitory Authority of the State of New York

RFA Announcement: 1/06/2026

RFA Application Start Date: 5/4/2026

RFA Application Deadline: 6/15/2026

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APPENDICES:

Appendix 1	NY PLAYS Application (with "Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS" and "Using the 'Grants Map for NY Unplug and Play Programs' for FY 2026")
Appendix 2	Certificate of Municipal Site Control
Appendix 3	Frequently Asked Questions (FAQs)
Appendix 4	Sample Grant Disbursement Agreement (GDA)
Appendix 5	GDA Prerequisites and Instructions
Appendix 6	NY PLAYS Scoring Template

Section One: INTRODUCTION

1.1 Background

Recognizing that Playgrounds promote physical activity, exercise, and building friendships – and that research shows outdoor play supports emotional well-being – Governor Hochul announced the New York Places for Learning, Activity, and Youth Socialization (NY PLAYS) Initiative. This new competitive grant program will support the design, construction, and renovation of Playgrounds that are open to the public in Communities across the State.

NY PLAYS is overseen by the New York State Office of Parks, Recreation and Historic Preservation ("NYS OPRHP") and administered by the Dormitory Authority of the State of New York ("DASNY").

Eligible Municipalities and Not-for-profit Entities are invited to apply for NY PLAYS Grants for Playground projects. For profit entities are ineligible for the NY PLAYS Initiative.

Capitalized terms used herein and not otherwise defined are defined in Section Two: Definitions.

1.2 Purpose of the Funding

NY PLAYS Grants can be used to fund the acquisition, design, construction, major renovation, and equipping of a Playground, along with other related Capital Costs necessary to effectuate the NY PLAYS Initiative.

The 2025-2026 New York State Budget includes $67.5 million in capital funding for the NY PLAYS Initiative to be awarded to Municipalities and Not-for-profit Entities through a competitive grant program.

- Eligible Applicants may be awarded grants between $100,000 and $2,500,000 for Eligible Project Costs.
- The NY PLAYS Initiative will provide not less than $35,000,000 in funding for Playgrounds in Underserved Communities.
- **Grantees must demonstrate a 20% match toward the Project.**

1.3 Timetable of Key Events:

RFA Announcement Date 1/06/2026
Open Application Question Period Begins 1/06/2026
Applicant Webinar..... 2/13/2026
Deadline to Submit Questions..... 2/23/2026
Answers Posted By 3/3/2026
Application Submission Period..... 5/4/2026-6/15/2026
Application Deadline..... 6/15/2026
Application Scoring 6/16/2026-7/31/2026
Awards Announced No Earlier Than 8/3/2026

1.4 Inquiries

In accordance with State Finance Law § 139-j and § 139-k, this RFA includes and imposes certain restrictions on communications between DASNY and NYS OPRHP personnel and an Applicant or any representative, agent, consultant or other third party representing the Applicant during the procurement process. Any questions regarding this RFA should be submitted via the NY PLAYS SurveyMonkey link: https://www.surveymonkey.com/r/NYPLAYS.

Contacts made to any DASNY, NYS OPRHP or other State personnel regarding this procurement between the RFA Announcement Date and Application Deadline, other than through the hyperlink above may disqualify the Applicant and affect future procurements with governmental entities in the State of New York. Please refer to DASNY's website (https://www.dasny.org) for policies and procedures regarding this law or the OGS website (http://ogs.ny.gov/acpl/) for more information about this law.

Section Two: DEFINITIONS

Ancillary Costs: Costs for improvements related to a Playground project but not included in the definition of a Playground for this RFA, and not eligible for funding under this Grant. Ancillary Costs may be counted toward the Grantee's required 20% matching contribution. Ancillary Costs may include, but are not limited to: athletic playing fields, athletic courts, splash pads, nature trails, bike paths, or parking lots and related architectural and engineering fees.

Applicant: A Municipality or a Not-for-profit Entity, both as hereafter defined, providing public Playgrounds in New York State.

Application: The documentation submitted that will be reviewed and scored for this funding opportunity, including all worksheets, attachments, and requested supplemental information. All information that the Applicant wishes to be reviewed and scored must be included as part of the Application. Applicants may submit multiple applications, but each application must be for a single project location.

Application Deadline: All Applications must be received by 3:00 p.m. on the date set forth in Section 1.3 above. Applications received after this time will not be accepted. Applicants are encouraged to apply promptly.

Authorized Officers: Individuals authorized to sign documents on behalf of the Applicant, including but not limited to contractual agreements. In the event there is only one Authorized Officer, a letter from the Applicant's attorney confirming that there is only one Authorized Officer must be submitted to DASNY and NYS OPRHP.

Awardee: Applicant that has been conditionally awarded a NY PLAYS Grant by NYS OPRHP and DASNY. Awardees must submit additional information to NYS OPRHP and DASNY before receiving a Grant Disbursement Agreement for execution.

Award Letter: The letter sent to Awardees as described in Section 7.4 of this RFA.

Capital Cost: For purposes of the NY PLAYS Initiative, a Capital Cost is defined as costs for a Capital Work or Purpose as defined in State Finance Law § 67-a (4).

Community: A common geographic area such as a neighborhood.

DASNY: The Dormitory Authority of the State of New York.

Eligible Applications: Applications which meet the eligibility requirements detailed in Section Four (Step One) **and** score 20 or more points in Community Need and Project Planning as explained in Section Five (Step Two) will be deemed Eligible Applications. Only Eligible Applications will proceed to Project Impact and Project Viability Scoring as described in Section Six (Step Three).

Eligible Project Costs: Costs incurred in connection with a Project that are to be reimbursed with the proceeds of a NY PLAYS Grant. Eligible Project Costs shall be Capital Costs as defined above. Proceeds of a NY PLAYS Grant may not be used to pay for non-Capital costs including but not limited to salaries, maintenance or repair costs, lease payments, utility costs, supplies, and debt repayment.

Grant Disbursement Agreement (GDA): The contract entered into between DASNY and the Grantee. A sample GDA is attached to this RFA as **Appendix 4**. Applicants are expected to review the GDA in its entirety prior to submitting an Application for the NY PLAYS Initiative. Grantees are required to comply with the terms of the GDA as set forth.

Grantee: An Applicant that has successfully passed the scoring and review phases, has been selected to receive a NY PLAYS Grant and has satisfied all conditions precedent required to enter into a Grant Disbursement Agreement.

Matching Funds: The Grant will cover no more than 80% of the Capital Costs for the proposed Project. The Grantee must provide at least 20% of the Capital Costs of the Project from other committed funding sources. Municipal Parks and Recreation grant awards (MPR) cannot be used as a match for NY PLAYS.

Municipality: For the purposes of this RFA, the term Municipality shall only mean a County, City, Town, Village, Public School District or Indian Nation.

NYS OPRHP: The New York State Office of Parks, Recreation and Historic Preservation.

NY PLAYS Grant: Pursuant to this RFA, a capital grant awarded to a Grantee.

Not-for-profit Entity: A not-for-profit organization that is duly incorporated with the New York State Department of State or Chartered by the State of New York, including

Independent and Private Schools. Not-for-profit Entity Applicants must be Prequalified at the time of application.

Playground: For the purposes of the NY PLAYS Initiative, Playground shall mean a designated, improved outdoor space, either built or natural, that is designed, equipped, and set aside to provide opportunities for physical, social, and imaginative play for youth of all abilities. Additionally:

- Playgrounds should include traditional play structures, equipment and amenities, as well as adaptive and inclusive features that ensure accessibility for people with diverse physical, sensory, and cognitive needs.
- Playgrounds may be in urban, suburban, or rural settings and can incorporate natural elements like trees, rocks, water, and open grassy areas to enhance exploration and engagement with the environment.
- Playground projects must be open to the public without limitation, and must adhere to recognized safety and accessibility standards, such as those outlined by the Consumer Product Safety Commission (CPSC) and the Americans with Disabilities Act (ADA) to ensure that the playground is safe and accessible to all.
- For the purposes of the NY PLAYS Initiative, a Playground is not intended for use as an athletic playing field or athletic court, nature trail, or bike path.
- Standalone restroom or pavilion facilities at the Project location may be included as part of the Playground project but must be open to the public.
- Playgrounds must be open to the public 7 days a week, year-round. Playgrounds must also be free of charge, accessible without additional assistance, and cannot be locked up behind a fence/gate.

Prequalification: Prequalification is a requirement of the State of New York. Not-for-profit organizations are required to provide information in the Statewide Financial System (SFS) that is used to assess organizational capacity, organizational compliance and organizational integrity. All Not-for-profit Entities must register, apply for, and obtain approved Prequalification status in SFS. Please note that the status must be showing as Prequalified. Any other status such as “In Review” will be treated as not prequalified.

Not-for-profit Entities must receive **approved Prequalification status** prior to submitting their Application and must remain Prequalified through the execution of the Grant Disbursement Agreement and payment of requisitions. The Prequalification process takes time, so Applicants are advised to start the process as soon as possible.

Applications from Not-for-profit Entities that are not Prequalified in SFS prior to Application submission will not be deemed to be an Eligible Application. No extensions will be provided to Applicants who are not Prequalified prior to the submission of their Application.

Project: The acquisition, design, construction, major renovation, and equipping of a Playground, along with other related Capital Costs necessary to effectuate the NY PLAYS Initiative. The NY PLAYS Initiative will fund Eligible Project Costs in furtherance of a Project.

Site Control: Evidence that the Applicant/Grantee has sufficient authorization and control to undertake the Project at the project location. Municipalities may submit a Certificate of Municipal Site Control provided as **Appendix 2** to this RFA. Not-for-profit Entities must submit either a deed or lease to the proposed project location. Lease agreements must extend at least 10 years from the date the Application is submitted.

If the NY PLAYS Grant will be used to acquire real property for use as a playground, the Applicant must provide an executed contract of sale and an appraisal of the property undertaken in accordance with Uniform Standards for Professional Appraisal Practice (USPAP) standards.

Given the unique historical and legal parameters attendant to Indian Nation lands, Indian Nations should submit valid written documentation to satisfy the Site Control requirement.

State Environmental Quality Review Act (SEQR) Review: The SEQR Act requires all state and local government agencies to consider environmental impacts equally with social and economic factors during discretionary decision-making. A SEQR review must be completed for each Project to be funded with the proceeds of a NY PLAYS Grant.

Statewide Financial System (SFS): New York State grants management system for all organizations doing business with New York State. All Not-for-profit Entity Applicants must register, apply for, and obtain approved Prequalification status in SFS prior to the submission of their Application.

Underserved Communities: Applicants must complete the "**Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS**" pursuant to Section Five. For purposes of the NY PLAYS Initiative, Underserved Communities shall be those that score 20 points or more on the "Community Need" portion of the Application (**Worksheet 1**).

W-9 Form: Internal Revenue Service (IRS) document utilized to set up the Grantee as a vendor/payee in DASNY's financial system. The Grantee's Federal Employer Identification Number (FEIN) is required to make payment. Note: The Grantee's legal name and FEIN on the W-9 should match the legal name and FEIN on file with the IRS.

Section Three: EVALUATION AND SCORING OVERVIEW

Application Project Purpose Priority and Grant Funding Levels

The State's priority is to provide funds to create and renovate Playgrounds statewide and achieve an overall allocation of at least $35,000,000 in NY PLAYS awards to Underserved Communities as set forth in the NY PLAYS appropriation.

The NY PLAYS Initiative is expected to be a highly competitive grant program for which three Application Project Purpose Priority and Grant Funding Levels have been

established, as reflected in the following table. Applicants must first select which Priority Level they are applying for based on the Application Project Purpose.

Documentation must be provided with the NY PLAYS Application to support the total cost of the NY PLAYS Project. Please note that the Total Project Cost must be at least twenty percent higher than the amount of the NY PLAYS Grant award requested to comply with the 20% Match Requirement.

Priority	Application Project Purpose Priority	Targeted Funding for Grant Funding Level*
1	New Playground	**$30,000,000**
2	Major Expansion of an existing Playground	**$20,000,000**
3	Renovation of an existing Playground	**$15,000,000**
	Sum of Priority Levels 1-3	**$65,000,000**
	Base Pool amount allocable to grant applications across all levels after initial scoring	**$2,500,000**
	Total	**$67,500,000**

* ***Not less than $35,000,000 of PLAYS funding shall be used for grants to Municipalities or Not-for-profit Entities in Underserved Communities.***

Once the highest scoring Applications at each Priority Level have been determined, any residual funds remaining under those Priority Levels shall be added to the Base Pool and used to make additional NY PLAYS grant awards.

During the review and scoring process NYS OPRHP and DASNY will use best efforts to achieve regional diversity across the State.

Grants from the Base Pool shall be awarded to those Applications receiving the next highest scores across all Application Priority Levels, provided that sufficient funds exist to fully fund the requested grant amount. Awards will be made in this manner until all available funding has been allocated.

No partial grants will be awarded. Not all Eligible Projects will receive a NY PLAYS Grant.

In the event of equally scored applications, NYS OPRHP and DASNY reserve the right to further evaluate the applications with increased weight and scrutiny given to Project Viability.

NYS OPRHP and DASNY reserve the right to reject any or all Applications received in response to this RFA.

Step One: Applicant and Project Eligibility

NYS OPRHP and DASNY will determine if the Applicant and the Project meet the minimum eligibility requirements set forth in Section Four. If the Applicant or the Project does not satisfy the eligibility requirements set forth in Section Four, the Applicant shall be deemed ineligible and shall not advance for further scoring or review. If both the Applicant and the Project fully satisfy the eligibility requirements in Section Four, the Applicant and the Project shall be deemed an Eligible Applicant and an Eligible Project, and the Application shall proceed to Step Two below.

Step Two: Community Need and Project Planning

NYS OPRHP and DASNY will review the "**Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS**" (**Appendix 1**). All Applicants must complete all three Worksheets in their entirety. Instructions for completing the Worksheets are set forth in Section Five.

- Applications with a total score of 19 or below in Community Need and Project Planning (**Worksheet 3**) shall be deemed ineligible and shall not be scored further.
- Applications satisfying the requirements of Step One and that earn a total score of 20 or more on Community Need and Project Planning (**Worksheet 3**) will be deemed an Eligible Application and will proceed to Project Impact and Project Viability Scoring in Step Three.
- In addition, Applicants who scored 20 or more points in Community Need (**Worksheet 1**) will be deemed "Underserved Communities."

All Applications deemed an Eligible Application following Step Two shall proceed to Step Three.

Step Three: Project Impact and Project Viability

- NYS OPRHP and DASNY shall review and score all Eligible Applications for Project Impact and Project Viability as set forth in Section Six.
- Each reviewer will assign a score of up to 60 additional points in Step Three, for a total of 100 available points.
- The minimum total score to be considered for a NY PLAYS Grant award is 70.

Section Four: APPLICANT AND PROJECT ELIGIBILITY (STEP ONE)

All of the provisions of this Section Four must be satisfied for an application to continue to Steps Two and Three. Applications that fail to satisfy all provisions will be disqualified from further review and scoring.

4.1 Eligible Applicants

This RFA is limited to Municipalities and Prequalified Not-for-profit Entities providing Playgrounds. At least $35,000,000 shall be awarded to Eligible Applicants in Underserved Communities.

4.2 Eligible Projects

To be eligible to receive a NY PLAYS Grant, the Project must be for the acquisition, design, construction, major renovation, and equipping of a Playground, along with other related Capital Costs necessary to effectuate the NY PLAYS Initiative. The NY PLAYS Initiative will fund Eligible Project Costs in furtherance of a Project.

Applicants may submit multiple applications; however, each application must be for a single project location. Applications will be reviewed and scored individually.

In order to be eligible to receive proceeds of a NY PLAYS Grant, the following also apply:

- The provisions of the GDA as set forth in **Appendix 4** must be complied with. Please review the GDA before applying.
- All contracts for the work to be performed in connection with the Project are required to be entered into by the Grantee (as opposed to a third party on behalf of the Grantee) and signed by an Authorized Officer of the Grantee.
- Eligible Project Costs are required to be paid directly by the Grantee.
- Eligible Projects must be in compliance with all State and local laws and regulations at all times.

4.3 Eligible Project Locations

Site Control is required to prove that the Applicant has sufficient authorization and control to undertake the Project at the Project location.

- Municipalities may submit a Certificate of Municipal Site Control, provided as **Appendix 2** to this RFA, to demonstrate ownership or authority that allows the Municipality to construct and maintain the Project on the Project location.
- Not-for-profit Entities that own their project location must provide a deed, in the name of the Applicant organization, for the proposed project location.
    - If the name of the property owner reflected in the deed differs from the Applicant (if the Applicant's name or d/b/a changed, for example), a satisfactory explanation is required. **If the name is different and no satisfactory explanation is provided, the Application will not be deemed an Eligible Application.**

- For all leased project locations, the term of the lease must be in the name of the Applicant, and it must meet the requirements set forth below:
    - The full lease or rental agreement must be provided, including any exhibits, amendments or riders. **If not provided, the Application will not be deemed an Eligible Application.**
    - The lease or rental agreement **must show** that it is in effect for at least ten (10) years from the date the Application is submitted. The lease term will be verified at the time of the execution of the Grant Disbursement Agreement to ensure that a significant period of time remains on the lease term. **If the term of the lease or rental agreement does not meet this requirement, the Application will not be deemed an Eligible Application.**
    - Documentation of support of the property owner for the Project must be submitted with the Application **or the Application will not be deemed an Eligible Application.**
        - Include a letter on the landlord or lease agency's letterhead granting permission to complete the Project at the project location.
        - The letter must be dated and signed by an Authorized Officer of the landlord or leasing agency.
- If the NY PLAYS Grant will be used to acquire real property to be used as a Project, the Applicant must provide an executed contract of sale and an appraisal of the property undertaken in accordance with USPAP standards. Property purchases must also include plan(s) for a Playground.
- Indian Nations should submit documentation to demonstrate Site Control over the project location and authorization to construct and maintain the Project at the project location.
- For all Project locations where Tax Credits may be utilized:
    - Projects located in facilities to be funded by any tax credit structure (New Market Tax Credits, Low-Income Housing Tax Credits, Brownfield Tax Credits, etc.) should review the criteria set forth below. In addition, Applicants should refer to the FAQs included with this RFA for additional information and requirements regarding tax credit structures.
    - Applicants involved in a tax credit structure should verify that their Project will be segregated from the overall development or redevelopment of the facility to be funded with tax credits and demonstrate that all of the requirements set forth below are satisfied:
        - Site Control must be in the legal name of the Applicant (not an affiliated entity).
        - All requirements applicable to owned, leased or to-be-acquired properties as set forth above must be satisfied.
        - The Applicant must be the entity entering into contracts with contractors for capital costs incurred in furtherance of the Project.
        - The Applicant must be the entity incurring and paying for the capital costs in the first instance.

- The Grant funds may not be deposited into the tax credit corpus.

4.4 Eligible Uses of Funds

- Only Eligible Project Costs will be authorized for reimbursement with the proceeds of a NY PLAYS Grant.
- Ineligible uses of NY PLAYS funds include, but are not limited to:
  - Working capital, including funds required to operate a facility, such as staff, rent, utilities, internal labor, and supplies.
  - Preliminary planning, market studies, and similar activities.
  - Grant writing, administration, legal, insurance and other fees.
  - Minor repairs or routine maintenance projects.
  - Long term debt, including financing of machinery or equipment.
  - Support of any Project that is part of an existing or proposed tax credit structure or other similarly structured financing arrangement.
  - Shredded Playground Mulch
  - Costs for spectator facilities such as stadiums, stadium-like seating, and portable bleachers.
  - Sidewalks and publicly maintained roads.
- Proceeds of NY PLAYS Grants cannot be used to reimburse costs incurred on or before April 1, 2025.

4.5 Prequalification Requirement:

- Not-for-profit Entities must receive approved Prequalification status prior to the submission of their Application and remain Prequalified through the execution of the Grant Disbursement Agreement and payment of all requisitions. Any other status will be treated as not Prequalified.
- Not-for-profit Entities must first register as a "vendor" in SFS prior to applying for Prequalification.
- Not-for-profit Entities that are not in Prequalified status will be ineligible for a NY PLAYS grant and will not be reviewed or scored.
- Please note that once **any** Prequalification Application is opened, it should be completed and submitted as quickly as possible. Otherwise, the status may be reflected as "In Review" or "Application in Progress" and will not be considered Prequalified for purposes of this Funding Opportunity, EVEN IF the organization had previously been in Prequalified status.
- Prequalification in the Statewide Financial System (SFS) may take several weeks to complete. Applicants are advised to start the process as soon as possible to allow ample time to complete the Prequalification process prior to submitting the NY PLAYS Application, including all follow up inquiries from the prequalifying State Agency.
- Required documentation to be filed with SFS to obtain Prequalification status includes:
  - the organization's IRS Determination Letter
  - Incorporation or Charter Documentation

- IRS 990
- NYS CHAR 500
- Organization Bylaws
- Organization Board of Directors Profile
- Organization Executive leadership Resumes
- Organization Financial Statements
- Organization Chart.

- Applicants with questions regarding the SFS Prequalification or registration should review the recorded prequalification webinar linked here: SFS Recorded Training Sessions.
- Applicants should also visit the Grants Management Homepage and review the resources available to assist with Prequalification.
    - If the Applicant requires assistance with the Registration or Prequalification process, questions should be directed to the SFS Desk at Helpdesk@sfs.ny.gov.

Section Five: COMMUNITY NEED AND PROJECT PLANNING (STEP TWO)

NYS OPRHP will then review the "**Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS**."

All Applicants must complete the "**Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS**," (**Appendix 1**). Only a maximum of 40 points may be awarded based upon the responses to these Worksheets.

Community Need Category – Worksheet 1:

- A minimum of 20 points in this category is needed to be considered an Underserved Community. **Up to 30 points are available in the Community Need category as described below.**
- Follow the instructions labeled "Using the 'Grants Map for NY Unplug and Play Programs' for FY 2026" to identify the project location and assign points for Community Need.
- NYS OPRHP will score based on the following:
    - 0-10 points to assess the Percent Below Poverty Level associated with the project location.
        - Using the 'Poverty by ZCTA 2023' layer on the "Grants Map for NY Unplug and Play Programs for FY26", identify the Percent Below Poverty Level for your project location. Enter that information into the "Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS," then use the Point Breakdown for Poverty Level Chart to assign points associated with the designated Percent Poverty to determine the "Score for ZCTA."
    - 0-10 points to assess the level of need for Playground Facilities at the project location.

        - Enter the County where the Project is located on the Worksheet, then using the Statewide Comprehensive Outdoor Recreation Plan Relative Index of Needs (RIN) Table, list the value for the **Park** category associated with that county to determine the "Score for RIN."
    - 5 additional points may be added if the project location is designated as a Disadvantaged Community (DAC).
        - Using the Census Tracts–Disadvantaged Communities (DAC) layer on the map, identify the 11-digit Census Tract code and enter on the Worksheet. If the project location is designated as a DAC, enter "5" on the Worksheet.
    - Up to 5 additional points may be added if the project location is designated as an ESD Distressed Community.
        - The ESD Distressed Communities (2025) layer on the map, will identify the location's "StressDescription", enter the value associated with the designation on the Worksheet.

Project Planning Category – Worksheet 2

- NYS OPRHP will score based on the following:
    - Applications may earn either 0 or 20 points depending on whether the Applicant can demonstrate evidence of planning for the Project, which may include, but is not limited to a Master Plan, a Strategic Plan, a Needs Assessment, a Facilities Assessment/Condition Report, a Space Utilization Study, a Feasibility Study, a Capital Campaign Plan, a report of Community Engagement Findings, a Business or Operations Plan, Board Resolutions, etc.

Total Score of Community Need and Project Planning – Worksheet 3

- Applications satisfying the requirements of Step One and with a combined total score of 20 or more for Community Need and Project Planning (**Worksheet 3**) will be deemed an Eligible Application and will proceed to Project Impact and Project Viability Scoring in Step Three.
- In addition, Applicants who scored 20 or more points on Community Need (**Worksheet 1**) will be deemed "Underserved Communities."
- Only a maximum of 40 points may be awarded based upon the total Score found in **Worksheet 3**. Eligible Applications with a total score of Community Need and Project Planning of more than 40 points will be capped at the maximum score of 40 points.

Section Six: PROJECT IMPACT AND PROJECT VIABILITY (STEP THREE)

6.1 Project Impact - maximum score up to 20 points

NYS OPRHP will review and score all Eligible Applications based upon the qualitative aspects of the Project.

- Reviewers will score the Applications and award 0-20 points based upon Applicant-submitted responses and supporting documentation describing the impact for the community to be served by the proposed Project.
- A score of 0 or 5 shall be awarded based upon the response to each project impact question set forth in the Application attached to this RFA as **Appendix 1**. There are 4 questions.

6.2 Project Viability - maximum score up to 40 points

DASNY will review and score all Eligible Applications based upon evidence of construction readiness and the evidence of committed funding sources in an amount sufficient to complete the Project as described.

Construction Readiness (0-10 points)

- Reviewers will score the Eligible Applications and award 0-10 points based upon the level of preparation and planning that has taken place to create the Project, as well as sufficiency of Site Control.
- Applicants should provide a description or evidence of steps taken to in furtherance of the Project, including obtaining permits, undertaking the State Environmental Quality Review process, retaining a design professional, obtaining zoning or planning board approval, or possessing architectural/engineering plans, construction documents or other indicia of shovel-readiness.

Financial Review (0-30 points):
Reviewers will score the Eligible Applications and award 0-30 points based upon the degree to which the Eligible Applicant has prepared a Project budget and secured the funds necessary to complete the Eligible Project. The most competitive Eligible Applications will demonstrate committed funding in the amount necessary to fully fund the Eligible Project.

- **Project Budget (0-10 points)**
  - Provide quotes, proposals, estimates, and/or budget for the Project setting forth the Project components, cost information, and other pertinent details.
  - The most competitive Applications will provide a budget prepared by a design professional within the past six months.
  - Reminder: Project Costs cannot be financed through long-term debt, bonds, or other long-term financial instruments, or from a tax credit structure or other similarly structured financing arrangement. Please review Section 4.3 above, and the FAQs included with this RFA, for important information regarding tax credit structures.

- **Matching Funds Requirement (0-10 points)**
  - The proceeds of a NY PLAYS Grant will cover no more than 80% of the Capital Costs for the proposed Project. Matching Funds must be utilized to pay for Capital Costs incurred in connection with the Project. The Applicant must provide evidence of committed funding sources in an amount sufficient to pay at least 20% of the Capital Costs of the Project.
  - Expenditures already made by the Applicant may be counted as Matching Funds so long as such expenditures occurred after April 1, 2025 and would otherwise be Eligible Project Costs.
  - Matching Funds must satisfy the requirements set forth below for Additional Committed Funding Sources.
  - Municipal Parks and Recreation grant awards (MPR) cannot be used as a match for NY PLAYS
  - There is no requirement that Matching Funds be fully secured by the date of Application, but Applications will be scored based upon the amount of funds secured and/or the timing of additional funds expected.
  - Matching Funds must be documented to the satisfaction of NYS OPRHP and DASNY.

- **Additional Committed Funding Sources (0-10 points)**
  - All committed funds must meet the requirements set forth below.
  - Documentation for the financial review may include, but is not limited to, any or all of the following:
    - Bank account and investment account statements.
    - Donor pledges, agreements and receipts.
    - Grant award letters, agreements and contracts.
    - Loan agreements, commitment letters, terms and conditions.
    - Bond documents.
    - Personal service contracts.
    - Bills of sale and paid invoices evidencing payment by the Applicant after April 1, 2025 for an Eligible Project Cost.
  - Pledges or award letters with unsatisfied contingencies, pending loan applications, and other non-final commitments **will not** be considered "secured" in the evaluation process.
  - If all funds required to complete the Project have not been secured at the time of application, the committed funding to date should be provided along with the details on how the additional funding will be obtained.
  - A Municipal Parks and Recreation grant (MPR) and a NY PLAYS grant **cannot** fund the same project scope.

Section Seven: APPLICATION TIMELINE

7.1 Informational Webinar and Question Period

- A Webinar video will be posted on the NYS OPRHP and DASNY NY PLAYS Websites by 2/13/2026. This video will address questions and clarify specific elements of the RFA announcement.
- Prior to the Webinar date, ensure thorough review of this RFA and all Appendices for all requirements.
- To maintain a fair and open process, NYS OPRHP and DASNY will only accept questions regarding this RFA received via SurveyMonkey. The SurveyMonkey form can be accessed here: https://www.surveymonkey.com/r/NYPLAYS. Please send all questions no later than 3:00 p.m. on 2/23/2026.
- Questions of a substantive nature submitted prior to 2/13/2026 will be addressed on the Applicant Webinar Video, where applicable.
- Questions received after the Webinar Video has been posted and prior to 3:00 p.m. on 2/23/2026 will be addressed on the NYS OPRHP website and DASNY (Grant Administration | DASNY) websites on 3/03/2026.

7.2 Application Submission

Applicants should review the following steps to submit their application:

1. Carefully review the RFA (with all Appendices) in its entirety.
2. The Application and all requisite forms and Worksheets can be found attached as **Appendix 1**. Confirm all have been completed and all other supporting documentation is provided.
3. Confirm the Application directly addresses the requirements described in Section Three and Section Four, including:
    a. Confirm the correct Application Project Purpose Priority and Grant Funding Level has been selected.
    b. Eligible Applicants (and supporting documentation).
    c. Eligible Projects (and supporting documentation).
    d. Eligible Project Locations (and supporting documentation including Site Control documentation)
    e. Eligible Use of Funds (and supporting documentation).
    f. Prequalification Requirements for Not-for-profit Entities.
4. Confirm the Application directly addresses the requirements of Step Two: Community Need and Project Planning as described in Section Five.
    a. This includes completing each of the three Worksheets included in the "**Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS**."
5. Confirm the Application directly addresses the requirements described in Section Six, including all supporting documentation.
6. The Application is a fillable PDF. Be certain to save the document prior to submitting it and name the Application and any additional PDFs clearly with the Applicant's name. Number relevant attachments as needed for clarity and to ensure that all relevant information and documentation is submitted.

7. The Applicant may submit one comprehensive PDF of the Application with all related backup documentation or submit an email with multiple attachments. However, all relevant documents must be contained in **one email** per application. Subsequent emails with additional information will not be considered.
8. If submitting multiple applications, each should be in its own email.
9. The file size should not exceed 112 MB for messages outside Microsoft datacenters, and 150 MB between Microsoft users. If you prefer to submit a zip file, please find assistance here: Zip and unzip files - Microsoft Support.
10. Applicants must include "NY PLAYS Application" in the subject line of the email and name all attachments with the Applicant's name.
11. Submit Applications by email to NYPLAYS@DASNY.org **no later than 3:00 p.m.** on the Application Deadline. Applications submitted after the Application Deadline will not be considered. Neither DASNY nor NYS OPRHP assumes responsibility for technical or submission issues on the part of the Applicant, incompatibility between the Applicant's and DASNY's operating systems, or otherwise late applications. **Any Applications received via another email, postal delivery, or facsimile will not be accepted, and no notification will be provided to the Applicant.**
12. After submission of the Application, please check your email to verify that you have received an email confirmation that your Application has been received by DASNY. If you do not receive a notification, please email NYPLAYS@DASNY.org with a copy to grants@DASNY.org.

7.3 Important Notices for Application Submission

- It is the Applicant's responsibility to submit a complete Application with all supporting documentation to be considered during the evaluation process. **Only the materials submitted with the Application will be evaluated and there will not be an opportunity to amend the submitted Application after submission.**
- Neither DASNY nor NYS OPRHP will contact the Applicant for any reason during the review process, including but not limited to:
    - requesting additional or explanatory information;
    - inform an Applicant that the Application is incomplete; nor
    - inform an Applicant that incorrect documentation has been provided.
- Only Applications meeting the Eligible Application requirements will proceed to be scored further. Therefore, if one or more of the requested eligibility items is not included, there will be no opportunity to provide the items at a later time, and the Application will not be deemed Eligible.
- Applications will be scored solely based upon information submitted. If documentation required for a scoring category is not provided, the Application will receive no points in that category.

- Neither DASNY nor NYS OPRHP assumes responsibility for technical or submission issues on the part of the Applicant, incompatibility between the Applicant's and DASNY's operating systems, or otherwise late applications.

Other Resources:

- "Using the 'Grants Map for NY Unplug and Play Programs' for FY2026" Instructions, included with the "Applicant Worksheets to Calculate Community Need and Project Planning for NY PLAYS" (Appendix 1).
- "Grants Map for NY Unplug and Play Programs" for FY 2026
- NYS Disadvantaged Communities – Climate Act Website
- NYS GIS Clearinghouse Data Website

7.4 Issuance of Award Letters

- NY PLAYS Awards will be announced after all Eligible Applications have been scored by NYS OPRHP and DASNY.
- Awards will be announced no earlier than August 3, 2026.
- After the announcement, DASNY will issue an Award Letter to the Awardees and manage the award process.
- The Award Letter is not a commitment to provide funds but shall constitute a commitment on the part of DASNY to enter into a Grant Disbursement Agreement (GDA) in the form attached hereto, subject to compliance with the conditions precedent set forth in this RFA, the Award Letter and the GDA.

7.5 Grant Disbursement Agreement (GDA)

- A sample GDA is set forth as **Appendix 4** to this RFA. Note that the following apply:
  - All contracts for the work to be performed in connection with the Project are required to be entered into by the Grantee and signed by an Authorized Officer of the Grantee.
  - Eligible Projects must be in compliance with all State and local laws and regulations at all times.
  - Eligible Project Costs are required to be paid directly by the Grantee.
- All conditions precedent must be satisfied before DASNY will enter into a GDA with the Grantee.
- The GDA is not effective until fully executed by the Grantee and DASNY.
- No NY PLAYS Grant funds will be disbursed until the GDA is fully executed.
  - Applicants should review **Appendix 5**: "GDA Prerequisites and Instructions" to confirm they will be able to meet these requirements should they be awarded a NY PLAYS Grant.
  - GDA terms and conditions are non-negotiable.

Section Eight: RIGHTS RESERVED

NYS OPRHP and DASNY reserve the right to:

- Amend this RFA if necessary and post updated information to the NYS OPRHP and DASNY websites;
- Reject any or all Applications received in response to this RFA;
- Any Applicant or Awardee may be disqualified at any time for not meeting all eligibility requirements;
- Withdraw the RFA at any time in the sole discretion of NYS OPRHP and DASNY;
- Withdraw the award if: (i) the grant administration process is delayed in excess of twelve (12) months due to non-responsiveness; (ii) inability of the Awardee to provide the documentation required for the successful administration of the NY PLAYS Grant award (e.g., site control documentation, financial documentation); and/or (iii) Awardee fails to provide documentation required to prepare a Grant Disbursement Agreement or fails to execute a Grant Disbursement Agreement within twelve (12) months from date of award. No Applicant will have any rights against NYS OPRHP or DASNY arising from such actions;
- Exclude ineligible expenses from the NY PLAYS Grant amount requested and adjust the grant award as necessary;
- In the event of NY PLAYS award forfeiture(s), NYS OPRHP and DASNY reserve the right to consider Applications submitted in response to this RFA that were not initially funded. Updated information may be requested as deemed necessary by NYS OPRHP or DASNY;
- Request additional information from the Applicants as required prior to entering into a GDA; and
- NYS OPRHP and DASNY also reserve the right to solicit and accept new Applications if additional NY PLAYS funding becomes available.

RESOLUTION NO.: _____- 2026

OF

MAY 26, 2026

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH SUPPORTING ASSEMBLY BILL A.10568 CONSOLIDATED LEAD-LINE ELIMINATION AND REPLACEMENT PROGRAM (CLEAR PROGRAM)

WHEREAS, lead in drinking water poses a serious threat to the health and safety of children; and

WHEREAS, there is no safe level of lead in drinking water, with even low levels of exposure associated with learning disabilities, impaired speech and hearing, and diminished IQ; and

WHEREAS, lead service lines, connecting public water mains to a building's internal plumbing, are the primary cause of lead in drinking water; and

WHEREAS, the removal and replacement of lead service lines is essential to reduce childhood lead exposure and protect drinking water from contamination; and

WHEREAS, the City of Newburgh has continuously encouraged and requested additional funding for lead service line replacement; and

WHEREAS, Assembly Member Jonathan Jacobson has introduced Assembly Bill A.10568 which will restructure the Lead Service Line Replacement Program as the Consolidated Lead-Line Elimination and Replacement (CLEAR) Program and create a non-competitive reimbursement funding program to reimburse municipalities up to $10,000 per lead line replaced;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York calls on the New York State Legislature to pass and the Governor to sign Assembly Bill A.10568 the Consolidated Lead-Line Elimination and Replacement (CLEAR) Program; and

BE IT FURTHER RESOLVED, that the City Clerk, no later than 10 days after passage of this Resolution, shall transmit a copy of this resolution to Assembly Member Jonathan Jacobson as confirmation of the City of Newburgh's public support for Assembly Bill A.10568, the Consolidated Lead-Line Elimination and Replacement (CLEAR) Program; and

BE IT FURTHER RESOLVED, that the City Clerk, no later than 20 days after passage of this Resolution, shall transmit copies of this resolution to Governor Kathy Hochul, Speaker of the New York State Assembly Carl Heastie, New York State Senate Majority Leader Andrea Stewart-Cousins, and State Senator Robert Rolison, encouraging and requesting that they support Assembly Bill A.10568, the Consolidated Lead-Line Elimination and Replacement (CLEAR) Program.

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

JONATHAN G. JACOBSON
Assemblymember
104th District

CHAIR
Committee on Oversight, Analysis and Investigation

COMMITTEES
Cities
Corporations, Authorities and Commissions
Election Law
Energy
Labor
Local Governments

RE: Support for Bill A.10568 to Transform the Lead Service Line Replacement Program

There are an estimated 500,000 lead-contaminated lines in New York State, and we're running out of time to replace them.

The Environmental Protection Agency requires states to remove all lead lines by 2037. In New York, that means we have to replace **more than 41,000 lines per year** over the next 12 years, at an **annual cost of more than $400 million.**

This problem is close to home for me. In my district, the cities of Newburgh and Poughkeepsie have aging water systems with thousands of contaminated lines. This story is repeated across the state. But less than $550 million in state and federal money has been awarded for lead line inventory and removal in New York.

Even low levels of lead exposure can lead to severe respiratory, reproductive and developmental issues. No one questions the science. The question is why so little funding to replace lead lines is reaching municipalities.

What I'm Doing About It

As Chair of the Assembly Oversight, Analysis and Investigation Committee, I've been investigating this issue. As a result, **I introduced Bill A.10568, which would restructure the state's now-defunct Lead Service Line Replacement Program as the Consolidated Lead-Line Elimination And Replacement Program (CLEAR Program).** The CLEAR Program would be a non-competitive reimbursement process, similar to the popular CHIPS program for roads. Instead of having to apply for limited funding, municipalities would be reimbursed up to $10,000 per lead line replaced.

The current patchwork of grants pits municipalities against each other, leaving behind smaller or economically disadvantaged communities. Everyone is left frozen in place, waiting for potential funding while the clock keeps ticking. This bill would transform the process, so that municipalities can rely on state reimbursement for the lead lines they replace. No competition, no application, no uncertainty. The program would also reimburse interest on related loans, giving municipalities an incentive to replace more lines at once and lowering the cost per line.

What You Can Do

Your support can help amplify this bill and persuade legislators to co-sponsor it. **To sign on as a public supporter of A.10568, respond to this email to confirm your support and include an attachment of your organization's logo (JPG or PNG).** Please note that your email response and logo serve as authorization for my office to include your organization in a distributed list of supporters for this legislation.

For further questions, please contact my Legislative Director Jacob Coupart at 845-562-0888.

DISTRICT OFFICES: 436 Robinson Avenue, Suite B, Newburgh, New York 12550 • TEL: 845-562-0888 • FAX: 845-561-5218
One Civic Center Plaza, Suite 101, Poughkeepsie, New York 12601 • TEL: 845-763-7011 • FAX: 845-471-1967
EMAIL: jacobsonj@nyassembly.gov

WE'RE RUNNING OUT OF TIME TO REPLACE OUR LEAD WATER LINES

There are an estimated 500,000 lead-contaminated lines in New York State. The Environmental Protection Agency requires the state to remove these lines by 2037.

THE QUICK MATH: That means that the state would have to replace more than 41,000 lines per year over the next 12 years to meet the deadline, at an annual cost of more than $400 million.

LEAD IS A THREAT

Even low levels of lead exposure can lead to high blood pressure, cardiovascular and kidney issues, neurological disorders, reproductive risks, and impaired brain development in children.

No one questions the science. The question is why so little funding is reaching the municipalities that need to replace their lead-contaminated water lines.

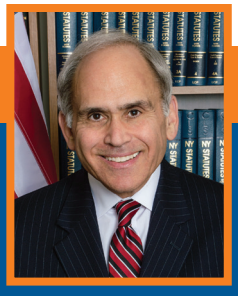
OBSTACLES TO LEAD LINE REPLACEMENT

- So far, **less than $550 million in state and federal money has been awarded** for lead water line inventory and removal.
- The current system pits municipalities against each other in a competitive grant process.
- Many municipalities, especially smaller or economically challenged ones, lack the capacity to apply for grants.
- There is no agency oversight on costs, which range $5,000-$23,000 per line.

In my own district, the cities of Newburgh and Poughkeepsie have aging water systems with thousands of contaminated water lines. This story is repeated across the state. But removing these lines is not optional.

WHAT I'M DOING ABOUT IT

I've introduced **Bill A10568**, which would restructure the state's now-defunct Lead Service Line Replacement Program as **the Consolidated Lead-Line Elimination and Replacement Program (CLEAR Program)**. CLEAR would be a non-competitive reimbursement program for lead line replacement, similar to the popular CHIPS funding program for roadwork. Instead of focusing on applications for limited funding, municipalities would be reimbursed up to $10,000 per lead line replaced, plus interest on related loans.



More information: 845-562-0888 | 845-763-7011 | jacobsonj@nyassembly.gov

ASSEMBLYMEMBER JONATHAN JACOBSON

Legislative Office Building, Room 650 • Albany, NY 12248

RESOLUTION NO.: _____ - 2026

OF

MAY 26, 2026

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF NEWBURGH AND NADIA TAHOUN FOR PROJECT MANAGEMENT SERVICES RELATED TO THE ART-BIZ WORKSHOP SERIES OF 2026

WHEREAS, the City of Newburgh Arts & Cultural Commission successfully undertook an Art-Biz Workshop Series program in 2023 and 2024; and

WHEREAS, the City of Newburgh Arts & Cultural Commission will continue the ArtBiz Workshop Series program in 2026; and

WHEREAS, the ArtBiz Workshop Series program is a 7-week program to engage youth and their families in activities that can lead to viable creative career paths by providing a series of free classes for youth focusing on providing exposure to career paths and career opportunities in arts and culture; and

WHEREAS, spanning a variety of artistic media, including visual art, performance, and hand-crafts, as well as other forms of cultural production such as writing, gardening, and culinary arts, Art-Biz will be taught by Newburgh artists, makers, and other creative professionals; and

WHEREAS, through a competitive process, Nadia Tahoun submitted an application and was determined to be qualified to provide project management services to the City of Newburgh to administer the Art-Biz summer program; and

WHEREAS, the costs of these services will not exceed $3,000.00 and will be derived from A.8043.0455; and

WHEREAS, this Council has determined that entering into an agreement for such services is in the best interest of the City of Newburgh;

NOW, THEREFORE BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an agreement with Nadia Tahoun at cost not to exceed $3,000.00 for project management services related to the 2026 Art-Biz program.

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____, 2026, 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 Nadia Tahoun, an individual with principal offices at _____, Newburgh, NY 12550 hereinafter referred to as **"VENDOR."**

ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and identified in Schedule A, (the "SERVICES") which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written 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"). 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.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall remain the property of VENDOR, except that CITY shall have VENDOR's permission to make full use for the completion and implementation of the Project for which the material was prepared without compensation in addition to the amounts set forth in Article 3 and Schedule B of this Agreement. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY's rights regarding same for any purpose outside the scope of the Project and its implementation.

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning June 1, 2026, and ending August 31, 2026.

ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES 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 B, which is attached to and is part of this Agreement. VENDOR shall submit to the CITY an itemized invoice for SERVICES rendered, as set forth in Schedule B, 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 30 days after the CITY receives Claimant's Certification form. If the Claimant's Certification form is objectionable, the CITY 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 $_____.00 has been established for the scope of SERVICES rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written

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authorization of the City Manager of the CITY, evidenced only by an 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.

Any bills or invoices sent by VENDOR to the CITY more than six (6) months after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

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

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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 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 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.

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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, insurance as may be required by law. 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. Where applicable, 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.

When applicable, VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with the following 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

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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 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,

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reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

ARTICLE 16. CONFIDENTIAL INFORMATION

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

ARTICLE 17. TERMINATION

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

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

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

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

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

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

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

ARTICLE 18. GENERAL RELEASE

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

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ARTICLE 19. SET-OFF RIGHTS

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

ARTICLE 20. DISPUTE RESOLUTION

All disputes shall be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

ARTICLE 21. GOVERNING LAW

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

ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES

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

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

ARTICLE 23. ENTIRE AGREEMENT

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

ARTICLE 24. MODIFICATION

No changes, amendments or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the party to be bound. Changes in the scope of SERVICES in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such SERVICES, the City Manager of the CITY, after consultation with the Department Head and Corporation Counsel, executes an Addendum to this Agreement, which Addendum 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.

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

THE CITY OF NEWBURGH	VENDOR
BY: _____	BY: _____
Jason Morris	Nadia Tahoun
INTERIM CITY MANAGER	PROJECT MANAGER
Per Resolution No.:	
DATE: _____	DATE: _____

APPROVED AS TO FORM:

_____
Michelle Kelson
Corporation Counsel

_____
Nancy Bloom
City Comptroller

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SCHEDULE A

SCOPE OF SERVICES

Deliverables:

- - Recruit and manage selection and hiring of Art Biz instructors including the open call, application management and applicant communications
- - Work with Art-Biz instructors and the City of Newburgh to complete all contracts and documentation required by the City
- - Schedule Art-Biz instructors for class dates
- - Support Art-Biz instructors in the creation and on-time delivery of lesson plans and supply lists
- - Coordinate with various locations to schedule the use of space for classes
- - Manage advertising and outreach for Art-Biz classes including flyers, print media and social media platforms
- - Be present for 8 consecutive Art-Biz Classes August through September
- - Organize NACC member volunteers to be present at each class
- - Support instructors with day-of event needs
- - Adhere to all City protocols as provided by NACC
- - Keep track of class attendance
- - Provide a weekly written report to NACC Art-Biz Taskforce throughout duration of the project
- - Provide bi-weekly timesheets and invoices
- - Attend monthly NACC meetings to provide updates on the project
- - Maintain comprehensive project documentation and maintain the project database
- - Ensure that the project is delivered within scope and budget
- - Prepare a close out report at end of project

Timeline:

Draft Instructor Open Call on or before June 15, 2026;

Submit close out report no later than 30 days after final Art-Biz Class

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SCHEDULE B

FEES AND EXPENSES

The Vendor will be compensated at $25 per hour, total cost not to exceed $3,000.

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The Newburgh Arts & Cultural Commission Seeks a Project Manager for Art-Biz 2026: Youth Arts Program

Job Overview:
The Newburgh Arts & Cultural Commission is seeking a Project Manager for its Art-Biz: Youth Arts Program. The Project Manager will be responsible for recruiting and managing art instructors, planning of classes, advertising to the community and recruiting students, day-of setup and event attendance and ensuring a high-quality arts and cultural experience for the community.

Program Description:
Art-Biz is in its third year and offers a series of free public arts and cultural classes for youth taught by Newburgh artists, makers, and other creative professionals. Spanning a variety of artistic media, Art-Biz engages youth and families, provides paid opportunities for our artistic and creative community, and highlights the arts as viable career paths for youth.

Principle Organizer:
This program is organized and offered by the Newburgh Arts & Cultural Commission (NACC). NACC is committed to fostering a thriving and vibrant cultural life in Newburgh through the arts. As a volunteer-led extension of City Government, the Commission works to promote the City's artistic and cultural activities and creative industry for all residents and visitors. The Commission advises the City of Newburgh and its agencies on all matters of arts and culture, develops strategies and recommends priorities to the City, liaises between the City and the arts and cultural community, creates and sponsors public arts projects and cultural events, encourages cultural tourism and the economic impact of the arts, and works to strengthen arts education, accessibility, and participation for all persons.

Job Description:
- Recruit and manage selection and hiring of Art Biz instructors including the open call, application management and applicant communications
- Work with Art-Biz instructors and the City of Newburgh to complete all contracts and documentation required by the City
- Schedule Art-Biz instructors for class dates
- Support Art-Biz instructors in the creation and on-time delivery of lesson plans and supply lists
- Coordinate with various locations to schedule the use of space for classes
- Manage advertising and outreach for Art-Biz classes including flyers, print media and social media platforms
- Be present for 6 consecutive Art-Biz Classes July through August
- Curate a one-day gallery exhibition to take place one week after classes conclude
- Organize NACC member volunteers to be present at each class
- Support instructors with day-of event needs
- Adhere to all City protocols as provided by NACC
- Keep track of class attendance
- Provide a weekly written report to NACC Art-Biz Taskforce throughout duration of the project
- Provide bi-weekly timesheets and invoices
- Attend monthly NACC meetings to provide updates on the project

- Maintain comprehensive project documentation and maintain the project database
- Ensure that the project is delivered within scope and budget
- Prepare a close out report at end of project

Qualifications, Skills, and Knowledge Requirements:

- Demonstrated experience in running a similar arts or cultural program
- At least 2 years of relevant professional experience
- Strong project management experience
- Familiarity with bid processes, RFPs, and working with city government
- Excellent communication skills, both oral and written
- Knowledge of and connections to the Newburgh artistic community
- Proficiency in Microsoft Office Suite, Google Docs
- Strong work ethic and attention to detail
- Ability to work independently and as part of a broader team

Salary:

This is an hourly position requiring up to 30 hours per month May-August with mandatory attendance at the Art-Biz program running consecutive Saturdays for 7 weeks, July-August. Salary is $25/hr.

Evaluation Criteria:

Each proposal will be evaluated based on the information submitted. Proposals will be evaluated based upon the following criteria and numerical point values:

Criteria	Detail	Weight
Overall quality of the proposal	• *Degree to which the proposal fulfills the requested scope of services and proposal requirements.* • *Clarity and completeness of the proposal*	10
Experience, Qualifications, and References	• *Capability and experience of the proposer to carry out the responsibilities of a Project Manager* • *Credentials, capabilities, and experience of the proposer* • *Quality of references*	25
Workplan, Project Management and Implementation	• *Clear and appropriate workplan and implementation timeline that addresses the elements of the job description* • *Ability to manage volunteers, participants and collaborate with City staff*	55
Budget	• Demonstrated ability to manage time and tasks within the allotted budget	10

To apply:
Please send a cover letter and resume to newburghartsculturecommission@gmail.com.
Applications are due by **midnight on May 10, 2026.**

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

LOCAL LAW NO.: _____ - 2026

OF

MAY 26, 2026

A LOCAL LAW OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ESTABLISHING A CHARTER REVIEW COMMISSION

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 of the City Council of the City of Newburgh Establishing a Charter Review Commission".

SECTION 2 – CHARTER REVIEW COMMISSION ESTABLISHED

§ 1. Establishment.

The City Council of the City of Newburgh hereby establishes a Charter Review Commission to draft a new or revised City Charter for the City of Newburgh.

§ 2. Membership; selection; qualifications; term of office.

A. The Commission shall be comprised of 9 members, designated and appointed as follows:

   1. The Mayor and each Council Member shall appoint one (1) Commission Member for a total of seven (7) Commission Members.
   2. The City Council, by resolution, shall appoint two (2) Commission Members.
   3. The Mayor and each Council Member shall appoint one Alternate Member for a total of seven (7) Alternate Commission Members.

B. There must be one resident of each ward appointed as a Commission Member.

C. Applications for appointment to the Commission will be solicited through the City of Newburgh Board and Commission Appointment Policy and Procedure. The advertisement for applications will be issued within 14 days of the effective date of this local law. The period for submitting applications will be open for 30 days.

D. All appointments shall be made at the next Council meeting cycle after the last day for submission of applications as provided in the advertisement. Vacancies in the Commission Members appointed by the Mayor and Council Members shall be filled by the corresponding

Alternate Members appointed by the Mayor and Council Members. If no Alternate Member is eligible to fill a vacancy then the vacancy shall be filled by in the same manner as the original appointment. The Alternate Members shall serve only in the event that a permanent vacancy occurs.

E. The appointment of Commission members is intended to be nonpartisan.

F. Residency within the City of Newburgh is required to be eligible for appointment to the Commission.

G. No person shall be disqualified to serve as a member, employee or consultant of the Commission by reason of holding any other public office or employment, nor shall the person forfeit any such office or employment by reason of appointment to the Commission notwithstanding the provisions of any general, special or local law, ordinance or City charter.

H. The terms of office of the Commission members expire on the day of the election at which the proposed new or revised charter prepared by the Commission is submitted to the qualified electors of the City of Newburgh or on the day of the second general election following the date of the effective date of this local law if no such questions have been submitted by that time.

§ 3. Powers and duties.

A. The Commission shall have all the powers and duties set forth in Section 36 of the New York State Municipal Home Rule Law.

B. The Commission shall review the entire charter of the City and prepare a draft of a proposed new or revised charter of the City. The Commission may decide to make no changes to the charter. If the Commission decides to make no changes, it shall prepare and provide a report to the public explaining its determination. The Commission may decide to leave a part of the existing charter unchanged, and it may propose in one or more amendments, a revision of the remaining part. If the Commission proposes on or more amendments, it shall prepare and provide to the public a report, accompanying its proposals, in which it explains its decision to leave such part unchanged and the rationale for the proposed amendments.

C. Such new charter or amendments shall be completed and filed in the office of the City Clerk no later than the second general election after the Commission is created and organized.

D. The Commission shall provide for the publication or other publicity of the proposed charter or amendments as it may deem proper, and for the submission thereof to the electors of the City at a general or special election held not earlier than 60 days after the filing thereof in the office of the City Clerk and not later than the next general election which does not occur within the said 60 days, provided, however, that if such general election occurs within 90 days after said filing, the proposed charter or amendments shall be submitted at such general

election. At such election, if a proposed new charter or significantly revised charter is submitted as a single proposal, there shall be submitted to the qualified electors of the City the question: "Shall the revised City Charter proposed by the City Charter Commission be adopted?" The Commission may submit its proposed or revised charter in 2 or more parts and arranged so that corresponding parts of the existing charter shall remain in effect if one or more of such parts are not adopted and also may submit separate amendments or alternative provisions to supersede designated portions of a proposed charter or amendment if adopted. In such case the Commission shall prescribe the form of the questions to be submitted, which shall be such as clearly to indicate the effect of their approval.

E. No provision for the election of any elective officers by any system of proportional representation shall become effective under the provisions of this section unless a definite question with respect to the adoption of such system for the election of such officers shall have been submitted as a separate question and separately approved at the same election by the affirmative vote of a majority of the qualified electors voting thereon.

F. If any question submitted by the Commission receives the affirmative vote of a majority of the qualified electors of the city voting thereon, the proposal submitted thereby shall take effect as specified therein and the new charter or the amendment or amendments to the existing charter as so proposed shall become operative as prescribed therein; except that if there be a conflict between the provisions of two or more proposals approved by the electors at the same election, the proposal receiving the largest number of affirmative votes shall prevail to the extent of such conflict.

G. At any election at which any question or questions shall be submitted to the qualified electors of the City by the Commission pursuant to this section or within sixty days thereafter, no other question or questions shall be submitted to or voted upon by such electors pursuant to any local law, ordinance, resolution or petition if such commission was created pursuant to subsection 4 of the New York State Municipal Home Rule Law, and no such other question or questions shall be submitted except by another charter commission if such commission was created otherwise, if such other question or questions involve or relate directly or indirectly to the adoption of a new city charter, the amendment of a city charter, charter revision, the establishment of a commission to draft a new or revised city charter, or the functions, powers or duties of any elective officer of the city, except as provided in paragraph 6 of subsection 5(g) of the New York State Municipal Home Rule Law.

H. While the Commission is in existence under the provisions of this local law, the local legislative body shall not submit to the electors any of the questions specified in subsection 5(e) of the New York State Municipal Home Rule Law except at a general election.

I. If a proposed local law submitted pursuant to section 37 of the New York State Municipal Home Rule Law would under the provisions of such section be submitted at a general election at which a question or questions submitted by a charter commission are to be voted on, such local law shall not be submitted at such election but shall be submitted at the general

election in the year following regardless of other questions which may be voted on at the latter election and notwithstanding any inconsistent provision of this title.

§ 4. Procedures; appropriations; rules and regulations.

A. The Commission may designate its chairperson and vice-chairperson from among its members. The chairperson shall preside over all meetings and hearings. In the absence of the chairperson, the vice-chairperson shall act in their stead. In the absence of both the chairperson and vice-chairperson, a majority of members present shall select a chairperson pro tempore to preside over the meeting.

B. The Commission shall adopt rules and procedures governing its meetings and keep accurate records of its meetings and activities.

C. Commission meetings shall be held in accordance with applicable provisions of New York State Law.

D. The Commission shall conduct at least one public hearing. All public hearings shall be held at such time and place within the City of Newburgh as the Commission shall deem necessary.

E. The Commission shall have the power to conduct private hearings, take testimony, subpoena witnesses and require the production of books, papers and records.

F. Members of the Commission shall receive no compensation for the services but shall be reimbursed for the actual and necessary expenses incurred by them in the performance of their duties.

G. The Commission may appoint and remove employees and consultants and fix their compensation and may accept any services, facilities or funds and use or expend the same for its purposes. The Commission may request that the City Manager direct any board, body, officer, or employee of the City to cooperate with, assist, advise, provide facilities, materials or date and render services to the Commission.

H. The Commission may request that the appropriate City officials make appropriations for its expenses incurred in the course of its operations. In the event that the appropriating body or officials do not take affirmative action to appropriate funds for such expenses within 45 days of the Commission's request, the Mayor of the City shall have the power to authorize, by certificate filed with the fiscal officer(s) of the City, the Commission to incur expenses within the amounts requested, which shall be paid by the appropriate officials of the City.

SECTION 3 – SEVERABILITY

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

SECTION 4 – 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 5 – EFFECTIVE DATE

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

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RESOLUTION NO.: 144 - 2024

OF

JULY 22, 2024

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXCECUTE A CONTRACT WITH FLOCK GROUP, INC. FOR A FIXED AUTOMATED LICENSE PLATE READER SYSTEM AND RELATED TECHNOLOGY SERVICES

WHEREAS, the City of Newburgh issued a request for proposals from qualified vendors to implement a fixed automated license plate reader system as a law enforcement tool to be used by the Police Department to identify and track vehicles involved in criminal activity as a crime deterrent; and

WHEREAS, Flock Group, Inc. has submitted a proposal and contract to implement a fixed automated license plate reader system and related technology services for the City of Newburgh Police Department; and

WHEREAS, funding for this contract will be derived from a New York State Division of Criminal Justice Services Law Enforcement Technology Program Grant, budget line CG.3120.0200.3350.2025; and

WHEREAS, this Council has reviewed the attached contract and has determined that executing same 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 Flock Group, Inc. for a fixed automated license plate reader system and related technology services for use by the City of Newburgh Police Department.

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

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flock safety

MEMORANDUM OF UNDERSTANDING

This Data Sharing Memorandum of Understanding (hereinafter "**MOU**") is entered into by and between Flock Group, Inc., d/b/a "Flock Safety", with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 ("**Flock**") and Newburgh City PD with a place of business at 55 Broadway, Newburgh, New York 12550 ("**Customer**") (each a "**Party**", and together, the "**Parties**").

Whereas, Customer desires to access Flock's technology platform and FlockOS® (together, the "**Flock Services**") in order to view and search still images and associated information (e.g., metadata, geo-location of devices, time stamp, and vehicle description) captured by Flock's devices ("**Captured Data**") for the Purpose (defined below).

Whereas, Flock desires to share Captured Data with Customer in accordance with the applicable retention requirements, pursuant to the following terms and conditions:

1. Definitions.

1.1. "**Authorized User**" means employees, agents, or officers of Customer accessing or using the Flock Services for the Purpose.

1.2. "**Flock IP**" means the Flock Services, Flock's proprietary software, hardware, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized Users.

1.3. "**FlockOS® Essentials Tier**" means access to Flock's cloud-based public safety platform, which includes real-time hotlist alerts and search vehicle evidence from a nationwide network of license plate reader cameras. FlockOS® Essentials Tier includes access to Flock's national law enforcement network of devices.

1.4. "**FlockOS® Community Tier**" means access to Flock's cloud-based public safety platform, which includes limited access to community devices, such as Home Owner Associations, businesses, law enforcement, and school safety customers, within the local city or county they serve. FlockOS® Community Tier does not include national access to Flock's law enforcement network of devices.

2. Purpose. Customer shall use Flock Services solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering by law enforcement to the extent permitted by law ("**Purpose**").

3. Term. This MOU will commence upon execution by both Parties and shall continue until terminated by either Party pursuant to Section 12 ("**Termination for Convenience**").

4. Trial Period. For the first ninety (90) days of the Term ("**Trial Period**"), Customer will have complimentary access to FlockOS® Essentials Tier. After the Trial Period, Customer will be

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automatically downgraded to FlockOS® Community Tier unless the Parties mutually execute a paid subscription agreement.

5. Access Rights to Flock Services. Flock grants to Customer a non-exclusive, non-transferable, revocable right to access the features and functions of the Flock Services during the Term, solely for use by Authorized Users. Customer shall undertake reasonable efforts to make all Authorized Users aware of the provisions of this MOU and shall cause Authorized Users to comply with such provisions. Customer shall be responsible for all acts and omissions of Authorized Users.

6. Restrictions on Use. Customer will not permit any Authorized Users or any third party to: (i) copy or duplicate any of the Flock Services; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock Services is compiled or interpreted; (iii) modify, alter, or tamper with any of the Flock Services, or create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock Services; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Flock Services; or (vi) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Customer's rights. Customer may only access Captured Data and Flock Services to perform the Purpose, as described in Section 2. Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances.

7. Service Interruption. Flock Services may be interrupted in the event that: (a) Flock's provision of Flock Services to Customer or any Authorized User is prohibited by applicable law; (b) any third-party services required for Flock Services are interrupted; (c) if Flock reasonably believe Flock Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance (**"Service Interruption"**). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Interruption.

8. Service Suspension. Flock may temporarily suspend Customer's and any Authorized User's access to any portion or all of the Flock IP or Flock Services if: (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized User uses the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Purpose; or (e) any unauthorized access to Flock Services through Customer's account.

9. Ownership. Flock retains all right, title and interest in and to the Flock Service, Flock IP, and its components or data provided by Flock to Customer. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Except as

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provided herein, Customer acknowledges that it neither owns nor acquires any rights, title or interest in Flock IP or Captured Data. If Customer or Authorized User provides any suggestions or other information relating to the subject matter hereunder, Customer or Authorized User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing. There are no implied rights.

10. Warranty. Flock Services are provided "As Is". Flock disclaims all warranties, express or implied, including, but not limited to, implied warranties of merchantability and fitness for a particular purpose as to Flock Services and Captured Data.

11. Financial Implications to Customer. No financial commitment by Customer is required to access the Flock Services or Captured Data under this MOU.

12. Termination for Convenience. Either Party may terminate this MOU for its convenience at its sole discretion by providing thirty (30) days prior written notice of termination, effective immediately after such notice. Upon termination of this MOU, Customer will immediately cease all use of Flock Services.

13. Indemnification. Each Party to this MOU shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the use of Flock Services. To the extent permitted by law, Parties shall indemnify and hold harmless each other against any suits, claims, actions, complaints, or liability of any kind, which relate to the use of or reliance on Flock Services. For tort liability purposes, no participating Party shall be considered the agent of the other participating Party. Each Party to this MOU shall be liable (if at all) only for the torts of its own officers, agents, or employees. Under no circumstances shall this MOU be interpreted to create a partnership or joint venture.

14. Limitation of Liability.

14.1. Limitation on Direct Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL FLOCK, ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES OR REPRESENTATIVES BE LIABLE FOR ANY AMOUNT GREATER THAN $100 IN UNITED STATES CURRENCY, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), PRODUCT LIABILITY OR OTHERWISE.

14.2. Waiver of Consequential Damages. IN NO EVENT SHALL FLOCK OR ITS LICENSORS OR SUPPLIERS BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

15. Confidentiality.

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15.1. **Obligations**. During the performance of services and Customer's use of the Flock Services under this Agreement it may be necessary for a Party to provide the other with certain information considered to be proprietary or confidential by the disclosing Party. The disclosure of such confidential information shall be subject to the following terms and conditions.

15.1.1. "**Confidential Information**" shall mean any material, data, systems, procedures and other information of or with respect to disclosing Party that is not be accessible or known to the general public, including information concerning its hardware, business plans or opportunities, business strategies, finances, employees, object code, source code, formulae, algorithms, financial data, clients, employees, software development plans, software support and third-party proprietary or other information that disclosing Party treats as confidential. The receiving Party shall not use, publish or divulge any Confidential Information of the disclosing Party except (i) in connection with receiving Party's provision of software and services pursuant to this Agreement, (ii) to receiving Party's officers, directors, employees, agents and contractors who need to know such information to enable receiving Party to provide software and services pursuant to this Agreement, or (iii) with the prior written consent of disclosing Party, provided that disclosing Party may withhold such consent in its sole discretion.

15.1.2. Each Party shall protect the other's Confidential Information with the same degree of care normally used to protect its own similar Confidential Information, but in no event less than that degree of care that a reasonably prudent business person would use to protect such information. The obligations of each Party to protect Confidential Information received from the other Party shall not apply to information that is publicly known or becomes publicly known through no act or failure to act on the part of the recipient. All provisions of this MOU concerning this section herein, shall survive any termination of this MOU.

15.2. **Exclusions**. Confidential Information shall not include any information that is (i) already known to the receiving Party at the time of the disclosure; (ii) publicly known at the time of the disclosure or becomes publicly known through no wrongful act or failure of the receiving Party; (iii) subsequently disclosed to the receiving Party on a non-confidential basis by a third-party not having a confidential relationship with the other Party hereto that rightfully acquired such information; or (iv) communicated to a third party by the receiving Party with the express written consent of the other party hereto. A disclosure of Confidential Information that is legally compelled to be disclosed pursuant to a subpoena, summons, order or other judicial or governmental process or the Freedom of Information Act or Public Records Request shall not be considered a breach of this MOU; provided the receiving Party provides prompt notice of any such subpoena, order, or the like to the other Party so that such Party will have the opportunity to obtain a protective order or otherwise oppose the disclosure.

16. Entire Agreement. This MOU is complete and contains the entire understanding between the Parties relating to the provision of Flock Services, the sharing of Captured Data, and

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Confidential Information by and between Flock and Customer. This MOU supersedes any and all other agreements between the Parties. This Agreement is non-assignable by either Party.

17. Severability. Nothing is this MOU is intended to conflict with or violate State or Federal laws, regulations, policies, etc. If a term or provision of this MOU is inconsistent with a law or authority, then that term or provision shall be invalid, but the remaining terms and provisions shall remain in full force and effect. If any provision of this MOU is found to be unenforceable, unlawful, or void, the provision shall be deemed severable from the MOU and shall not affect the validity of the remaining provisions.

18. Miscellaneous. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. All notices will be provided to the email or mailing address listed in this Agreement. This MOU shall be governed by the laws of the state in which the Customer is located, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this MOU.

IN WITNESS WHEREOF, Flock and the Customer have caused this MOU to be signed on the date set forth below and be effective on the last date specified below.

FLOCK GROUP, INC.		**Newburgh City PD**	
By:	DocuSigned by: Mark Smith AC5C931454C24F3...	By:	
Name:	Mark Smith	Name:	Todd Venning
Title:	General Counsel	Title:	City Manager/CEO
Date:	8/6/2024	Date:	7/30/24

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Flock Safety + NY - Newburgh City PD

Flock Group Inc.
1170 Howell Mill Rd, Suite 210
Atlanta, GA 30318

MAIN CONTACT:
Brad Cochrane
brad.cochrane@flocksafety.com
7167994357

flock safety

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Master Services Agreement

This Master Services Agreement (this "***Agreement***") is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Road NW Suite 210, Atlanta, GA 30318 ("***Flock***") and the entity identified in the signature block ("***Customer***") (each a "***Party***," and together, the "***Parties***") on this the 6 day of AUGUST 2024 (Rev.) ~~2023~~. This Agreement is effective on the date of mutual execution ("***Effective Date***"). Parties will sign an Order Form ("***Order Form***") which will describe the Flock Services to be performed and the period for performance, attached hereto as **Exhibit A**. The Parties agree as follows:

RECITALS

WHEREAS, Flock offers a software and hardware situational awareness solution through Flock's technology platform that upon detection is capable of capturing audio, video, image, and recording data and provide notifications to Customer ("***Notifications***");

WHEREAS, Customer desires access to the Flock Services (defined below) on existing devices, provided by Customer, or Flock provided Flock Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, via the Flock Services;

WHEREAS, Customer shall have access to the Footage in Flock Services. Pursuant to Flock's standard Retention Period (defined below) Flock deletes all Footage on a rolling thirty (30) day basis, except as otherwise stated on the ***Order Form***. Customer shall be responsible for extracting, downloading and archiving Footage from the Flock Services on its own storage devices; and

WHEREAS, Flock desires to provide Customer the Flock Services and any access thereto, subject to the terms and conditions of this Agreement, solely for the awareness, prevention, and prosecution of crime, bona fide investigations and evidence gathering for law enforcement purposes, ("***Permitted Purpose***").

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AGREEMENT

NOW, THEREFORE, Flock and Customer agree that this Agreement, and any Order Form, purchase orders, statements of work, product addenda, or the like, attached hereto as exhibits and incorporated by reference, constitute the complete and exclusive statement of the Agreement of the Parties with respect to the subject matter of this Agreement, and replace and supersede all prior agreements, term sheets, purchase orders, correspondence, oral or written communications and negotiations by and between the Parties.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 "***Anonymized Data***" means Customer Data permanently stripped of identifying details and any potential personally identifiable information, by commercially available standards which irreversibly alters data in such a way that a data subject (i.e., individual person or entity) can no longer be identified directly or indirectly.

1.2 "***Authorized End User(s)***" means any individual employees, agents, or contractors of Customer accessing or using the Services, under the rights granted to Customer pursuant to this Agreement.

1.3 "***Customer Data***" means the data, media and content provided by Customer through the Services. For the avoidance of doubt, the Customer Data will include the Footage.

1.4. "***Customer Hardware***" means the third-party camera owned or provided by Customer and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services.

1.5 "***Embedded Software***" means the Flock proprietary software and/or firmware integrated with or installed on the Flock Hardware or Customer Hardware.

1.6 "***Flock Hardware***" means the Flock device(s), which may include the pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface, to provide the Flock Services as specifically set forth in the applicable product addenda.

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1.7 "***Flock IP***" means the Services, the Embedded Software, and any intellectual property or proprietary information therein or otherwise provided to Customer and/or its Authorized End Users. Flock IP does not include Footage (as defined below).

1.8 "***Flock Network End User(s)***" means any user of the Flock Services that Customer authorizes access to or receives data from, pursuant to the licenses granted herein.

1.9 "***Flock Services***" means the provision of Flock's software and hardware situational awareness solution, via the Web Interface, for automatic license plate detection, alerts, audio detection, searching image records, video and sharing Footage.

1.10 "***Footage***" means still images, video, audio and other data captured by the Flock Hardware or Customer Hardware in the course of and provided via the Flock Services.

1.11 "***Hotlist(s)***" means a digital file containing alphanumeric license plate related information pertaining to vehicles of interest, which may include stolen vehicles, stolen vehicle license plates, vehicles owned or associated with wanted or missing person(s), vehicles suspected of being involved with criminal or terrorist activities, and other legitimate law enforcement purposes. Hotlist also includes, but is not limited to, national data (i.e., NCIC) for similar categories, license plates associated with AMBER Alerts or Missing Persons/Vulnerable Adult Alerts, and includes manually entered license plate information associated with crimes that have occurred in any local jurisdiction.

1.12 "***Installation Services***" means the services provided by Flock for installation of Flock Services.

1.13 "***Retention Period***" means the time period that the Customer Data is stored within the cloud storage, as specified in the product addenda.

1.14 "***Vehicle Fingerprint™***" means the unique vehicular attributes captured through Services such as: type, make, color, state registration, missing/covered plates, bumper stickers, decals, roof racks, and bike racks.

1.15 "***Web Interface***" means the website(s) or application(s) through which Customer and its Authorized End Users can access the Services.

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2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Flock hereby grants to Customer a non-exclusive, non-transferable right to access the features and functions of the Flock Services via the Web Interface during the Term, solely for the Authorized End Users. The Footage will be available for Authorized End Users to access and download via the Web Interface for the data retention time defined on the Order Form ("***Retention Period***"). Authorized End Users will be required to sign up for an account and select a password and username ("***User ID***"). Customer shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, including any acts or omissions of authorized End user which would constitute a breach of this agreement if undertaken by Customer. Customer shall undertake reasonable efforts to make all Authorized End Users aware of all applicable provisions of this Agreement and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Flock Services, (such as using a third party to host the Web Interface for cloud storage or a cell phone provider for wireless cellular coverage).

2.2 **Embedded Software License.** Flock grants Customer a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as it pertains to Flock Services, solely as necessary for Customer to use the Flock Services.

2.3 **Support Services.** Flock shall monitor the Flock Services, and any applicable device health, in order to improve performance and functionality. Flock will use commercially reasonable efforts to respond to requests for support within seventy-two (72) hours. Flock will provide Customer with reasonable technical and on-site support and maintenance services in-person, via phone or by email at support@flocksafety.com (such services collectively referred to as ***"Support Services"***).

2.4 **Upgrades to Platform.** Flock may make any upgrades to system or platform that it deems necessary or useful to (i) maintain or enhance the quality or delivery of Flock's products or services to its agencies, the competitive strength of, or market for, Flock's products or services, such platform or system's cost efficiency or performance, or (ii) to comply with applicable law. Parties understand that such upgrades are necessary from time to time and will not diminish the quality of the services or materially change any terms or conditions within this Agreement.

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2.5 **Service Interruption.** Services may be interrupted in the event that: (a) Flock's provision of the Services to Customer or any Authorized End User is prohibited by applicable law; (b) any third-party services required for Services are interrupted; (c) if Flock reasonably believe Services are being used for malicious, unlawful, or otherwise unauthorized use; (d) there is a threat or attack on any of the Flock IP by a third party; or (e) scheduled or emergency maintenance ("***Service Interruption***"). Flock will make commercially reasonable efforts to provide written notice of any Service Interruption to Customer, to provide updates, and to resume providing access to Flock Services as soon as reasonably possible after the event giving rise to the Service Interruption is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized End User may incur as a result of a Service Interruption. To the extent that the Service Interruption is not caused by Customer's direct actions or by the actions of parties associated with the Customer, the time will be tolled by the duration of the Service Interruption (for any continuous suspension lasting at least one full day). For example, in the event of a Service Interruption lasting five (5) continuous days, Customer will receive a credit for five (5) free days at the end of the Term.

2.6 **Service Suspension.** Flock may temporarily suspend Customer's and any Authorized End User's access to any portion or all of the Flock IP or Flock Service if (a) there is a threat or attack on any of the Flock IP by Customer; (b) Customer's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other customer or vendor of Flock; (c) Customer or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Customer has violated any term of this provision, including, but not limited to, utilizing Flock Services for anything other than the Permitted Purpose; or (e) any unauthorized access to Flock Services through Customer's account ("***Service Suspension***"). Customer shall not be entitled to any remedy for the Service Suspension period, including any reimbursement, tolling, or credit. If the Service Suspension was not caused by Customer or any Authorized End User, the Term will be tolled by the duration of the Service Suspension.

2.7 **Hazardous Conditions.** Flock Services do not contemplate hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately.

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3. CUSTOMER OBLIGATIONS

3.1 **Customer Obligations.** Flock will assist Customer Authorized End Users in the creation of a User ID. Authorized End Users agree to provide Flock with accurate, complete, and updated registration information. Authorized End Users may not select as their User ID, a name that they do not have the right to use, or any other name with the intent of impersonation. Customer and Authorized End Users may not transfer their account to anyone else without prior written permission of Flock. Authorized End Users shall not share their account username or password information and must protect the security of the username and password. Unless otherwise stated and defined in this Agreement, Customer shall not designate Authorized End Users for persons who are not officers, employees, or agents of Customer. Authorized End Users shall only use Customer-issued email addresses for the creation of their User ID. Customer is responsible for any Authorized End User activity associated with its account. Customer shall ensure that Customer provides Flock with up to date contact information at all times during the Term of this agreement. Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Flock Services. Customer shall (at its own expense) provide Flock with reasonable access and use of Customer facilities and Customer personnel in order to enable Flock to perform Services (such obligations of Customer are collectively defined as ***"Customer Obligations"***).

3.2 **Customer Representations and Warranties.** Customer represents, covenants, and warrants that Customer shall use Flock Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of data, video, photo, or audio content.

4. DATA USE AND LICENSING

4.1 **Customer Data.** As between Flock and Customer, all right, title and interest in the Customer Data, belong to and are retained solely by Customer. Customer hereby grants to Flock a limited, non-exclusive, royalty-free, irrevocable, worldwide license to use the Customer Data and perform all acts as may be necessary for Flock to provide the Flock Services to Customer. Flock does not own and shall not sell Customer Data.

4.2 **Customer Generated Data.** Flock may provide Customer with the opportunity to post, upload, display, publish, distribute, transmit, broadcast, or otherwise make available, messages,

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text, illustrations, files, images, graphics, photos, comments, sounds, music, videos, information, content, ratings, reviews, data, questions, suggestions, or other information or materials produced by Customer (***"Customer Generated Data"***). Customer shall retain whatever legally cognizable right, title, and interest in Customer Generated Data. Customer understands and acknowledges that Flock has no obligation to monitor or enforce Customer's intellectual property rights of Customer Generated Data. Customer grants Flock a non-exclusive, irrevocable, worldwide, royalty-free, license to use the Customer Generated Data for the purpose of providing Flock Services. Flock does not own and shall not sell Customer Generated Data.

4.3 **Anonymized Data.** Flock shall have the right to collect, analyze, and anonymize Customer Data and Customer Generated Data to the extent such anonymization renders the data non-identifiable to create Anonymized Data to use and perform the Services and related systems and technologies, including the training of machine learning algorithms. Customer hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right to use and distribute such Anonymized Data to improve and enhance the Services and for other development, diagnostic and corrective purposes, and other Flock offerings. Parties understand that the aforementioned license is required for continuity of Services. Flock does not own and shall not sell Anonymized Data.

5. CONFIDENTIALITY; DISCLOSURES

5.1 **Confidentiality.** To the extent required by any applicable public records requests, each Party (the "***Receiving Party***") understands that the other Party (the "***Disclosing Party***") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "***Proprietary Information***" of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Customer includes non-public data provided by Customer to Flock or collected by Flock via Flock Services, which includes but is not limited to geolocation information and environmental data collected by sensors. The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the Party takes with its own proprietary information, but in no event less than commercially reasonable precautions, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any

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such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a) is or becomes generally available to the public; or (b) was in its possession or known by it prior to receipt from the Disclosing Party; or (c) was rightfully disclosed to it without restriction by a third party; or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. At the termination of this Agreement, all Proprietary Information will be returned to the Disclosing Party, destroyed or erased (if recorded on an erasable storage medium), together with any copies thereof, when no longer needed for the purposes above, or upon request from the Disclosing Party, and in any case upon termination of the Agreement. Notwithstanding any termination, all confidentiality obligations of Proprietary Information that is trade secret shall continue in perpetuity or until such information is no longer trade secret.

5.2 **Usage Restrictions on Flock IP.** Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Customer acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Customer further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. Customer and Authorized End Users shall not: (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer, or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP; (iii) attempt to modify, alter, tamper with or repair any of the Flock IP, or attempt to create any derivative product from any of the foregoing; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within the Flock Services or Flock IP; (vi) use the Flock Services for anything other than the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent, or otherwise transfer, convey, pledge as security, or otherwise encumber, Customer's rights. There are no implied rights.

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5.3 **Disclosure of Footage.** Subject to and during the Retention Period, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to comply with a legal process, enforce this Agreement, or detect, prevent or otherwise address security, privacy, fraud or technical issues, or emergency situations.

6. PAYMENT OF FEES

6.1 **Billing and Payment of Fees**. Customer shall pay the fees set forth in the applicable Order Form based on the billing structure and payment terms as indicated in the Order Form. If Customer believes that Flock has billed Customer incorrectly, Customer must contact Flock no later than forty-five (45) days after the closing date on the first invoice in which the error or problem appeared to receive an adjustment or credit. If any undisputed fee is more than sixty (60) days overdue, Flock may, without limiting its other rights and remedies, suspend delivery of its service until such undisputed invoice is paid in full. Flock shall provide at least thirty (30) days' prior written notice to Customer of the payment delinquency before exercising any suspension right.

6.2 **Notice of Changes to Fees.** Flock reserves the right to change the fees for subsequent Renewal Terms by providing sixty (60) days' notice (which may be sent by email) prior to the end of the Initial Term or Renewal Term (as applicable).

6.3 **Late Fees.** If payment is not issued to Flock by the due date of the invoice, an interest penalty of 1.0% of any unpaid amount may be added for each month or fraction thereafter, until final payment is made.

6.4 **Taxes.** Customer is responsible for all taxes, levies, or duties, excluding only taxes based on Flock's net income, imposed by taxing authorities associated with the order. If Flock has the legal obligation to pay or collect taxes, including amount subsequently assessed by a taxing authority, for which Customer is responsible, the appropriate amount shall be invoice to and paid by Customer unless Customer provides Flock a legally sufficient tax exemption certificate and Flock shall not charge customer any taxes from which it is exempt. If any deduction or withholding is required by law, Customer shall notify Flock and shall pay Flock any additional amounts

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necessary to ensure that the net amount that Flock receives, after any deduction and withholding, equals the amount Flock would have received if no deduction or withholding had been required.

7. TERM AND TERMINATION

7.1 **Term.** The initial term of this Agreement shall be for the period of time set forth on the Order Form (the "***Term***"). Following the Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "***Renewal Term***") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.
7.2 **Termination.** Upon termination or expiration of this Agreement, Flock will remove any applicable Flock Hardware at a commercially reasonable time period. In the event of any material breach of this Agreement, the non-breaching Party may terminate this Agreement prior to the end of the Term by giving thirty (30) days prior written notice to the breaching Party; provided, however, that this Agreement will not terminate if the breaching Party has cured the breach prior to the expiration of such thirty (30) day period ("***Cure Period***"). Either Party may terminate this Agreement (i) upon the institution by or against the other Party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other Party's making an assignment for the benefit of creditors, or (iii) upon the other Party's dissolution or ceasing to do business. In the event of a material breach by Flock, and Flock is unable to cure within the ***Cure Period***, Flock will refund Customer a pro-rata portion of the pre-paid fees for Services not received due to such termination.
7.3 **Survival**. The following Sections will survive termination: 1, 3, 5, 6, 7, 8.3, 8.4, 9, 11.1 and 11.6.

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8. REMEDY FOR DEFECT; WARRANTY AND DISCLAIMER

8.1 **Manufacturer Defect.** Upon a malfunction or failure of Flock Hardware or Embedded Software (a ***"Defect"***), Customer must notify Flock's technical support team. In the event of a Defect, Flock shall make a commercially reasonable attempt to repair or replace the defective Flock Hardware at no additional cost to the Customer. Flock reserves the right, in its sole discretion, to repair or replace such Defect, provided that Flock shall conduct inspection or testing within a commercially reasonable time, but no longer than seven (7) business days after Customer gives notice to Flock.

8.2 **Replacements.** In the event that Flock Hardware is lost, stolen, or damaged, Customer may request a replacement of Flock Hardware at a fee according to the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule). In the event that Customer chooses not to replace lost, damaged, or stolen Flock Hardware, Customer understands and agrees that (1) Flock Services will be materially affected, and (2) that Flock shall have no liability to Customer regarding such affected Flock Services, nor shall Customer receive a refund for the lost, damaged, or stolen Flock Hardware. During the Initial Term only, in the event that a Flock Hardware unit ("Unit") is lost, stolen, vandalized or damaged, Flock agrees to replace up to three (3) Units at no additional cost. Subsequent lost, stolen, vandalized or damaged Units are subject to replacement at a fee according to the then-current Reinstall Policy (https://www.flocksafety.com/reinstall-fee-schedule).

8.3 **Warranty.** Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

8.4 **Disclaimer.** THE REMEDY DESCRIBED IN SECTION 8.1 ABOVE IS CUSTOMER'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTS. FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE

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OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 11.6.

8.5 **Insurance.** Flock will maintain commercial general liability policies as stated in Exhibit B.

8.6 **Force Majeure.** Parties are not responsible or liable for any delays or failures in performance from any cause beyond their control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, pandemics (including the spread of variants), issues of national security, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, supply chain shortages of equipment or supplies, financial institution crisis, weather conditions or acts of hackers, internet service providers or any other third party acts or omissions.

9. LIMITATION OF LIABILITY; INDEMNITY

9.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK, ITS OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR LOSS OF REVENUE, BUSINESS OR BUSINESS INTERRUPTION; (B) INCOMPLETE, CORRUPT, OR INACCURATE DATA; (C) COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (D) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (E) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY CUSTOMER TO FLOCK FOR THE SERVICES UNDER THIS

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AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION OF LIABILITY OF SECTION ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE REFERENCED IN SECTION 11.6. NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE FOREGOING LIMITATIONS OF LIABILITY SHALL NOT APPLY (I) IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) INDEMNIFICATION OBLIGATIONS.

9.2 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable for the torts of its own officers, agents, or employees.

9.3 **Flock Indemnity.** Flock shall indemnify and hold harmless Customer, its agents and employees, from liability of any kind, including claims, costs (including defense) and expenses, on account of: (i) any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement; or (ii) any damage or injury to property or person directly caused by Flock's installation of Flock Hardware, except for where such damage or injury was caused solely by the negligence of the Customer or its agents, officers or employees. Flock's performance of this indemnity obligation shall not exceed the fees paid and/or payable for the services rendered under this Agreement in the preceding twelve (12) months.

10. INSTALLATION SERVICES AND OBLIGATIONS

10.1 **Ownership of Hardware**. Flock Hardware is owned and shall remain the exclusive property of Flock. Title to any Flock Hardware shall not pass to Customer upon execution of this Agreement, except as otherwise specifically set forth in this Agreement. Except as otherwise expressly stated in this Agreement, Customer is not permitted to remove, reposition, re-install, tamper with, alter, adjust or otherwise take possession or control of Flock Hardware. Customer agrees and understands that in the event Customer is found to engage in any of the foregoing restricted actions, all warranties herein shall be null and void, and this Agreement shall be subject to immediate termination for material breach by Customer. Customer shall not perform any acts

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which would interfere with the retention of title of the Flock Hardware by Flock. Should Customer default on any payment of the Flock Services, Flock may remove Flock Hardware at Flock's discretion. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Customer's default and Flock shall have the right to enforce any other legal remedy or right.

10.2 **Deployment Plan**. Flock shall advise Customer on the location and positioning of the Flock Hardware for optimal product functionality, as conditions and locations allow. Flock will collaborate with Customer to design the strategic geographic mapping of the location(s) and implementation of Flock Hardware to create a deployment plan ("***Deployment Plan***"). In the event that Flock determines that Flock Hardware will not achieve optimal functionality at a designated location, Flock shall have final discretion to veto a specific location, and will provide alternative options to Customer.

10.3 **Changes to Deployment Plan.** After installation of Flock Hardware, any subsequent requested changes to the Deployment Plan, including, but not limited to, relocating, re-positioning, adjusting of the mounting, removing foliage, replacement, changes to heights of poles will incur a fee according to the reinstall fee schedule located at (https://www.flocksafety.com/reinstall-fee-schedule). Customer will receive prior notice and confirm approval of any such fees.

10.4 **Customer Installation Obligations**. Customer is responsible for any applicable supplementary cost as described in the Customer Implementation Guide, attached hereto as Exhibit C ("***Customer Obligations***"). Customer represents and warrants that it has, or shall lawfully obtain, all necessary right title and authority and hereby authorizes Flock to install the Flock Hardware at the designated locations and to make any necessary inspections or maintenance in connection with such installation.

10.5 **Flock's Obligations**. Installation of any Flock Hardware shall be installed in a professional manner within a commercially reasonable time from the Effective Date of this Agreement. Upon removal of Flock Hardware, Flock shall restore the location to its original condition, ordinary wear and tear excepted. Flock will continue to monitor the performance of Flock Hardware for the length of the Term. Flock may use a subcontractor or third party to perform certain obligations

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under this agreement, provided that Flock's use of such subcontractor or third party shall not release Flock from any duty or liability to fulfill Flock's obligations under this Agreement.

11. MISCELLANEOUS

11.1 **Compliance With Laws.** Parties shall comply with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules, including responding to any subpoena request(s).

11.2 **Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.

11.3 **Assignment.** This Agreement is not assignable, transferable or sublicensable by either Party, without prior consent. Notwithstanding the foregoing, either Party, on 10 business days' notice to the other Party, may assign this Agreement, without the other Party's consent, (i) to any parent, subsidiary, or affiliate entity, or (ii) to any purchaser of all or substantially all of such Party's assets or to any successor by way of merger, consolidation or similar transaction.

11.4 **Entire Agreement.** This Agreement, together with the Order Form(s), the reinstall fee schedule (https://www.flocksafety.com/reinstall-fee-schedule), and any attached exhibits are the complete and exclusive statement of the mutual understanding of the Parties and supersedes and cancels all previous or contemporaneous negotiations, discussions or agreements, whether written and oral , communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both Parties, except as otherwise provided herein. None of Customer's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected. Any mutually agreed upon future purchase order is subject to these legal terms and does not alter the rights and obligations under this Agreement, except that future purchase orders may outline additional products, services, quantities and billing terms to be mutually accepted by Parties. In the event of any conflict of terms found in this Agreement or any other terms and conditions, the terms of this Agreement shall prevail. Customer agrees that Customer's purchase is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written comments made by Flock with respect to future functionality or feature.

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11.5 **Relationship.** No agency, partnership, joint venture, or employment is created as a result of this Agreement and Parties do not have any authority of any kind to bind each other in any respect whatsoever. Flock shall at all times be and act as an independent contractor to Customer.

11.6 **Governing Law; Venue.** This Agreement shall be governed by the laws of the state in which the Customer is located. The Parties hereto agree that venue would be proper in the chosen courts of the State of which the Customer is located. The Parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement.

11.7 **Special Terms.** Flock may offer certain special terms which are indicated in the proposal and will become part of this Agreement, upon Customer's prior written consent and the mutual execution by authorized representatives ("***Special Terms***"). To the extent that any terms of this Agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

11.8 **Publicity.** Flock has the right to reference and use Customer's name and disclose the nature of the Services in business and development and marketing efforts.

11.9 **Feedback.** If Customer or Authorized End User provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency or Authorized End User hereby assigns to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

11.10 **Export.** Customer may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign Customer or authority. As defined in Federal Acquisition Regulation ("FAR"), section 2.101, the Services, the Flock Hardware and Documentation are "commercial items" and according to the Department of Defense Federal Acquisition Regulation ("DFAR") section 252.2277014(a)(1) and are deemed to be "commercial computer software" and "commercial computer software documentation." Flock is compliant with FAR Section 889 and does not contract or do business with, use any equipment, system, or service that uses the enumerated banned Chinese telecommunication companies, equipment or services as a substantial or essential component of any system, or as critical technology as part of any Flock system. Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release,

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performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

11.11 **Headings.** The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated sections.

11.12 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the Parties they are representing.

11.13 **Conflict.** In the event there is a conflict between this Agreement and any applicable statement of work, or Customer purchase order, this Agreement controls unless explicitly stated otherwise.

11.14 **Morality.** In the event Customer or its agents become the subject of an indictment, contempt, scandal, crime of moral turpitude or similar event that would negatively impact or tarnish Flock's reputation, Flock shall have the option to terminate this Agreement upon prior written notice to Customer.

11.15 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by email; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt to the address listed on the Order Form (or, if different, below), if sent by certified or registered mail, return receipt requested.

11.16 **Non-Appropriation.** Notwithstanding any other provision of this Agreement, all obligations of the Customer under this Agreement which require the expenditure of funds are conditioned on the availability of funds appropriated for that purpose. Customer shall have the right to terminate this Agreement for non appropriation with thirty (30) days written notice without penalty or other cost.

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FLOCK NOTICES ADDRESS:

1170 HOWELL MILL ROAD, NW SUITE 210

ATLANTA, GA 30318

ATTN: LEGAL DEPARTMENT

EMAIL: legal@flocksafety.com

Customer NOTICES ADDRESSES:

ADDRESS: 83 Broadway

Newburgh, NY 2550

ATTN: _____

EMAIL: _____

with copy to:

City of Newburgh Police Department
55 Grand Street
Newburgh, New York 12550
attn.: Police Chief
EMAIL: ageraci@cityofnewburgh-ny.gov

City of Newburgh Office of Corporation Counsel
83 Broadway
Newburgh, New York 12550
attn: Corporation Counsel
EMAIL: mkelson@cityofnewburgh-ny.gov

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EXHIBIT B

INSURANCE

Required Coverage. Flock shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the services under this Agreement and the results of that work by Flock or its agents, representatives, employees or subcontractors. Insurance shall be placed with insurers with a current A. M. Best rating of no less than "A" and "VII". Flock shall obtain and, during the term of this Agreement, shall maintain policies of professional liability (errors and omissions), automobile liability, and general liability insurance for insurable amounts of not less than the limits listed herein. The insurance policies shall provide that the policies shall remain in full force during the life of the Agreement. Flock shall procure and shall maintain during the life of this Agreement Worker's Compensation insurance as required by applicable State law for all Flock employees.

Types and Amounts Required. Flock shall maintain, at minimum, the following insurance coverage for the duration of this Agreement:

(i) **Commercial General Liability** insurance written on an occurrence basis with minimum limits of One Million Dollars ($1,000,000) per occurrence and Two Million Dollars ($2,000,000) in the aggregate for bodily injury, death, and property damage, including personal injury, contractual liability, independent contractors, broad-form property damage, and product and completed operations coverage;

(ii) **Umbrella or Excess Liability** insurance written on an occurrence basis with minimum limits of Ten Million Dollars ($10,000,000) per occurrence and Ten Million Dollars ($10,000,000) in the aggregate;

(iii) **Professional Liability/Errors and Omissions** insurance with minimum limits of Five Million Dollars ($5,000,000) per occurrence and Five Million Dollars ($5,000,000) in the aggregate;

(iv) **Commercial Automobile Liability** insurance with a minimum combined single limit of One Million Dollars ($1,000,000) per occurrence for bodily injury, death, and property coverage, including owned and non-owned and hired automobile coverage; and

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(v) **Cyber Liability** insurance written on an occurrence basis with minimum limits of Five Million Dollars ($5,000,000).

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flock safety

EXHIBIT A
ORDER FORM

Customer:	NY - Newburgh City PD	Initial Term:	12 Months
Legal Entity Name:	NY - Newburgh City PD	Renewal Term:	24 Months
Accounts Payable Email:	brola@cityofnewburgh-ny.gov	Payment Terms:	Net 30
Address:	55 Broadway Newburgh, New York 12550	Billing Frequency:	Annual Plan - Invoiced at First Camera Validation.
		Retention Period:	30 Days

Hardware and Software Products

Annual recurring amounts over subscription term

Item	Cost	Quantity	Total
Flock Safety Platform			**$261,500.00**
Flock Safety Flock OS			
FlockOS ™ - Advanced	Included	1	Included
Flock Safety LPR Products			
Flock Safety Falcon ®	Included	86	Included
Flock Safety Falcon ® Flex	Included	1	Included

Professional Services and One Time Purchases

Item	Cost	Quantity	Total
One Time Fees			
Flock Safety Professional Services			
Professional Services - Existing Infrastructure Implementation Fee	$150.00	86	$12,900.00

Subtotal Year 1:	$274,400.00
Annual Recurring Subtotal:	$261,500.00
Estimated Tax:	$0.00
Contract Total:	$274,400.00

Taxes shown above are provided as an estimate. Actual taxes are the responsibility of the Customer. This Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form (each, a "Renewal Term") unless either Party gives the other Party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.

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Billing Schedule

Billing Schedule	Amount (USD)
Year 1	
At First Camera Validation	$274,400.00
Annual Recurring after Year 1	$261,500.00
Contract Total	$274,400.00

*Tax not included

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Product and Services Description

Flock Safety Platform Items	Product Description	Terms
FlockOS™	Flock Safety's situational awareness operating system.	
Flock Safety Falcon ®	An infrastructure-free license plate reader camera that utilizes Vehicle Fingerprint® technology to capture vehicular attributes.	The Term shall commence upon first installation and validation of Flock Hardware.
Flock Safety Falcon® Flex	An infrastructure-free, location-flexible license plate reader camera that enables the Customer to self-install.	The Term shall commence upon execution of this Statement of Work.

One-Time Fees	Service Description
Installation on existing infrastructure	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.
Professional Services - Standard Implementation Fee	One-time Professional Services engagement. Includes site and safety assessment, camera setup and testing, and shipping and handling in accordance with the Flock Safety Standard Implementation Service Brief.
Professional Services - Advanced Implementation Fee	One-time Professional Services engagement. Includes site & safety assessment, camera setup & testing, and shipping & handling in accordance with the Flock Safety Advanced Implementation Service Brief.

FlockOS Features & Description

FlockOS Features	Description
Community Network Access	Access to all privately owned Flock devices within your jurisdiction that have been shared with you.
Unlimited Users	Unlimited users for FlockOS
State Network (License Plate Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the statewide Flock network.
Nationwide Network (License Plate Lookup Only)	Allows agencies to look up license plates on all cameras opted in to the nationwide Flock network.
Law Enforcement Network Access	Access to all Flock devices owned by law enforcement that have been directly shared with you. Have ability to search by vehicle fingerprint, receive hot list alerts, and view devices on the map.
Time & Location Based Search	Search full, partial, and temporary plates by time at particular device locations
License Plate Lookup	Look up specific license plate location history captured on Flock devices
Vehicle Fingerprint Search	Search footage using Vehicle Fingerprint™ technology. Access vehicle type, make, color, license plate state, missing / covered plates, and other unique features like bumper stickers, decals, and roof racks.
Insights & Analytics	Reporting tool to help administrators manage their LPR program with device performance data, user and network audits, plate read reports, hot list alert reports, event logs, and outcome reports.
Convoy Search	Identify vehicles that have been seen together so you can verify a potential accomplice and getaway car used during a string of vehicle thefts; Show me vehicles that were seen near this specific car multiple times.
Visual Search	Upload a suspect vehicle photo from and alternative source (i.e. CCTV, doorbell camera, mobile phone), and machine learning will match it to vehicles recorded by Flock Safety cameras in the past 30 days
Multi Geo Search	Perform single and multi-location-based searches to link a suspect vehicle to one, or multiple crime scenes
ESRI Based Map Interface	Flock Safety's maps are powered by ESRI, which offers the ability for 3D visualization, viewing of floor plans, and layering of external GIS data, such as City infrastructure (i.e., public facilities, transit systems, utilities), Boundary mapping (i.e., precincts, county lines, beat maps), and Interior floor plans (i.e., hospitals, corporate campuses, universities)
Real-Time NCIC Alerts on Flock ALPR Cameras	Alert sent when a vehicle entered into the NCIC crime database passes by a Flock camera
Unlimited Custom Hot Lists	Ability to add a suspect's license plate to a custom list and get alerted when it passes by a Flock camera
Custom Hot List Deconfliction	Allows Flock users to identify overlapping investigations and provide the contact information of opted-in parties to facilitate collaboration.
Custom Hot List Attachments	The ability to add case notes, photos, reports, and other relevant case information to Custom Hot List Alerts
Unlimited Vehicle Description Alerts	Users can set up and receive notifications for suspect vehicles based on body type, make, color, location and timeframe. Notifications are sent via app, SMS or email when a vehicle matching the predetermined criteria passes a camera in your organization's network.
Wing Gateway, Wing Cloud, Wing VMS	Unlocks access to purchase Wing.
Custom Map Layers	Ability for customers (and Flock Admins) to add & view public and proprietary ESRI map layers to FlockOS' Map experience.
SSO	Ability to sign into the Flock Safety platform via Okta Single Sign On (SSO). This increases login speed and information security.

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By executing this Order Form, Customer represents and warrants that it has read and agrees to all of the terms and conditions contained in the Master Services Agreement attached.

The Parties have executed this Agreement as of the dates set forth below.

FLOCK GROUP, INC.		**Customer: NY - Newburgh City PD**	
By:	DocuSigned by: Mark Smith AC5C931454C24F3...	By:	
Name:	Mark Smith	Name:	TODD VENNING
Title:	General Counsel	Title:	CITY MANAGER / CEO
Date:	8/6/2024	Date:	7/30/24
		PO Number:	

RESOLUTION NO.: 231 - 2023

OF

NOVEMBER 13, 2023

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED A NEW YORK STATE DIVISION OF CRIMINAL JUSTICE SERVICES LAW ENFORCEMENT TECHNOLOGY PROGRAM GRANT IN AN AMOUNT NOT TO EXCEED $1,750,000.00 WITH NO CITY MATCH

WHEREAS, the City of Newburgh Police Department proposes to apply for a New York State Division of Criminal Justice Services Law Enforcement Technology program grant to purchase new equipment and related services for the City of Newburgh Police Department; and

WHEREAS, the grant funding in the amount of $1,750,000.00 requires no City match; and

WHEREAS, this Council has determined that applying for such grant and accepting if awarded 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 apply for and accept if awarded a New York State Division of Criminal Justice Services Law Enforcement Technology program grant in the amount of $1,750,000.00 with no City match for the purchase of equipment and related services; 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 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 11/13/23 and that it is a true and correct copy of such original.

Witness my hand and seal of the City of Newburgh this 14th day of NOV 20 23

Katrina Cotten
Deputy City Clerk