1. Agendas

    Documents:

        AUG 13 FINALAGENDAPT.2.PDF
        AUG 13 FINALAGENDAPT.1.PDF

RESOLUTION NO.: 130 -2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO WILLIAM ROSE
TO THE PREMISES KNOWN AS 3 MARNE AVENUE
(SECTION 7, BLOCK 7, LOT 8.1)

WHEREAS, on January 6, 2012, the City of Newburgh conveyed property located at 3 Marne Avenue, being more accurately described on the official Tax Map of the City of Newburgh as Section 7, Block 7, Lot 8.1, to William Rose; and

WHEREAS, Mr. Rose has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

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

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

RELEASE OF COVENANTS AND RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN ($10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 3 Marne Avenue, Section 7, Block 7, Lot 8.1, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4 and 5 in a deed dated January 6, 2012, from the CITY OF NEWBURGH to WILLIAM ROSE, recorded in the Orange County Clerk's Office on January 17, 2012, in Liber 13273 of Deeds at Page 0477 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: _____, 2012

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

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

On the _____ day of August in the year 2012, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

_____

RESOLUTION NO.: 131 -2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO JCL MEDIA, INC.
TO THE PREMISES KNOWN AS 65 LIBERTY STREET
(SECTION 39, BLOCK 5, LOT 15.1) AND 65 LIBERTY STREET REAR
(SECTION 39, BLOCK 5, LOT 15.2)

WHEREAS, on June 8, 2006, the City of Newburgh conveyed property located at 65 Liberty Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.1 and 65 Liberty Street Rear, being more accurately described on the official Tax Map of the City of Newburgh as Section 39, Block 5, Lot 15.2, to JCL Media, Inc.; and

WHEREAS, on November 23, 2010, the City of Newburgh issued a correction deed to JCL Media, Inc. for the sole purpose of amending the use to allow commercial use on the ground floor, and residential use on the second and third floors of the Premises identified as 65 Liberty Street as provided for in covenant number one (1); and

WHEREAS, JCL Media, Inc., by their attorney, has requested a release of the restrictive covenants contained in said deed; and

WHEREAS, the appropriate departments have reviewed their files and advised that the covenants have been complied with, and recommends such release be granted; and

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

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

RELEASE OF COVENANTS AND RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN ($10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 65 Liberty Street, Section 39, Block 5, Lot 15.1, on the Official Tax Map of the City of Newburgh and 65 Liberty Street Rear, Section 39, Block 5, Lot 15.2, on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, 5, and 6 in a correction deed dated November 23, 2010, from the CITY OF NEWBURGH to JCL MEDIA, INC., recorded in the Orange County Clerk's Office on April 20, 2011, in Liber 13166 of Deeds at Page 200 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: _____, 2012

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK,
City Manager

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

On the _____ day of August in the year 2012, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

_____

RESOLUTION NO.: 132 - 2012

OF

AUGUST 13, 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH ASSUMING LEAD AGENCY STATUS UNDER STATE ENVIRONMENTAL QUALITY REVIEW ACT (SEQRA) CONCERNING AN AMENDMENT OF SECTIONS 300-26 AND 300-80 OF THE ZONING ORDINANCE OF THE CITY OF NEWBURGH AND SECTION 158-2, "ACTIONS REQUIRING AND NOT REQUIRING ENVIRONMENTAL IMPACT STATEMENTS" OF THE CODE OF ORDINANCES, DECLARING THE PROJECT TO BE AN UNLISTED ACTION, CONSIDERING AN ENVIRONMENTAL ASSESSMENT FORM(EAF), REFERRING SAME TO THE ORANGE COUNTY PLANNING DEPARTMENT AS REQUIRED BY SECTION 239 OF THE GENERAL MUNICIPAL LAWS AND SCHEDULING A PUBLIC HEARING

WHEREAS, by Resolution No. 87-2012 of June 18, 2012, the City Council of the City of Newburgh accepted and authorized the City Manager to take other steps necessary and appropriate to implement the recommendations in the Streamlining Newburgh's Land Use Process report and recommendations; and

WHEREAS, in furtherance of the City's goal to streamline its land use process, the City is proposing to adopt an amendments to Chapter 158 and Chapter 300 of the Code of Ordinances, as follows:

1. Section 158-2: to eliminate the requirement for an environmental impact statement for actions which do not exceed certain thresholds set forth in New York State regulations;
2. Section 300-26: to eliminate the requirement of a certificate of appropriateness for certain activities within the City's historic and architectural design districts; and
3. Section 300-80: to eliminate the Architectural Review Commission advisory opinion to the Zoning Board of Appeals for applications for variances within the City's historic and architectural design districts; and

WHEREAS, in compliance with SEQRA, the City Council of the City of Newburgh wishes to assume Lead Agency status, declare the action to be an Unlisted action, proposes to accept as complete an Environmental Assessment Form ("EAF"), refer the proposed ordinance to the Orange County Planning Department pursuant to General Municipal Law Section 239, and schedule a public hearing in connection with the proposed legislation.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York as follows:

1. That the City Council of the City of Newburgh hereby declares itself as the Lead Agency for the environmental review of the action pursuant to 6 NYCRR 617.6; and

2. Classifies the action as an Unlisted Action; and

3. Proposes to accept as complete the Environmental Assessment Form ("EAF") attached hereto;

4. Refers the proposed Ordinance to the Orange County Planning Department as required by General Municipal Law Section 239; and

1. Schedules a public hearing to receive comments concerning "A Local Law Amending Article 158 Entitled 'Environmental Quality Review", Section 158-2, 'Actions Requiring and Not Requiring Environmental Impact Statements' of the Code of Ordinances of the City of Newburgh" and "An Ordinance to Amend Chapter 300 entitled "Zoning" of the Code of Ordinances of the City of Newburgh to Exempt Certain Activities from Requiring a Certificate of Appropriateness from the Architectural Review Commission and to Eliminate the Architectural Review Commission Advisory Opinion in Applications for Variances within in the Historic or Architectural Design Districts to the Zoning Board of Appeals"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 10th day of September, 2012, at the Activity Center, 401 Washington Street, Newburgh, New York.

LOCAL LAW NO.: _____ - 2012

OF

_____

A LOCAL LAW AMENDING ARTICLE 158 ENTITLED "ENVIRONMENTAL QUALITY REVIEW" SECTION 158-2, "ACTIONS REQUIRING AND NOT REQUIRING ENVIRONMENTAL IMPACT STATEMENTS" OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Article 158 Entitled 'Environmental Quality Review", Section 158-2, 'Actions Requiring and Not Requiring Environmental Impact Statements' of the Code of Ordinances of the City of Newburgh".

SECTION 2 - AMENDMENT

Article 158, Section 158-2, "Actions Requiring and Not Requiring Environmental Impact Statements" is hereby amended to read as follows:

§158-2. Actions requiring and not requiring environmental impact statements and not requiring environmental assessment forms.

All actions that may ~~likely to~~ have a significant adverse impact ~~effect~~ upon the environment within the meaning of Section 617.7~~11~~ of Title 6 of NYCRR ~~and defined as "Type I" actions in Section 617.4 of Title 6 of NYCRR~~ shall require the preparation of an environmental impact statement, unless they are unlisted actions as to which the relevant local reviewing agency determines that a conditional negative declaration is appropriate. Type II actions, as described in Section 617.5 ~~therein~~, or determined to be such under local law will not require the preparation of an environmental assessment form ~~impact statement~~.

SECTION 3 - 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.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

SECTION 4 - EFFECTIVE DATE

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

ORDINANCE NO.: _____-2012

OF

_____

AN ORDINANCE TO AMEND CHAPTER 300 ENTITLED "ZONING"
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH
TO EXEMPT CERTAIN ACTIVITIES FROM REQUIRING
A CERTIFICATE OF APPROPRIATENESS FROM THE ARCHITECTURAL REVIEW
COMMISSION AND TO ELIMINATE THE ARCHITECTURAL REVIEW COMMISSION
ADVISORY OPINION IN APPLICATIONS FOR VARIANCES
WITHIN IN THE HISTORIC OR ARCHITECTURAL DESIGN DISTRICTS
TO THE ZONING BOARD OF APPEALS

BE IT ORDAINED, by the Council of the City of Newburgh, New York that Chapter 300 of the Code of Ordinances shall be amended as follows:

Section 1: § 300-26. Certificate of appropriateness.

A. Certificate required. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction or moving of a landmark, nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affect the appearance and cohesiveness of a district and its designated properties, without first obtaining a certificate of appropriateness.

1. Exemptions. The following activities do not require a certificate of appropriateness under this Article:

   a. Repair, replacement and installation of electrical, plumbing, heating and ventilation systems, provided that such work does not affect the exterior of the structure.

   b. Caulking, weather-stripping, glazing and repainting of windows.

   c. Repair of porches, cornices, exterior siding, doors balustrades, stairs or other trim when the repair is done in-kind to match existing material and form.

   d. Repair of storm windows (exterior, interior or wood), provided they match the shape and size of historic windows and that the meeting rail coincides with that of the historic window; color should match trim.

Underlining _____ denotes additions
~~Strikethrough~~ denote deletions

e. Installation of new window jambs or jamb liners.

f. Repair or replacement of awnings when work is done in-kind to match existing materials and form.

g. Roof repair of historic roofing with material that matches the existing material in form or better.

h. Repair of gutters and downspouts.

i. Installation of insulation where exterior siding or trim is not altered or damaged.

j. Repair of existing roads, driveways, sidewalks and curbs provided that work is done so that there are no changes in dimension or configuration of those features.

k. Exterior lead paint abatement that includes scraping and repainting of exterior work and masonry surfaces.

l. Repair of fencing when work is done in-kind to match existing material and form.

m. Repair or replacement of water, gas, storm or sewer lines.

n. Emergency repairs necessitated by a casualty to the property (fire, storm, flood, etc.).

Section 2: § 300-80. Procedures.

The powers and duties of the Zoning Board of Appeals shall be exercised in accordance with the procedures set forth in this article plus the following additional procedures:

A. Strict compliance. The Zoning Board of Appeals shall act in strict accordance with the procedures specified by law and by this chapter.

B. Fees. All appeals made to the Zoning Board of Appeals shall be accompanied by the fee established by the City Council as provided for § 300-83. The Board may, in its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal is under § 300-78 hereof and is partially or wholly successful.

C. Contents of applications. Each appeal shall fully set forth the circumstances of the case. Every appeal shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed.

D. Hearing appeals. The jurisdiction of the Zoning Board of Appeals shall be appellate only and shall be limited to hearing and deciding appeals from and reviewing any order,

requirement, decision, interpretation, or determination made by the administrative official charged with the enforcement of any ordinance or local law. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to grant a use variance or area variance. Such appeal may be taken by any person aggrieved, or by an officer, department, board or bureau of the City.

E. Time of appeal. Such appeal shall be taken within 60 days after the filing in the City Clerk's office of any order, requirement, decision, interpretation, or determination of the administrative official charged with the enforcement of such ordinance or local law by filing with such administrative official and with the Zoning Board of Appeals a notice of appeal, specifying the grounds thereof and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

F. Stay upon appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of such ordinance of local law, from whom the appeal is taken, certified to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reasons of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

G. Public hearings. The Zoning Board of Appeals shall fix a reasonable time for the hearing of the appeal or other matter referred to it and the applicant shall be notified of such date. At least 10 days prior to such hearing the Secretary of the Board shall mail, by regular mail, at the applicant's expense, a notice of such hearing and of the substance of the appeal to the owners of all properties within 300 feet of the exterior boundaries of the property affected by the appeal, provided that no such mailing or proof of mailing shall be required where the application is for an area variance of less than three feet in regard to any front, rear or side yard setback. At least 10 days prior to such hearing, the Secretary of the Zoning Board of Appeals, at the expense of the applicant to be paid in advance, shall cause to be published in the official newspaper of the City a notice of such hearing and of the substance of the appeal. Prior to said hearing, the applicant shall submit to the Board affidavits of the Secretary of the Board swearing that the required mailings and publication have been performed, which documents shall become part of the application. For the purpose of the mailings required by this section, the term "owner" shall be construed to mean the owner as indicated on the assessment roll of the City of Newburgh.

H. Planning Board advisory opinion. The Zoning Board of Appeals is not required to but may, in its discretion, refer any requests for appeals or applications for variances to the Planning Board for review and recommendations. The Zoning Board shall defer any decision on these

matters pending the receipt of a report from the Planning Board. If no report is received from the Planning Board within 31 days, the Zoning Board of Appeals may render its decision without said report.

~~I. Architectural Review Commission advisory opinion. The Zoning Board of Appeals shall, within 10 days of its submission, refer any requests for appeals or applications for variances within historic districts or architectural design districts to the Architectural Review Commission for review and recommendations. The Zoning Board of Appeals shall defer any decision on these matters pending the receipt of a report from the Architectural Review Commission.~~

~~J~~ I. Waterfront Advisory Committee. Whenever a request for appeal or application for variance involves the City's waterfront area, the Zoning Board of Appeals shall refer a copy of a completed coastal assessment form (CAF) to the Waterfront Advisory Committee within 10 days of its submission and, prior to making its determination, shall consider the recommendation of the Waterfront Advisory Committee with reference to the consistency of the proposed action as set forth in Chapter 296 of the Code of the City of Newburgh, known as the "City of Newburgh Waterfront Consistency Review Law." In the event that the Waterfront Advisory Committee recommendation is not forthcoming within 30 days following referral of the CAF, the Zoning Board of Appeals shall make its decision without the benefit of the Waterfront Advisory Committee recommendation.

~~K~~ J. Notice to Park Commission and County Planning Department. At least 10 days before such hearing, the Board of Appeals shall mail notices thereof to the regional State Park Commission having jurisdiction over any state park or parkway within 500 feet of the property affected by such appeal and to the Orange County Planning Department, as required by § 239-m of the General Municipal Law, which notice shall be accompanied by a full statement of such proposed action, as defined in Subdivision 1 of § 239-m of the General Municipal Law.

~~L~~ K. Time of decision. The Zoning Board of Appeals shall decide upon an appeal within 62 days after the conduct of the public hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.

~~M~~ L. Filing of decision or action. The decision of the Zoning Board of Appeals on the appeal shall be filed in the office of the City Clerk or the zoning office, if such office has been established, within five business days after the day such decision is rendered and a copy thereof mailed to the applicant.

~~N~~ M. Compliance with Environmental Quality Review Act. The Zoning Board of Appeals shall comply with the provisions of the State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations.

~~O~~ N. Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reheard may be made by any member of the Board. A unanimous vote of all members of the Board then present is required for such rehearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

Section 3. This ordinance shall take effect immediately.

Edward A. Diana
County Executive

Orange County Department of Planning

Submittal Form for Mandatory Review of Local Planning Action as per NYS General Municipal Law §239-l,m, & n

Referral ID# (County use only)

This form is to be completed by the local board having jurisdiction. Submittals from applicants will not be accepted unless coordinated with both the local board having jurisdiction and the County Department of Planning.

Please include all materials that are part of a "full statement" as defined by NYS GML §239-m (i.e. "all materials required by and submitted to the referring body as an application on a proposed action").

Municipality:	City of Newburgh	Tax Map #:	
Local Referring Board:	City Council	Tax Map #:	
Applicant:	City Council	Tax Map #:	
Project Name:	Streamling Newburgh's Land Use Process	Local File No.:	
Location of Project Site:	City Wide	Size of Parcel*:	

*If more than one parcel, please include sum of all parcels.

Reason for County Review: Referral pursuant to GML § 239-m.

Current Zoning District (include any overlays):

Type of Review:

- ☐ Comprehensive Plan Update/Adoption
- ☒ Zoning Amendment
  - ☐ Zoning District Change from _____ to _____
  - ☒ Ordinance Modification (cite section): §§ 300-26 and 300-80
- ☒ Local Law — Amending Article § 158-2.
- ☐ Site Plan — Sq. feet proposed (non-residential only): _____
  Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- ☐ Subdivision — Number of lots proposed: _____
  Which approval is the applicant currently seeking? SKETCH / PRELIM / FINAL (circle one)
- ☐ Special Use Permit _____
- ☐ Lot Line Change _____
- ☐ Variance — AREA / USE (circle one) _____
- ☐ Other _____

Is this an update to a previously submitted referral? YES / NO (circle one)

Local board comments or elaboration:

_____

Signature of local official | Date | Title

Municipal Contact Phone Number: _____

If you would like the applicant to be cc'd on this letter, please provide the applicant's address:

Please return, along with full statement, to: Orange County Dept. of Planning 124 Main St.Goshen, NY 10924

Question or comments, call: 845-615-3840 or email: planning@orangecountygov.com

617.20
Appendix A
State Environmental Quality Review
FULL ENVIRONMENTAL ASSESSMENT FORM

Purpose: The full EAF is designed to help applicants and agencies determine, in an orderly manner, whether a project or action may be significant. The question of whether an action may be significant is not always easy to answer. Frequently, there are aspects of a project that are subjective or unmeasurable. It is also understood that those who determine significance may have little or no formal knowledge of the environment or may not be technically expert in environmental analysis. In addition, many who have knowledge in one particular area may not be aware of the broader concerns affecting the question of significance.

The full EAF is intended to provide a method whereby applicants and agencies can be assured that the determination process has been orderly, comprehensive in nature, yet flexible enough to allow introduction of information to fit a project or action.

Full EAF Components: The full EAF is comprised of three parts:

Part 1: Provides objective data and information about a given project and its site. By identifying basic project data, it assists a reviewer in the analysis that takes place in Parts 2 and 3.

Part 2: Focuses on identifying the range of possible impacts that may occur from a project or action. It provides guidance as to whether an impact is likely to be considered small to moderate or whether it is a potentially-large impact. The form also identifies whether an impact can be mitigated or reduced.

Part 3: If any impact in Part 2 is identified as potentially-large, then Part 3 is used to evaluate whether or not the impact is actually important.

THIS AREA FOR LEAD AGENCY USE ONLY

DETERMINATION OF SIGNIFICANCE -- Type 1 and Unlisted Actions

Identify the Portions of EAF completed for this project: ☐ Part 1 ☐ Part 2 ☐ Part 3

Upon review of the information recorded on this EAF (Parts 1 and 2 and 3 if appropriate), and any other supporting information, and considering both the magnitude and importance of each impact, it is reasonably determined by the lead agency that:

☐ A. The project will not result in any large and important impact(s) and, therefore, is one which **will not** have a significant impact on the environment, therefore **a negative declaration will be prepared.**

☐ B. Although the project could have a significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in PART 3 have been required, therefore **a CONDITIONED negative declaration will be prepared.***

☐ C. The project may result in one or more large and important impacts that may have a significant impact on the environment, therefore **a positive declaration will be prepared**.

*A Conditioned Negative Declaration is only valid for Unlisted Actions

_____
Name of Action

_____
Name of Lead Agency

_____ _____
Print or Type Name of Responsible Officer in Lead Agency | Title of Responsible Officer

_____ _____
Signature of Responsible Officer in Lead Agency | Signature of Preparer (If different from responsible officer)

website

_____
Date

PART 1--PROJECT INFORMATION
Prepared by Project Sponsor

NOTICE: This document is designed to assist in determining whether the action proposed may have a significant effect on the environment. Please complete the entire form, Parts A through E. Answers to these questions will be considered as part of the application for approval and may be subject to further verification and public review. Provide any additional information you believe will be needed to complete Parts 2 and 3.

It is expected that completion of the full EAF will be dependent on information currently available and will not involve new studies, research or investigation. If information requiring such additional work is unavailable, so indicate and specify each instance.

Name of Action Streamlining Newburgh's Land Use Process

Location of Action (include Street Address, Municipality and County)

City Wide - City of Newburgh, New York

Name of Applicant/Sponsor City Council - City of Newburgh

Address 83 Broadway

City / PO Newburgh State NY Zip Code 12550

Business Telephone 845-569-7301

Name of Owner (if different)

Address

City / PO State Zip Code

Business Telephone

Description of Action:

Amending sections 300-26 and 300-80 of the zoning ordinance of the City of Newburgh and section 158-2 of the code of ordinances of the City of Newburgh.
- Amendment to section 300-26 will eliminate the requirement of a Certificate of Appropriateness for de minimis activities within the City's historic and Architectural design districts.
-Amendment to section 300-80 will eliminate the Architectural Review Commission's advisory opinion to the Zoning Board of Appeals for applications for variances within the City's historic and architectural design districts, leaving in place requirements for Certificate of Appropriateness for same actions.
-Amendment to 158-2 will eliminate the requirement for an environmental impact statement for actions which do not exceed certain thresholds set forth in New York State regulations.

Please Complete Each Question--Indicate N.A. if not applicable

A. SITE DESCRIPTION

Physical setting of overall project, both developed and undeveloped areas.

1. Present Land Use: ☑ Urban ☐ Industrial ☐ Commercial ☐ Residential (suburban) ☐ Rural (non-farm)
   ☐ Forest ☐ Agriculture ☐ Other _____

2. Total acreage of project area: N/A acres.

APPROXIMATE ACREAGE	PRESENTLY	AFTER COMPLETION
Meadow or Brushland (Non-agricultural)	_____ acres	_____ acres
Forested	_____ acres	_____ acres
Agricultural (Includes orchards, cropland, pasture, etc.)	_____ acres	_____ acres
Wetland (Freshwater or tidal as per Articles 24,25 of ECL)	_____ acres	_____ acres
Water Surface Area	_____ acres	_____ acres
Unvegetated (Rock, earth or fill)	_____ acres	_____ acres
Roads, buildings and other paved surfaces	_____ acres	_____ acres
Other (Indicate type) _____	_____ acres	_____ acres

3. What is predominant soil type(s) on project site? N/A
   a. Soil drainage: ☐ Well drained ____% of site ☐ Moderately well drained ____% of site.
   ☐ Poorly drained ____% of site
   b. If any agricultural land is involved, how many acres of soil are classified within soil group 1 through 4 of the NYS Land Classification System? _____ acres (see 1 NYCRR 370).

4. Are there bedrock outcroppings on project site? ☐ Yes ☒ No
   a. What is depth to bedrock _____ (in feet)

5. Approximate percentage of proposed project site with slopes:
   ☑ 0-10% N/A % ☐ 10- 15% ____% ☐ 15% or greater ____%

6. Is project substantially contiguous to, or contain a building, site, or district, listed on the State or National Registers of Historic Places? ☐ Yes ☒ No

7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? ☐ Yes ☒ No

8. What is the depth of the water table? N/A (in feet)

9. Is site located over a primary, principal, or sole source aquifer? ☐ Yes ☒ No

10. Do hunting, fishing or shell fishing opportunities presently exist in the project area? ☐ Yes ☒ No

11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? ☐ Yes ■ No

According to:

Identify each species:

12. Are there any unique or unusual land forms on the project site? (i.e., cliffs, dunes, other geological formations?

☐ Yes ■ No

Describe:

13. Is the project site presently used by the community or neighborhood as an open space or recreation area?

☐ Yes ■ No

If yes, explain:

14. Does the present site include scenic views known to be important to the community? ☐ Yes ■ No

15. Streams within or contiguous to project area:

N/A

a. Name of Stream and name of River to which it is tributary

16. Lakes, ponds, wetland areas within or contiguous to project area:

N/A

b. Size (in acres):

17. Is the site served by existing public utilities? ☐ Yes ☒ No

a. If **YES,** does sufficient capacity exist to allow connection? ☐ Yes ☐ No

b. If **YES**, will improvements be necessary to allow connection? ☐ Yes ☐ No

18. Is the site located in an agricultural district certified pursuant to Agriculture and Markets Law, Article 25-AA, Section 303 and 304? ☐ Yes ☒ No

19. Is the site located in or substantially contiguous to a Critical Environmental Area designated pursuant to Article 8 of the ECL, and 6 NYCRR 617? ☐ Yes ☒ No

20. Has the site ever been used for the disposal of solid or hazardous wastes? ☐ Yes ☒ No

B. Project Description

1. Physical dimensions and scale of project (fill in dimensions as appropriate).

a. Total contiguous acreage owned or controlled by project sponsor: N/A acres.

b. Project acreage to be developed: N/A acres initially; N/A acres ultimately.

c. Project acreage to remain undeveloped: N/A acres.

d. Length of project, in miles: N/A (if appropriate)

e. If the project is an expansion, indicate percent of expansion proposed. N/A %

f. Number of off-street parking spaces existing N/A ; proposed N/A

g. Maximum vehicular trips generated per hour: N/A (upon completion of project)?

h. If residential: Number and type of housing units:

	One Family	Two Family	Multiple Family	Condominium
Initially				
Ultimately				

i. Dimensions (in feet) of largest proposed structure: _____ height; _____ width; _____ length.

j. Linear feet of frontage along a public thoroughfare project will occupy is? _____ ft.

2. How much natural material (i.e. rock, earth, etc.) will be removed from the site? N/A tons/cubic yards.

3. Will disturbed areas be reclaimed ☐ Yes ☐ No ☒ N/A

a. If yes, for what intended purpose is the site being reclaimed?

b. Will topsoil be stockpiled for reclamation? ☐ Yes ☐ No

c. Will upper subsoil be stockpiled for reclamation? ☐ Yes ☐ No

4. How many acres of vegetation (trees, shrubs, ground covers) will be removed from site? N/A acres.

5. Will any mature forest (over 100 years old) or other locally-important vegetation be removed by this project?

☐ Yes ■ No

6. If single phase project: Anticipated period of construction: N/A months, (including demolition)

7. If multi-phased:

   a. Total number of phases anticipated _____ (number)

   b. Anticipated date of commencement phase 1: _____ month _____ year, (including demolition)

   c. Approximate completion date of final phase: _____ month _____ year.

   d. Is phase 1 functionally dependent on subsequent phases? ☐ Yes ☐ No

8. Will blasting occur during construction? ☐ Yes ■ No

9. Number of jobs generated: during construction N/A ; after project is complete N/A

10. Number of jobs eliminated by this project N/A .

11. Will project require relocation of any projects or facilities? ☐ Yes ■ No

    If yes, explain:

12. Is surface liquid waste disposal involved? ☐ Yes ■ No

    a. If yes, indicate type of waste (sewage, industrial, etc) and amount _____

    b. Name of water body into which effluent will be discharged _____

13. Is subsurface liquid waste disposal involved? ☐ Yes ■ No Type _____

14. Will surface area of an existing water body increase or decrease by proposal? ☐ Yes ■ No

    If yes, explain:

15. Is project or any portion of project located in a 100 year flood plain? ☐ Yes ■ No

16. Will the project generate solid waste? ☐ Yes ■ No

    a. If yes, what is the amount per month? _____ tons

    b. If yes, will an existing solid waste facility be used? ☐ Yes ☐ No

    c. If yes, give name _____ ; location _____

    d. Will any wastes not go into a sewage disposal system or into a sanitary landfill? ☐ Yes ☐ No

e. If yes, explain:

17. Will the project involve the disposal of solid waste? ☐ Yes ■ No

a. If yes, what is the anticipated rate of disposal? _____ tons/month.

b. If yes, what is the anticipated site life? _____ years.

18. Will project use herbicides or pesticides? ☐ Yes ■ No

19. Will project routinely produce odors (more than one hour per day)? ☐ Yes ■ No

20. Will project produce operating noise exceeding the local ambient noise levels? ☐ Yes ■ No

21. Will project result in an increase in energy use? ☐ Yes ■ No

If yes, indicate type(s)

22. If water supply is from wells, indicate pumping capacity N/A gallons/minute.

23. Total anticipated water usage per day N/A gallons/day.

24. Does project involve Local, State or Federal funding? ☐ Yes ■ No

If yes, explain:

25. Approvals Required:

			Type	Submittal Date
City, Town, Village Board	☐ Yes	☒ No		
City, Town, Village Planning Board	☐ Yes	☒ No		
City, Town Zoning Board	☐ Yes	☒ No		
City, County Health Department	☐ Yes	☒ No		
Other Local Agencies	☐ Yes	☒ No		
Other Regional Agencies	☒ Yes	☐ No	Referral review by Orange County Department of Planning	August 3, 2012
State Agencies	☐ Yes	☒ No		
Federal Agencies	☐ Yes	☒ No		

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? ☒ Yes ☐ No

If Yes, indicate decision required:

☒ Zoning amendment ☐ Zoning variance ☐ New/revision of master plan ☐ Subdivision

☐ Site plan ☐ Special use permit ☐ Resource management plan ☐ Other

2. What is the zoning classification(s) of the site?

Since streamlining includes the entire city all zoning districts are involved, particularly those in the historic district.

3. What is the maximum potential development of the site if developed as permitted by the present zoning?

N/A

4. What is the proposed zoning of the site?

N/A

5. What is the maximum potential development of the site if developed as permitted by the proposed zoning?

N/A

6. Is the proposed action consistent with the recommended uses in adopted local land use plans? ■ Yes ☐ No

7. What are the predominant land use(s) and zoning classifications within a ¼ mile radius of proposed action?

N/A

8. Is the proposed action compatible with adjoining/surrounding land uses with a ¼ mile? ■ Yes ☐ No

9. If the proposed action is the subdivision of land, how many lots are proposed? N/A

   a. What is the minimum lot size proposed? _____

10. Will proposed action require any authorization(s) for the formation of sewer or water districts? ☐ Yes ■ No

11. Will the proposed action create a demand for any community provided services (recreation, education, police, fire protection?

☐ Yes ■ No

a. If yes, is existing capacity sufficient to handle projected demand? ☐ Yes ☐ No

12. Will the proposed action result in the generation of traffic significantly above present levels? ☐ Yes ■ No

a. If yes, is the existing road network adequate to handle the additional traffic. ☐ Yes ☐ No

D. Informational Details

Attach any additional information as may be needed to clarify your project. If there are or may be any adverse impacts associated with your proposal, please discuss such impacts and the measures which you propose to mitigate or avoid them.

E. Verification

I certify that the information provided above is true to the best of my knowledge.

Applicant/Sponsor Name Richard F. Herbek Date _____

Signature _____

Title City Manager

If the action is in the Coastal Area, and you are a state agency, complete the Coastal Assessment Form before proceeding with this assessment.

PART 2 - PROJECT IMPACTS AND THEIR MAGNITUDE

Responsibility of Lead Agency

General Information (Read Carefully)

! In completing the form the reviewer should be guided by the question: Have my responses and determinations been **reasonable?** The reviewer is not expected to be an expert environmental analyst.

! The **Examples** provided are to assist the reviewer by showing types of impacts and wherever possible the threshold of magnitude that would trigger a response in column 2. The examples are generally applicable throughout the State and for most situations. But, for any specific project or site other examples and/or lower thresholds may be appropriate for a Potential Large Impact response, thus requiring evaluation in Part 3.

! The impacts of each project, on each site, in each locality, will vary. Therefore, the examples are illustrative and have been offered as guidance. They do not constitute an exhaustive list of impacts and thresholds to answer each question.

! The number of examples per question does not indicate the importance of each question.

! In identifying impacts, consider long term, short term and cumulative effects.

Instructions (Read carefully)

a. Answer each of the 20 questions in PART 2. Answer **Yes** if there will be **any** impact.

b. **Maybe** answers should be considered as **Yes** answers.

c. If answering **Yes** to a question then check the appropriate box(column 1 or 2)to indicate the potential size of the impact. If impact threshold equals or exceeds any example provided, check column 2. If impact will occur but threshold is lower than example, check column 1.

d. Identifying that an Impact will be potentially large (column 2) does not mean that it is also necessarily **significant**. Any large impact must be evaluated in PART 3 to determine significance. Identifying an impact in column 2 simply asks that it be looked at further.

e. If reviewer has doubt about size of the impact then consider the impact as potentially large and proceed to PART 3.

f. If a potentially large impact checked in column 2 can be mitigated by change(s) in the project to a small to moderate impact, also check the **Yes** box in column 3. A **No** response indicates that such a reduction is not possible. This must be explained in Part 3.

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
Impact on Land			
1. Will the Proposed Action result in a physical change to the project site? NO ☒ YES ☐			
Examples that would apply to column 2			
• Any construction on slopes of 15% or greater, (15 foot rise per 100 foot of length), or where the general slopes in the project area exceed 10%.	☐	☐	☐ Yes ☒ No
• Construction on land where the depth to the water table is less than 3 feet.	☐	☐	☐ Yes ☒ No
• Construction of paved parking area for 1,000 or more vehicles.	☐	☐	☐ Yes ☒ No
• Construction on land where bedrock is exposed or generally within 3 feet of existing ground surface.	☐	☐	☐ Yes ☒ No
• Construction that will continue for more than 1 year or involve more than one phase or stage.	☐	☐	☐ Yes ☒ No
• Excavation for mining purposes that would remove more than 1,000 tons of natural material (i.e., rock or soil) per year.	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Construction or expansion of a santary landfill.	☐	☐	☐ Yes ☒ No
• Construction in a designated floodway.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

2. Will there be an effect to any unique or unusual land forms found on the site? (i.e., cliffs, dunes, geological formations, etc.)
☒ NO ☐ YES

• Specific land forms:	☐	☐	☐ Yes ☒ No

Impact on Water

3. Will Proposed Action affect any water body designated as protected? (Under Articles 15, 24, 25 of the Environmental Conservation Law, ECL)
☒ NO ☐ YES

Examples that would apply to column 2			
• Developable area of site contains a protected water body.	☐	☐	☐ Yes ☒ No
• Dredging more than 100 cubic yards of material from channel of a protected stream.	☐	☐	☐ Yes ☒ No
• Extension of utility distribution facilities through a protected water body.	☐	☐	☐ Yes ☒ No
• Construction in a designated freshwater or tidal wetland.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

4. Will Proposed Action affect any non-protected existing or new body of water?
☒ NO ☐ YES

Examples that would apply to column 2			
• A 10% increase or decrease in the surface area of any body of water or more than a 10 acre increase or decrease.	☐	☐	☐ Yes ☒ No
• Construction of a body of water that exceeds 10 acres of surface area.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
5. Will Proposed Action affect surface or groundwater quality or quantity? ☒ NO ☐ YES			
Examples that would apply to column 2 • Proposed Action will require a discharge permit.	☐	☐	☐ Yes ☒ No
• Proposed Action requires use of a source of water that does not have approval to serve proposed (project) action.	☐	☐	☐ Yes ☒ No
• Proposed Action requires water supply from wells with greater than 45 gallons per minute pumping capacity.	☐	☐	☐ Yes ☒ No
• Construction or operation causing any contamination of a water supply system.	☐	☐	☐ Yes ☒ No
• Proposed Action will adversely affect groundwater.	☐	☐	☐ Yes ☒ No
• Liquid effluent will be conveyed off the site to facilities which presently do not exist or have inadequate capacity.	☐	☐	☐ Yes ☒ No
• Proposed Action would use water in excess of 20,000 gallons per day.	☐	☐	☐ Yes ☒ No
• Proposed Action will likely cause siltation or other discharge into an existing body of water to the extent that there will be an obvious visual contrast to natural conditions.	☐	☐	☐ Yes ☒ No
• Proposed Action will require the storage of petroleum or chemical products greater than 1,100 gallons.	☐	☐	☐ Yes ☒ No
• Proposed Action will allow residential uses in areas without water and/or sewer services.	☐	☐	☐ Yes ☒ No
• Proposed Action locates commercial and/or industrial uses which may require new or expansion of existing waste treatment and/or storage facilities.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change

6. Will Proposed Action alter drainage flow or patterns, or surface water runoff?
☒ NO ☐ YES

Examples that would apply to column 2

• Proposed Action would change flood water flows	☐	☐	☐ Yes ☒ No
• Proposed Action may cause substantial erosion.	☐	☐	☐ Yes ☒ No
• Proposed Action is incompatible with existing drainage patterns.	☐	☐	☐ Yes ☒ No
• Proposed Action will allow development in a designated floodway.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

IMPACT ON AIR

7. Will Proposed Action affect air quality?
☒ NO ☐ YES

Examples that would apply to column 2

• Proposed Action will induce 1,000 or more vehicle trips in any given hour.	☐	☐	☐ Yes ☒ No
• Proposed Action will result in the incineration of more than 1 ton of refuse per hour.	☐	☐	☐ Yes ☒ No
• Emission rate of total contaminants will exceed 5 lbs. per hour or a heat source producing more than 10 million BTU's per hour.	☐	☐	☐ Yes ☒ No
• Proposed Action will allow an increase in the amount of land committed to industrial use.	☐	☐	☐ Yes ☒ No
• Proposed Action will allow an increase in the density of industrial development within existing industrial areas.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

IMPACT ON PLANTS AND ANIMALS

8. Will Proposed Action affect any threatened or endangered species?
☒ NO ☐ YES

Examples that would apply to column 2

• Reduction of one or more species listed on the New York or Federal list, using the site, over or near the site, or found on the site.	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Removal of any portion of a critical or significant wildlife habitat.	☐	☐	☐ Yes ■ No
• Application of pesticide or herbicide more than twice a year, other than for agricultural purposes.	☐	☐	☐ Yes ■ No
• Other impacts:	☐	☐	☐ Yes ■ No

9. Will Proposed Action substantially affect non-threatened or non-endangered species?
■ NO ☐ YES

Examples that would apply to column 2

• Proposed Action would substantially interfere with any resident or migratory fish, shellfish or wildlife species.	☐	☐	☐ Yes ■ No
• Proposed Action requires the removal of more than 10 acres of mature forest (over 100 years of age) or other locally important vegetation.	☐	☐	☐ Yes ■ No
• Other impacts:	☐	☐	☐ Yes ■ No

IMPACT ON AGRICULTURAL LAND RESOURCES

10. Will Proposed Action affect agricultural land resources?
■ NO ☐ YES

Examples that would apply to column 2

• The Proposed Action would sever, cross or limit access to agricultural land (includes cropland, hayfields, pasture, vineyard, orchard, etc.)	☐	☐	☐ Yes ■ No
• Construction activity would excavate or compact the soil profile of agricultural land.	☐	☐	☐ Yes ■ No
• The Proposed Action would irreversibly convert more than 10 acres of agricultural land or, if located in an Agricultural District, more than 2.5 acres of agricultural land.	☐	☐	☐ Yes ■ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• The Proposed Action would disrupt or prevent installation of agricultural land management systems (e.g., subsurface drain lines, outlet ditches, strip cropping); or create a need for such measures (e.g. cause a farm field to drain poorly due to increased runoff).	☐	☐	☐ Yes ■ No
• Other impacts:	☐	☐	☐ Yes ■ No

IMPACT ON AESTHETIC RESOURCES

11. Will Proposed Action affect aesthetic resources? (If necessary, use the Visual EAF Addendum in Section 617.20, Appendix B.)
■ NO ☐ YES

Examples that would apply to column 2			
• Proposed land uses, or project components obviously different from or in sharp contrast to current surrounding land use patterns, whether man-made or natural.	☐	☐	☐ Yes ■ No
• Proposed land uses, or project components visible to users of aesthetic resources which will eliminate or significantly reduce their enjoyment of the aesthetic qualities of that resource.	☐	☐	☐ Yes ■ No
• Project components that will result in the elimination or significant screening of scenic views known to be important to the area.	☐	☐	☐ Yes ■ No
• Other impacts:	☐	☐	☐ Yes ■ No

IMPACT ON HISTORIC AND ARCHAEOLOGICAL RESOURCES

12. Will Proposed Action impact any site or structure of historic, prehistoric or paleontological importance?
■ NO ☐ YES

Examples that would apply to column 2			
• Proposed Action occurring wholly or partially within or substantially contiguous to any facility or site listed on the State or National Register of historic places.	☐	☐	☐ Yes ■ No
• Any impact to an archaeological site or fossil bed located within the project site.	☐	☐	☐ Yes ■ No
• Proposed Action will occur in an area designated as sensitive for archaeological sites on the NYS Site Inventory.	☐	☐	☐ Yes ■ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Other impacts:	☐	☐	☐ Yes ☒ No

IMPACT ON OPEN SPACE AND RECREATION

13. Will proposed Action affect the quantity or quality of existing or future open spaces or recreational opportunities?
☒ NO ☐ YES

Examples that would apply to column 2			
• The permanent foreclosure of a future recreational opportunity.	☐	☐	☐ Yes ☒ No
• A major reduction of an open space important to the community.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

IMPACT ON CRITICAL ENVIRONMENTAL AREAS

14. Will Proposed Action impact the exceptional or unique characteristics of a critical environmental area (CEA) established pursuant to subdivision 6NYCRR 617.14(g)?
☒ NO ☐ YES

List the environmental characteristics that caused the designation of the CEA.

Examples that would apply to column 2			
• Proposed Action to locate within the CEA?	☐	☐	☐ Yes ☒ No
• Proposed Action will result in a reduction in the quantity of the resource?	☐	☐	☐ Yes ☒ No
• Proposed Action will result in a reduction in the quality of the resource?	☐	☐	☐ Yes ☒ No
• Proposed Action will impact the use, function or enjoyment of the resource?	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change

IMPACT ON TRANSPORTATION

15. Will there be an effect to existing transportation systems?
☒ NO ☐ YES

Examples that would apply to column 2

• Alteration of present patterns of movement of people and/or goods.	☐	☐	☐ Yes	☒ No
• Proposed Action will result in major traffic problems.	☐	☐	☐ Yes	☒ No
• Other impacts:	☐	☐	☐ Yes	☒ No

IMPACT ON ENERGY

16. Will Proposed Action affect the community's sources of fuel or energy supply?

☒ NO ☐ YES

Examples that would apply to column 2

• Proposed Action will cause a greater than 5% increase in the use of any form of energy in the municipality.	☐	☐	☐ Yes	☒ No
• Proposed Action will require the creation or extension of an energy transmission or supply system to serve more than 50 single or two family residences or to serve a major commercial or industrial use.	☐	☐	☐ Yes	☒ No
• Other impacts:	☐	☐	☐ Yes	☒ No

NOISE AND ODOR IMPACT

17. Will there be objectionable odors, noise, or vibration as a result of the Proposed Action?

☒ NO ☐ YES

Examples that would apply to column 2

• Blasting within 1,500 feet of a hospital, school or other sensitive facility.	☐	☐	☐ Yes	☒ No
• Odors will occur routinely (more than one hour per day).	☐	☐	☐ Yes	☒ No
• Proposed Action will produce operating noise exceeding the local ambient noise levels for noise outside of structures.	☐	☐	☐ Yes	☒ No
• Proposed Action will remove natural barriers that would act as a noise screen.	☐	☐	☐ Yes	☒ No
• Other impacts:	☐	☐	☐ Yes	☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change

IMPACT ON PUBLIC HEALTH

18. Will Proposed Action affect public health and safety?
☒ NO ☐ YES

• Proposed Action may cause a risk of explosion or release of hazardous substances (i.e. oil, pesticides, chemicals, radiation, etc.) in the event of accident or upset conditions, or there may be a chronic low level discharge or emission.	☐	☐	☐ Yes ☒ No
• Proposed Action may result in the burial of "hazardous wastes" in any form (i.e. toxic, poisonous, highly reactive, radioactive, irritating, infectious, etc.)	☐	☐	☐ Yes ☒ No
• Storage facilities for one million or more gallons of liquefied natural gas or other flammable liquids.	☐	☐	☐ Yes ☒ No
• Proposed Action may result in the excavation or other disturbance within 2,000 feet of a site used for the disposal of solid or hazardous waste.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

IMPACT ON GROWTH AND CHARACTER OF COMMUNITY OR NEIGHBORHOOD

19. Will Proposed Action affect the character of the existing community?
☒ NO ☐ YES

Examples that would apply to column 2

• The permanent population of the city, town or village in which the project is located is likely to grow by more than 5%.	☐	☐	☐ Yes ☒ No
• The municipal budget for capital expenditures or operating services will increase by more than 5% per year as a result of this project.	☐	☐	☐ Yes ☒ No
• Proposed Action will conflict with officially adopted plans or goals.	☐	☐	☐ Yes ☒ No
• Proposed Action will cause a change in the density of land use.	☐	☐	☐ Yes ☒ No
• Proposed Action will replace or eliminate existing facilities, structures or areas of historic importance to the community.	☐	☐	☐ Yes ☒ No
• Development will create a demand for additional community services (e.g. schools, police and fire, etc.)	☐	☐	☐ Yes ☒ No

	1 Small to Moderate Impact	2 Potential Large Impact	3 Can Impact Be Mitigated by Project Change
• Proposed Action will set an important precedent for future projects.	☐	☐	☐ Yes ☒ No
• Proposed Action will create or eliminate employment.	☐	☐	☐ Yes ☒ No
• Other impacts:	☐	☐	☐ Yes ☒ No

20. Is there, or is there likely to be, public controversy related to potential adverse environment impacts?
☒ NO ☐ YES

If Any Action in Part 2 Is Identified as a Potential Large Impact or If you Cannot Determine the Magnitude of Impact, Proceed to Part 3

Part 3 - EVALUATION OF THE IMPORTANCE OF IMPACTS

Responsibility of Lead Agency

Part 3 must be prepared if one or more impact(s) is considered to be potentially large, even if the impact(s) may be mitigated.

Instructions (If you need more space, attach additional sheets)

Discuss the following for each impact identified in Column 2 of Part 2:

1. Briefly describe the impact.
2. Describe (if applicable) how the impact could be mitigated or reduced to a small to moderate impact by project change(s).
3. Based on the information available, decide if it is reasonable to conclude that this impact is **important**.

   To answer the question of importance, consider:

   - The probability of the impact occurring
   - The duration of the impact
   - Its irreversibility, including permanently lost resources of value
   - Whether the impact can or will be controlled
   - The regional consequence of the impact
   - Its potential divergence from local needs and goals
   - Whether known objections to the project relate to this impact.

Reset

RESOLUTION NO.: 133 - 2012

OF

AUGUST 13, 2012

RESOLUTION AMENDING RESOLUTION NO: 238-2011,
THE 2012 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER $53,280.00 FROM POLICE SALARY TO POLICE OVERTIME
TO PROVIDE FOR POLICE OVERTIME OVERAGE

BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended as follows:

	Decrease	Increase
A.3120 Police Department 0101 Salary	$53,280.00	
A.3120 Police Department 0103 Overtime		$53,280.00

RESOLUTION NO.: 134 - 2012

OF

AUGUST 13, 2012

A RESOLUTION TO AUTHORIZE THE AWARD OF A BID AND THE EXECUTION OF A CONTRACT WITH PEAK POWER SYSTEMS, INC. FOR TO MANUFACTURE A BACK UP GENERATOR FOR THE WASTE WATER TREATMENT PLANT AT A BASE BID COST OF $131,599.00

WHEREAS, the City of Newburgh has duly advertised for bids for the Waste Water Treatment Plant back-up generator; and

WHEREAS, bids have been duly received and opened and Peak Power Systems, Inc., is the low bidder; and

WHEREAS, funding for such project shall be derived from HG1.8130.0200.8100;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the Waste Water Treatment Plant back-up generator be and it hereby is awarded to Peak Power Systems, Inc., for the base bid amount of $131,599.00, and that the City Manager be and he is hereby authorized to enter into a contract for such work in this amount.

RESOLUTION NO.: 135 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH TAM ENTERPRISES, INC. AND AMENDING RESOLUTION NO: 238-2011, THE 2012 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK FOR THE SOUTH INTERCEPTOR SEWER MAIN REPAIR

WHEREAS, the South Interceptor Trunk Sewer conveys sewer flows from the City of Newburgh's Combined Sewer System to the City's Waste Water Treatment Facility; and

WHEREAS, the sewer flows transmitted via this pipe constitute approximately sixty (60%) percent of the City's daily sewer flows; and

WHEREAS, approximately 120 linear feet of 52" brick sewer main completely collapsed allowing the discharge of raw sewage to the adjacent Quassaick Creek; and

WHEREAS, the discharge of raw sewage waste is a threat to the health and safety of the City's residents as well as an environmental threat to the Hudson River;

WHEREAS, these discharges could subject the City to violations of its New York State SPDES Permit which regulates the treatment and discharge of the City's sanitary and storm waste; and

WHEREAS, City Charter Section C5.12, entitled "Public emergencies," provides in sum that "In case of public emergency such as conflagration, riot, storm,...the City Manager shall also have the power to summon, deputize and otherwise employ such other persons as he may deem necessary for the purpose of rendering protection to the citizens and the City of Newburgh..."; and

WHEREAS, TAM Enterprises, Inc. has preformed the necessary work to repair the South Interceptor Sewer Main;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby declares that the raw sewage discharge creates an emergency condition under Section 103(4) of the New York State General Municipal Law; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to execute a contract with a TAM Enterprises, Inc. for the South Interceptor Sewer Repair in an amount not to exceed $850,000.00 which currently threatens the health and safety of the City's residents; and

BE IT FURTHER RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No: 238-2011, the 2012 Budget of the City of Newburgh, is hereby amended as follows:

	Decrease	Increase
Sewer Fund		
Fund Balance		
G.0000.0911	$850,000.00	
Sewer Fund		
Equipment/Infrastructure		
G.8120.0200		$850,000.00

RESOLUTION NO.: 136 - 2012

OF

AUGUST 13, 2012

5-C

A RESOLUTION SUPPORTING THE PURSUIT OF INTERMUNICIPAL AGREEMENTS FOR THE DESIGN AND CONSTRUCTION OF INFRASTRUCTURE

WHEREAS, by Resolution No. 263-2010 of November 22, 2012, the City Council of the City of Newburgh authorized participation in a joint grant application with the Orange County Water Authority and the Towns Newburgh and New Windsor seeking funding for a regional water project and declared its intention to enter into inter-municipal agreements in connection with the project;

WHEREA, Article 5-G of the General Municipal Law authorizes municipal corporations to enter into agreements for the performance among themselves on a cooperative or contract basis for the provision of joint services, including, but not limited to, joint water projects and any other municipal service, activity, project or undertaking; and

WHEREAS, the New York City Department of Environmental Protection (NYCDEP), the County of Orange, the Orange County Water Authority (OCWA), the City of Newburgh, the Town of Newburgh, and, the Town of New Windsor, (the "Municipalities") have an interest in water interconnections; and

WHEREAS, the municipalities recognize and appreciate the need to develop a safe, reliable and adequate water supply to serve the inhabitants of the Northeast Orange County region now and for the foreseeable future; and

WHEREAS, the Municipalities through their technical meetings have identified the priority water interconnection projects as:

1. Installation of approximately 7500 linear feet of water main from the City of Newburgh's Water Treatment Plant (WTP) to the Town of Newburgh's distribution system;

2. Installation of approximately 5600 linear feet of water main from the City of Newburgh's WTP to the Town of New Windsor's distribution system;

3. The construction of a pump station or stations necessary to supply said interconnections;

4. An evaluation of the City of Newburgh's water treatment plant's associated operating costs that will result from the implementation of the priority interconnection projects; and

WHEREAS, the OCWA has secured a grant from the State of New York to implement the priority projects; and

WHEREAS, the County of Orange is negotiating with the NYCDEP to enter into an Intergovernmental Agreement to provide the funds to design and build the priority projects;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby:

1. Supports the implementation of the grant procured by the OCWA and authorizes the City Manager to identify a representative who will attend project working group meetings, as well as share data, documents, and drawings with the consultants implementing the grant, and

2. Will work with the other Municipalities to enter inter-municipal agreements detailing the price, terms and conditions of water sharing by December 31, 2012, and

3. Supports the efforts of the County of Orange in advancing the design of the priority interconnection projects and securing funds from the NYCDEP to design and build the priority projects.

RESOLUTION NO.: 137 - 2011

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT $100,000.00 FROM THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT TO FUND THE SALARY AND BENEFITS OF ONE POLICE OFFICER TO BE HIRED TO BACKFILL POLICE DEPARTMENT PERSONNEL CURRENTLY SERVING IN THE CITY'S SECONDARY SCHOOL AS A COMMUNITY RESOURCE OFFICER

WHEREAS, the City of Newburgh and the Board of Education of the Newburgh Enlarged City School District ("NECSD") have agreed to establish the position of Community Resource Officer ("CRO") to be filled by a police officer from the City of Newburgh Police Department at Newburgh Free Academy; and

WHEREAS, the NECSD has offered to reimburse the City for this CRO at the rate of $100,000.00 so as to continue to have the CRO stationed at Newburgh Free Academy within the City of Newburgh; and

WHEREAS, this Council has determined that accepting such funds is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept funds from the NECSD in the amount of $100,000.00 Dollars for the assignment of a City of Newburgh Police Officer as CRO in the NECSD.

COMMUNITY RESOURCE OFFICER AGREEMENT

AGREEMENT MADE THIS _____ DAY OF_____, 2012 by and between the Board of Education of the Newburgh Enlarged City School District, having its principal place of business at 124 Grand Street, Newburgh, New York 12550 (hereinafter "the Board of Education") and The City of Newburgh having its principal place of business at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as "the City").

WHEREAS, the City and the Board of Education agree to establish the position of Community Resource Officer (hereinafter "CRO"), to be filled by a police officer from the City of Newburgh Police Department, at the Newburgh Free Academy; and

WHEREAS, the School Board has agreed that they will reimburse the City for its expense in participating in the CRO Program in the amount of One Hundred Thousand ($100,000.00) Dollars for the period of September 1, 2012 through August 31, 2013 school year and, the City of Newburgh Police Department will assign one officer, at the school specified above, each day that school is open for the hours of 7:30 a.m. - 3:30 p.m. during the school year and during the summer months on such days and times that summer school or the extended year program is being held in the buildings, on the terms and conditions set forth herein;

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. The School Board and the City of Newburgh by and through the City of Newburgh Police Department have established the following goals and objectives with regard to the CRO Program in the Schools: (a) to maintain a safe campus environment that will be conducive to learning, (b) to create a relationship based upon cooperation and mutual support between law enforcement and school officials; (c) to improve relationships between law enforcement, school, community and the youth of the school; (d) for Police Department officers and command to serve as consultants to school staff, parents, and youth on safety matters and any other matters which will provide a better environment for the students and the teachers in which to pursue their respective tasks; (e) for police officers to serve as role models to students; (f) to provide a continuum of youth services between the school and the community with the support of the Police Department and other City staff and agencies.

2. The City agrees that with the City of Newburgh Police Department shall provide one officer as CROs during the term of this agreement. The CROs shall be subject to the administration, supervision and control of the City of Newburgh Police Department at all times as well as the School Board's policies, regulations and procedures when performing functions at the District's schools; unless otherwise provided in this agreement.

3. The officers assigned as the CROs' will be selected by the Chief of Police based upon the Police Chief's judgment and discretion, taking into consideration among other criteria the officer's training, qualifications, experience, interest in the position and the officer's ability to effectuate the goals and objectives set forth in paragraph 1.

4. The Board of Education shall have the right to request the removal of any CRO and have an officer substituted in his or her place by communicating such request to the Chief of Police at any time during the school year, which request will not be unreasonably denied.

5. The City of Newburgh agrees to provide and pay the CROs' salaries and employment benefits in accordance with the current Newburgh PBA contract.

6. It is understood and agreed that the City of Newburgh Police Department, in its sole discretion, shall have the authority to discharge and discipline an officer assigned as a CRO as provided under the terms of any agreement between the City of Newburgh and the applicable collective bargaining unit, and/or by law. The City shall indemnify and hold harmless the Newburgh Enlarged City School District from any claims, suits, or causes of action arising out of allegations of unfair or unlawful employment practice brought by an officer assigned as a CRO.

7. The following named police officer shall be initially assigned by the Chief of Police of the City of Newburgh Police Department to act as CRO's as follows:

Newburgh Free Academy – Officer Thomas Gleeson

It is understood that such assignments may be changed by the Chief of Police or other commanding officers as in their judgment circumstances may require.

8. It is understood and agreed that the Board of Education shall not be responsible for any overtime pay earned by an Officer serving as a CRO in connection with his or her duties as a CRO and that the cost of same shall be borne solely by the City of Newburgh. The entire extent of the obligation of the School District to compensate the City for CRO services as provided herein shall be as provided hereinabove.

9. It is understood and agreed that, should a CRO be unable to perform his or her duties as a result of illness or injury or other reason causing the CRO to be absent from work, the City of Newburgh Police Department shall assign another officer to fill the CRO position at the affected building on each such day.

10. It is understood and agreed that the CROs to be appointed by the City of Newburgh Police Department shall have the following qualifications:

(a) The CRO shall be a full time police officer with a minimum of two (2) years of law enforcement experience;

(b) The CRO shall possess sufficient knowledge of applicable Federal, State and County laws and Town ordinances as well as the School Board's policies and regulations;

(c) The CRO shall be capable of conducting in depth criminal investigations;

(d) The CRO shall possess an even temperament and set a good example for students;

(e) The CRO shall possess good communication skills, which would enable the CRO to function effectively within the school environment.

11. The following are the duties of the CRO:

(a) Consult with and coordinate activities as requested by a school principal;

(b) Abide by School Board policies to the extent that such compliance does not interfere with or impede the CRO in the performance of his or her duties as a law enforcement officer;

(c) The CRO shall develop an expertise in presenting various subjects; including in meeting Federal and State mandates in drug abuse prevention education and shall provide these presentations at the request of school personnel in accordance with the established curriculum;

(d) Encourage group discussions about law enforcement with students, faculty and parents;

(e) Under no circumstances shall a CRO be a school disciplinarian. The CRO will not be involved in the enforcement of disciplinary infractions that do not constitute violations of law;

(f) Attend meetings with parents and faculty groups to solicit their support and understanding of the CRO school program and to promote awareness of law enforcement functions;

(g) Where possible, serve as a member of the school student services committee, familiarizing students with all community agencies which offer assistance to youths and their families such as mental health clinics, drug treatment centers, etc. Where necessary, the CRO may make recommendations for referrals;

(h) To confer with the principal of the school to which the CRO is assigned to develop plans and strategies to prevent and/or minimize dangerous situations on or near campus or involving students at school related activities;

(i) Perform such duties as determined and requested by a given school principal. However, such duties shall not include things normally assigned to school personnel such as lunchroom or hall duty. Nothing herein shall preclude the CRO from being available in areas where interaction with students is expected;

(j) The CRO shall familiarize himself/herself with and shall abide by School Board policy and applicable law concerning interviews with students should it become necessary to conduct formal law enforcement interviews with students or staff on school property or at school functions under the jurisdiction of the School Board insofar as same shall be in harmony with standard police practices and standing general orders;

(k) Initiate law enforcement action as necessary and notify the school principal as soon as possible, and, whenever practicable advise the principal before requesting additional law enforcement assistance on campus and undertake all additional law enforcement responsibilities as required by standard police practices and standing general orders;

(l) The CRO shall act as a liaison for other law enforcement officers in matters regarding School Board policies while on school grounds;

(m) The CRO shall affirm the role of law enforcement officer by wearing the City of Newburgh Police uniform, unless doing so would be inappropriate for scheduled school activities. The uniform shall be worn at events where it will enhance the image of the CRO and his/her ability to perform his/her duties;

(n) The CRO shall patrol and maintain a safe corridor within the ½ mile radius directly surrounding the school to which he or she is assigned, including, but not limited to, other school buildings within that radius. The CRO shall be dispatched, as available, to calls for service emanating from within such a radius related to juvenile criminal activity.

12. It is understood and agreed that while the CRO will be stationed at one of the schools within the School Board's jurisdiction, the CRO shall remain an employee of the City of Newburgh Police Department, adhering to all policies and procedures of the Police Department.

13. The CRO shall report to the Main Office at the start of each work day and shall sign in on a log provided by the school. The CRO shall sign out at the end of each work day using the same log.

14. It is understood and agreed that the CRO in pursuing the performance of his/her duties shall coordinate and communicate with the school principal or the principal's designee.

15. The City of Newburgh Police Department shall provide the appropriate in-service training for the CRO, to enable the CRO to function efficiently. The School Board may also provide training in school policies, regulations and procedures, or additional training in other matters relating to students and their safety.

16. The City of Newburgh Police Department shall provide a standard marked patrol vehicle for the CRO, which vehicle shall be maintained by the City of Newburgh Police Department, providing among other things, fuel, tires, etc. and all expenses associated with the operation of the vehicle including insurance. The Police Department will also provide the CRO with a service weapon and ammunition and the usual and customary office supplies and forms required in the performance of the CRO's duties as a police officer. The CRO is authorized to carry a service weapon on school grounds.

17. Should the CRO program continue into future school years, it is understood and agreed that the School District shall evaluate annually the CRO Program and the performance of the CRO on forms to be developed jointly by the parties to this Agreement. Such evaluation by the School Board and the City of Newburgh Police Department shall be performed in order to evaluate the performance of the CRO in accordance with the Department rules and regulations and also to ascertain what may be done to improve the CRO Program.

18. The City agrees to maintain at all times during the term of this Agreement a general comprehensive liability insurance policy for a minimum of a $1,000,000 and agrees to indemnify and hold harmless the School Board and the Newburgh City School District, its agents and employees from and against any and all claims, suits or causes of actions arising from the City of Newburgh and City of Newburgh Police Department from any injuries or losses occasioned to the CRO by the negligence of the City.

19. The School Board agrees to compensate the City for services rendered in connection with the CRO Program, in the amount of $100,000.00. Such compensation shall be paid by the School Board to the City of Newburgh monthly.

20. The terms of this agreement are for the period commencing with the provision of such services and ending on the 31st day of August, 2013.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above-written:

BOARD OF EDUCATION OF THE NEWBURGH ENLARGED CITY SCHOOL DISTRICT

_____

DAWN M. FUCHECK
BOARD OF EDUCATION PRESIDENT

THE CITY OF NEWBURGH

_____

RICHARD F. HERBEK
CITY MANAGER
CITY OF NEWBURGH

APPROVED AS TO FORM:

_____

MICHELLE KELSON
Corporation Counsel

_____

CHERYL GROSS
City Comptroller

RESOLUTION NO.: 138 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN
THE CITY OF NEWBURGH AND WRIGHT RISK MANAGEMENT COMPANY LLC
TO PERFORM WORKERS' COMPENSATION CLAIMS RUNOFF SERVICES

WHEREAS, the City of Newburgh wishes to enter into the annexed agreement with Wright Risk Management Company LLC; and

WHEREAS, the agreement is for providing for the Plan Manager, Wright Risk Management, to provide workers' compensation claims runoff management services for the period of January 1, 2012 to December 31, 2012; and

WHEREAS, Wright Risk Management will perform workers' compensation claims runoff services for City claims that arose prior to March 1, 2008, when the City joined the New York State Municipal Workers' Compensation Alliance; and

WHEREAS, the rate for these services is $500.00 per Claim per year or portion thereof; and

WHEREAS, this Council has determined that entering into this agreement 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 enter into the agreement with Wright Risk Management Company LLC, in substantially the same form as annexed hereto with any other provision that Counsel may require, for providing workers' compensation claims runoff management services.

CLAIMS RUNOFF MANAGEMENT AGREEMENT (this "**Runoff Agreement**") dated January 1, 2012 ("**Effective Date**") between the City of Newburgh, a municipality with its primary address at City Hall, 83 Broadway, Newburgh, NY 12550 ("**Member**"), and Wright Risk Management Company, LLC, a Delaware limited liability company with its principal place of business at 333 Earle Ovington Boulevard, Suite 505, Uniondale, NY 11553-3624 ("**Plan Manager**").

RECITALS

WHEREAS, on March 1, 2008 ("**Membership Date**"), Member became a member of the New York State Municipal Workers' Compensation Alliance (the "**Plan**"), a cooperative workers' compensation plan for member municipalities (the "**Members**"), with a principal location at c/o Association of Towns of the State of New York, 146 State Street, Albany, NY 12207; and

WHEREAS, the Plan has retained the program management and other professional services of the Plan Manager pursuant to a management agreement ("**Management Agreement**"); and

WHEREAS, the Member has incurred certain workers' compensation and employer's liability claims prior to the Membership Date ("**the Claims**"), and desires that the Plan Manager manage the Claims.

NOW, THEREFORE, the Member hereby engages the services of the Plan Manager, and in consideration of the mutual promises herein contained, the parties agree as follows:

I. TERM.

This Runoff Agreement shall be effective commencing on the Effective Date set forth above, and shall continue in effect until the earlier of:

A. December 31, 2012;

B. the date the Member withdraws or is terminated as a member of the Plan; or

C. the date this Runoff Agreement is terminated pursuant to Section VI.

II. CLAIM MANAGEMENT SERVICES.

A. During the term of this Runoff Agreement, the Plan Manager will provide claims management services for the Claims, contingent upon the Member remaining a member of the Plan. Notwithstanding, the services provided and the Claims managed under this Runoff Agreement are separate from the services provided and the claims managed by the Plan Manager for the Plan under the Management Agreement. Except for the Member, the Plan and its Members shall have no liability arising from this Runoff Agreement or any of the Claims. The Member shall pay all amounts, fees, and expenses relating to the Claims, using funds established by the Member to finance its workers' compensation obligations (the "**Self-Insured Fund**").

B. In cooperation with Member, the Plan Manager will design and implement the internal claims reporting system for Member to report Claims that have not yet been reported. The Plan Manager will cooperate with the Member to accomplish the transfer of the Claims that have already been reported; provided that, the Plan Manager shall have no responsibility for managing the Claims until all information relating to the Claims has been received by the Plan Manager. This paragraph shall only apply in the first year that the Plan Manager is handling the Claims.

C. Once a Claim is reported or transferred to the Plan Manager, the Plan Manager will review the Claim to determine if investigation is needed to determine the compensability and extent of the injury claimed. If investigation is necessary, the Plan Manager will perform such investigation immediately and thoroughly. If any third party investigation services are necessary, such as surveillance, review of accident locations, or taking signed statements, the Plan Manager will arrange for such services, and the fees and expenses for such services shall be allocated loss adjustment expense that will be charged against the Self-Insured Fund.

D. If it is determined that a Claim is compensable, the Plan Manager will file all forms required by the Workers' Compensation Board (**"WCB"**) and direct the Member to make payments in accordance with statutory requirements and mandated fee schedules. The Member is responsible for providing any information necessary to complete all forms.

E. If it is determined that a Claim is not compensable, or if the injury is not of the nature or extent claimed by the employee, the Claim will be controverted and the file prepared for argument before WCB. The Plan Manager will provide for appearance by an experienced workers' compensation attorney on all cases in which hearings are held before WCB. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

F. The Plan Manager shall pursue subrogation whenever it is reasonably anticipated that the Member may be reimbursed for payments made. The costs of retaining third party services to assist in pursuing subrogation, where necessary and appropriate, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

G. The Plan Manager will provide supervisory services for the Claims during the term of this Runoff Agreement. These supervisory services will include claims adjustment services, general monitoring of medical treatment in order to ensure appropriate treatment and minimize medical costs, and coordinating audit of all medical bills received for legitimate workers' compensation claims to confirm causal relationship and that the amount approved for payment conforms to the prescribed New York State Workers' Compensation Fee Schedules. These supervisory services will not include telephonic or field case management, or other managed care services, which will be arranged and coordinated, as necessary, by the Plan Manager. The costs of telephonic or field case management, or other managed care services shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

H. As appropriate, the Plan Manager will obtain independent medical opinions, using a WCB-registered referral service, to advise the Member as to the appropriateness of medical treatment being received by, and the degree of disability of, the injured employee. The Plan Manager will consult with treating physicians, medical consultants, and other medical professionals to assist in instituting rehabilitative efforts to achieve an injured employee's return to work at the earliest possible time. The referral service and medical consultants' fees shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

I. The Plan Manager will implement a payment procedure for lost time benefits, medical bills, and expense payments. This procedure will be developed with Member personnel to ensure timely and appropriate payment. The Plan Manager will prepare payment documentation, including payment authorizations and copies of bills, and forward such documentation to the Member. The Member shall be responsible for printing, signing, and distributing checks in compliance with the Plan Manager's instructions.

J. The Plan Manager will review any reported employers' liability Claims that arise, and advise regarding coverage, defense, and indemnification of such Claims. As necessary, the Plan Manager will arrange for the retention of counsel to represent the Member on employers' liability Claims. Attorney fees, the cost of appeals, and other litigation expenses, if any, shall be allocated loss adjustment expenses that will be charged against the Self-Insured Fund.

K. The Plan Manager will track medical services subject to the Department of Health (**"DOH"**) surcharges mandated by Public Health Law Section 2807, direct payment of applicable surcharges, and file all necessary forms with DOH on a monthly or as needed basis. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides medical reports, hospital bills, access to the DOH website, and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.

L. In April of each year, the Plan Manager will review, complete, and return the Assessment Base Factor report required by WCB to determine the amount of assessments levied against self-insured employers in New York. In order to complete this report, the Plan Manager will verify the indemnity payments made from April 1 of the prior year to March 31 of the current year, consistent with WCB's fiscal year. The Plan Manager will also review all lost time Claims to determine if a Section 15-8 claim has or should be established, and will also ensure that any appropriate amounts are deducted from the report. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides a two-year check registry (including payment amounts, payees, and dates of service) and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.

M. The Plan Manager will review all Assessment Billing Notices for accuracy. If the Member becomes overpaid for a WCB fiscal year due to variations in lost time experience from year to year, the Plan Manager will verify that all future credits issued to the Member by WCB are properly issued and applied. In the first year of handling the Claims, the Plan Manager shall have no responsibility under this Section unless Member provides a two-year check registry (including payment amounts, payees, and dates of service) and other information relating to the Claims necessary to perform the Plan Manager's services under this Section.

N. The Plan Manager will provide cumulative quarterly loss runs encompassing all Claims. These loss runs will include the following information:

1. File number.
2. Date of Accident.
3. Name of injured employee/claimant.
4. Occupation.
5. Description of accident.
6. Type of injury/part of body.
7. Status of claim/class.
8. Incurred: medical/indemnity benefits.
9. Amount paid to date: medical/indemnity and expense payments.

O. The Plan Manager will ensure that the Member's open files are properly maintained and available for review and/or audit and will arrange for the storage of the Member's closed/inactive files. The Plan Manager may maintain and store files electronically in lieu of a physical file. Physical storage costs, if any, are an expense that will be charged against the Self-Insured Fund. The foregoing is subject to Section VII of this Agreement.

III. **FEE.**

The Plan Manager will invoice the Member for services under this Runoff Agreement at the rate set forth in the Addendum to this Agreement. The Member shall pay such management fee within thirty (30) days of receipt of the invoice.

IV. **SERVICE COMMITMENT.**

The Plan Manager shall devote such time to the performance of its duties under this Runoff Agreement as is reasonably necessary for the satisfactory performance of its duties under this Runoff Agreement.

V. **INDEMNIFICATION.**

A. The Plan Manager shall hold harmless and indemnify the Member against any loss, liability, damage, or expense, including reasonable attorneys' fees, caused by the willful misconduct, gross negligence, or negligence on the part of the Plan Manager or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Runoff Agreement. Notwithstanding the foregoing, the Member, not the Plan Manager, shall be liable for payment of compensable Claims.

B. The Member shall hold harmless and indemnify the Plan Manager against any loss, liability, damage, or expense, including reasonable attorneys' fees, caused by the willful misconduct, gross negligence, or negligence on the part of the Member or any of its employees or agents, which result from, or arise out of, a breach of any obligation in this Runoff Agreement.

VI. **TERMINATION.**

A. Either party may terminate this Runoff Agreement for the following reasons upon sixty (60) days written notice to the other party:

1. Fraud or criminal acts on the part of the other party or pattern of conduct of such other party which constitutes willful misconduct or gross negligence with respect to the performance of such other party's duties hereunder;

2. Substantial and continuing breach of this Runoff Agreement by the other party, provided, however, that the party seeking to terminate shall notify the other party of such breach, identifying such breach in full particulars, and the other party shall have thirty (30) days from receipt of such notice to cure the breach and, if such breach be cured within such period, such breach shall not be cause for termination; or

3. The Superintendent of Insurance shall issue a final order to terminate this Runoff Agreement, and the time for appealing such order shall have expired.

B. This Runoff Agreement shall terminate immediately without notice upon:

1. commencement by either party of any case, proceeding or other action: (a) under any existing or future law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate it a bankrupt or insolvent, or seeking reorganization, arrangement, adjustment,

winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (b) seeking appointment of a receiver, trustee, custodian, or other similar official for it or for all or any substantial part of its assets, or either party shall make a general assignment for the benefit of its creditors;

2. commencement against either party of any case, proceeding or other action of a nature referred to in Section VI.B.1 above which: (a) results in the entry of an order for relief or any such adjudication or appointment, or (b) remains undismissed, undischarged or unbonded for a period of sixty (60) days;

3. commencement against either party of any case, proceeding or other action seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of an order for any such relief which shall not have been vacated, discharged, stayed or bonded pending appeal within sixty (60) days from the entry thereof;

4. consent, approval, acquiescence, or any action by either party in furtherance of any of the acts set forth in Sections VI.B.1, 2, or 3 above; or

5. an inability by either party to pay its debts as they become due.

VII. PROPERTY RIGHTS, CONFIDENTIALITY, AND RECORD KEEPING.

A. The Member's Property.

All portions of the claim file, including WCB documents, claim reports, investigation reports, correspondence and claim data of the Member acquired and used by the Plan Manager in the performance of its duties hereunder ("**Member Property**") shall belong to and remain the sole property of the Member. Upon termination of this Runoff Agreement, the Plan Manager shall promptly return the Member Property to the Member or its designee. The Plan Manager will transfer such files in electronic form that can be produced by the Plan Manager's system without special modification and that will be readable by the Member. The Plan Manager shall keep all Member Property confidential, and shall not use, publish, discuss, disclose, or communicate Member Property to third parties, except as necessary to perform its obligations under this Runoff Agreement, and in accordance with this Runoff Agreement. This provision shall survive termination of this Runoff Agreement.

B. The Plan Manager's Property.

All Systems created by the Plan Manager in the performance of its duties and activities under this Runoff Agreement shall belong to and remain the property of the Plan Manager. **"Systems"** as used herein shall include data processing, databases, computer programs, computer equipment, formats, management protocols, operation documentation, and internal reports of the Plan Manager pertaining to the Member or the Claims. This includes Systems for the administration, accounting, underwriting, risk management, cost containment and safety programs and services, and management systems developed by the Plan Manager in connection with the performance of its services hereunder. This provision shall survive termination of this Runoff Agreement.

VIII. MISCELLANEOUS.

A. Independent Contractor.

The Plan Manager shall be an independent contractor and not an employee, agent, or servant of the Member. The Plan Manager's employees shall be considered the Plan Manager's employees for all purposes and Plan Manager alone shall be responsible for their work, personal conduct, direction, and compensation. The Member shall not be responsible for withholding taxes with respect to the Plan Manager's compensation and the Plan Manager shall be solely responsible to pay all applicable taxes from such compensation, including any compensation owed to its employees.

B. Entire Agreement.

This Runoff Agreement supersedes any and all other agreements either oral or in writing between the parties hereto relating to the Claims.

C. Assignment.

Neither this Runoff Agreement nor any duties or obligation hereunder shall be assignable by the Plan Manager without the prior written consent of the Member. In the event of an assignment by the Plan Manager to which the Member has consented, the assignee or his legal representative shall agree in writing with the Member to personally assume, perform, and be bound by the covenants, obligations and agreements contained herein.

D. Governing Law.

The laws of the State of New York shall govern the validity of this Runoff Agreement, any of its terms or provisions, and the rights and duties of the parties hereunder.

E. Amendment.

This Runoff Agreement may be amended by the mutual written agreement of the parties to be attached to and incorporated into this Runoff Agreement.

F. Legal Construction.

This Runoff Agreement was negotiated by sophisticated parties at arm's length and shall be construed as if drafted jointly by the parties. No presumption or burden of proof shall arise favoring or disfavoring any party by virtue of authorship of any of its provisions. Any waiver of any other term, condition, or provision of this Agreement will not constitute a waiver of any other term, condition, or provision, nor will a waiver of any breach of a term, condition, or provision constitute a waiver of any subsequent or succeeding breach.

G. Effect of Invalidity.

In case any one or more of the provisions contained in this Runoff Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision thereof and this Runoff Agreement shall be construed as if such invalid, illegal, or unenforceable provision has never been contained herein.

H. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given, if mailed by certified or registered mail, or by nationally recognized overnight carrier, return receipt requested, to the respective party at the addresses set forth below, on the date received or rejected:

If to the Member:

City of Newburgh
City Hall
83 Broadway
Newburgh, NY 12550
Attention: Comptroller

If to the Plan Manager:

Wright Risk Management Company, LLC
333 Earle Ovington Boulevard, Suite 505
Uniondale, NY 11553-3624
Attention: Office of General Counsel

or to such other person and address as either party may designate by notice to the other.

I. **Headings.**

The headings to the various sections of this Runoff Agreement have been inserted for convenience of reference only and shall not modify, define, limit, or expand the expressed provisions of this Runoff Agreement.

J. **Counterparts; Facsimiles.**

This Runoff Agreement may be executed: (1) in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same Runoff Agreement; and (2) by facsimile which shall be considered and constitute an original executed and delivered agreement.

IN WITNESS WHEREOF, the parties have caused this Runoff Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF NEWBURGH

By:_____
Name:
Title:

WRIGHT RISK MANAGEMENT COMPANY, LLC

By:_____
Name: Gerard P. Elicks
Title: President

ADDENDUM TO CLAIMS RUNOFF MANAGEMENT AGREEMENT (this **"Addendum"**), dated January 1, 2012 (**"Effective Date"**), between the City of Newburgh (the **"Member"**) and Wright Risk Management Company, LLC (the **"Plan Manager"**).

RECITALS

WHEREAS, the Member and the Plan Manager desire to enter into a claims runoff management agreement (**"Runoff Agreement"**), dated January 1, 2012, for the Plan Manager to provide workers' compensation claims runoff management services on the terms and conditions provided in that Agreement, as modified by this Addendum;

NOW, THEREFORE, the parties hereby agree to add and/or amend the following provisions of the Runoff Agreement, as if incorporated therein:

1. The Plan Manager will invoice the Member for services under the Runoff Agreement at the rate of $500 per Claim per year or portion thereof. The Member shall pay such management fee within thirty (30) days of receipt of an invoice.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

CITY OF NEWBURGH

By:_____
Name:
Title:

WRIGHT RISK MANAGEMENT COMPANY, LLC

By:_____
Name: Gerard P. Elicks
Title: President

RESOLUTION NO.: 139 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES
IN CONNECTION WITH THE CITY OF NEWBURGH
24th ANNUAL INTERNATIONAL FESTIVAL

WHEREAS, the City of Newburgh will hold its annual International Festival from Friday, August 31, 2012 through Monday, September 3, 2012, dates inclusive; and

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

WHEREAS, there is $10,000.00 available in the 2012 Festival Budget; and

WHEREAS, there is additional funding from proceeds from previous festivals available in a Trust and Agency Account; and

WHEREAS, such agreements shall not exceed the 2012 Festival Budget and the funds in the Trust and Agency Account;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into the referenced agreements in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the 24th Annual International Festival, with the net cost to the City of such agreements not to exceed the 2012 Festival Budget and the Trust and Agency Account proceeds.

RESOLUTION NO.: 140 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND TO ACCEPT IF AWARDED A GRANT IN AN AMOUNT NOT TO EXCEED ONE MILLION SIX HUNDRED THOUSAND DOLLARS FROM THE DEPARTMENT OF HOMELAND SECURITY UNDER THE STAFFING FOR ADEQUATE FIRE AND EMERGENCY RESPONSE PROGRAM ("SAFER") TO PROVIDE FUNDING TO HIRE FIFTEEN (15) FIREFIGHTERS IN THE CITY OF NEWBURGH FIRE DEPARTMENT WITH NO CITY MATCH REQUIRED

WHEREAS, the City of Newburgh Fire Department has expressed an interest in applying for funds available from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response ("SAFER") Program; and

WHEREAS, the Fire Department has proposed an application for said grant in an amount not to exceed One Million Six Hundred Thousand ($1,600,000.00) Dollars; and

WHEREAS, said grant does not require any funding match by the City of Newburgh; and

WHEREAS, said grant, if awarded, will support the well-being and safety of our community and enhance community protection from fire; and

WHEREAS, if awarded, such funding will be used to hire fifteen (15) firefighters within the City of Newburgh Fire Department for two years; and

WHEREAS, it is deemed to be in the best interests of the City of Newburgh and its citizens to apply for and accept such grant if awarded;

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 such documents and to take any necessary and appropriate actions to apply for and to accept if awarded a grant in an amount not to exceed One Million Six Hundred Thousand ($1,600,000.00) Dollars from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response ("SAFER") Program to provide funding to hire fifteen (15) firefighters in the City of Newburgh Fire Department with no City match required.

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2012, by and between:

THE CITY OF NEWBURGH, a municipal corporation having its principal place of business at 83 Broadway, City Hall, Newburgh, New York 12550, hereinafter called the "City"; and

_____, _____ hereinafter called "Licensee".

WITNESSETH, that the City and Licensee, for the consideration hereinafter named, agree as follows:

ARTICLE 1: Term.

This Agreement shall run from September 1, 2012 to August 31, 2014.

ARTICLE 2: Obligation of the City.

A. The City shall grant to the Licensee a revocable license to use the athletic fields, basketball courts and Activity Center located in the Delano-Hitch Recreation Park in the City of Newburgh for organization and administration of sports and recreational activities for the period of time set forth above pursuant to a written schedule to be submitted to and approved in writing by the City Manager or his designee and in accordance with all applicable rules and regulations for the use of the facilities.

B. The City shall provide field lighting and maintenance for players/participants for the organized activities in a location in the Delano-Hitch Recreation Park to be determined by the City. The City has sole authority to cancel or delay outdoor sports and/or other recreational activities due to inclement weather. The City will make reasonable attempt to notify Licensee of cancellation of such outdoor games, events or activities due to inclement weather within two (2) hours before game, activity or event is scheduled to begin.

C. The City shall have no obligation to provide personnel, uniforms, sports equipment or other supplies necessary for the sports, games and/or recreational activities organized by Licensee.

ARTICLE 3: Obligation of Licensee.

A. The Licensee shall organize and administer sports leagues, athletic games and other recreational activities at the licensed facilities. During the term of this Agreement, the Licensee shall provide the City Manager or his designee a written schedule of all sports, games, activities and other uses of the facility for each month at least 30 days in advance and failure to do so may result in City canceling any or all such sports, game(s), activities or uses. The Licensee shall provide the City with 48 hours notice to hold a rescheduled game or activity. All games and activities must

start on time except for weather delay as determined by the City. No game or activity may be scheduled to start before 8:00 a.m. or after 8:00 p.m.

B. The Licensee shall provide for all personnel, supplies and equipment necessary and proper for the sports leagues, athletic games or recreational activities as is required by their use of the licensed facilities.

C. The Licensee shall have a representative with authority over all activities present at all sports leagues, athletic games or other recreational activities at all times. The Licensee shall provide for the registration of participants and the collection of fees for all sports leagues, athletic games or other recreational activities conducted during the period of this agreement. Noise levels shall be kept at appropriate decibel levels so as not to disturb neighbors.

D. The Licensee shall, after each day of play, return the licensed facilities to the City on that same day to a clean condition free of all equipment, garbage and debris. All garbage generated shall be deposited in proper trash receptacle. The Licensee shall repair all damage incurred to the facilities during the exercise of the license at its own sole expense. Such repairs shall be performed immediately. Licensee agrees that if such damages are not promptly and completely repaired, Licensee shall remain liable for all consequences, direct and indirect, consequential and incidental, to the City resulting from the damages and from the unavailability of such facilities resulting therefrom.

E. The Licensee shall provide all necessary security and supervision of minors participating in sports leagues, athletic games, recreational activities or present as spectators during the period of this agreement. The Licensee shall be liable for any damage done to the premises by its officers, agents, servant, employees or invitees during the period of this Agreement.

F. Licensee agrees to meet with the City Manager or his designee upon the request of the City Manager during the term of this Agreement to review the Licensee's activities pursuant to its obligations under this Agreement.

G. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City Manager as soon thereafter as possible and not later than three (3) days after the date of such accident.

ARTICLE 4: Payment.

A. The Licensee shall pay to the City, as and for a fee for the use of the facilities during the period of this agreement, FIFTY (50%) PERCENT of the gross fees collected by Licensee in organizing, scheduling and administering the sports leagues, athletic games and other recreational activities. Payment shall be remitted to the City of Newburgh by the Licensee on the last calendar day of each month.

B. The Licensee shall maintain books and records to account for the collections of fees in connection with the organizing, scheduling and administering of the sports leagues, athletic games and recreational activities and shall make such books and records available for the City's review upon ten (10) days notice to review same.

C. It is expressly understood and agreed by the parties hereto that the Licensee is an independent contractor and not an employee of the City and that any persons employed, retained or engaged by the Licensee to perform the services authorized hereunder shall be employees of the Licensee and not of the City. The Licensee shall inform persons so employed, retained or engaged of these facts.

ARTICLE 5: Insurance.

A. The Licensee shall not commence any activities under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the City.

B. The Licensee shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the Licensor. Except for Workers' Compensation, the City of Newburgh 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 Licensee and not those of the Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee irrevocably waives all claims against the City of Newburgh for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 5. The provisions of insurance by Licensee shall not in any way limit Licensee's liability under this Agreement.

Type of Coverage	Limit of Coverage
Worker's Compensation	Statutory
Employer's liability or similar insurance	$1,000,000 each occurrence
Automobile liability	$1,000,000 aggregate
Bodily Injury	$1,000,000 each occurrence
Property Damage	$1,000,000 each occurrence
Comprehensive General Liability, including Broad form contractual Liability, bodily injury and property damage	$1,000,000 each occurrence/

$2,000,000 aggregate

Licensee shall attach to this Agreement certificates of insurance evidencing Licensee's compliance with these requirements

C. 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 of Newburgh with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the City, directed to the City Manager and the Corporation Counsel and the City shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to Licensee. 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:

1. Policy retroactive dates coincide with or precede Licensee's start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
2. Licensee will maintain similar insurance for at least three (3) years following termination of this Agreement; and
3. If the insurance is terminated for any reason, Licensee agrees to purchase an unlimited extended reporting provision to report claims arising from the services performed under this Agreement.

ARTICLE 6: Representations of Licensee.

The Licensee represents and warrants:

A. That it is financially solvent and that it is experienced and competent to perform the type of work or to furnish the consideration to be furnished by it; and

B. That it is familiar with all federal, state, municipal and department laws, ordinances and regulations which may in any way affect the work or play or those employed or engaged therein. It is understood and agreed between the parties that the Licensee shall have no right to control the actions of City employees nor any duty to supervise the actions of City employees.

ARTICLE 7: Permits and Regulations.

The Licensee shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder.

ARTICLE 8: City's Right to Terminate Agreement.

A. The City shall have the right to stop work or terminate this agreement under the following terms and conditions:

1. The Licensee refuses or fails to perform any of its obligations under this agreement; or
2. The Licensee fails to make prompt payment or perform work as required by this agreement; or
3. The Licensee fails or refuses to comply with all applicable laws or ordinances; or
4. The Licensee is guilty of substantial violation of any provision of this agreement.

B. In the event the City elects to stop work or terminate this agreement on any ground or grounds set forth in subparagraphs (1) - (4) of paragraph A, the City shall provide the Licensee with written notice, no less than fourteen (14) days prior to such stop work or termination of this agreement, of the City's intent to so stop work or terminate this agreement and the ground or grounds therefore. In the event the Licensee shall cure such ground or grounds prior to the date noticed for stop work or termination of this agreement, the City shall not stop work or terminate the agreement on such grounds.

C. The City, at its sole discretion and, with or without cause, may, without prejudice to any other rights or remedy it may have, by fourteen (14) days notice to the Licensee, terminate the agreement with the Licensee.

ARTICLE 9: Damages.

It is hereby mutually covenanted and agreed that the relation of the Licensee to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the Licensee, its agents or employees have been negligent. The Licensee shall hold and keep the City free and discharged of and from any and all responsibility and liability of any sort or kind. The Licensee shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by Acts of God or conditions pre-existing this license. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.

ARTICLE 10: Indemnity and Save Harmless Agreement.

A. The Licensee agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.

B. The City agrees to indemnify and save the Licensee, its officers, agents and employees harmless

from any liability imposed upon the Licensee, its officers, agents and/or employees arising from the negligence, active or passive, of the City.

ARTICLE 11: No Assignment.

In accordance with the provisions of Section 109 of the General Municipal Law, the Licensee is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this agreement or its power to execute this agreement to any other person or corporation without the previous consent in writing of the City.

ARTICLE 12: Required Provisions of Law.

Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this agreement shall be physically amended forthwith to make such insertion.

ARTICLE 13: Notices.

Any and all notices and payments required hereunder shall be addressed as follows or to such other address as may hereafter be designated in writing by either party hereto:

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

TO: , Licensee

ARTICLE 14: Waiver.

No waiver of any breach of any condition of the agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ARTICLE 15: Modification:

This agreement constitutes the complete understanding of the parties. No modification or any provisions thereof shall be valid unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the day and year first above written.

THE CITY OF NEWBURGH

by: _____
RICHARD F. HERBEK
City Manager

by: _____
STERLING PONDER

Approved as to form:

_____
MICHELLE KELSON
Corporation Counsel

_____
CHERYL A. GROSS
City Comptroller

RESOLUTION NO.: 141 -2012

6-d

OF

AUGUST 13, 2012

RESOLUTION APPROVING ADDITIONAL BENEFITS PROVIDED FOR IN SECTION 242 OF THE MILITARY LAW FOR WATER DEPARTMENT SUPERINTENDENT JEFFREY WYNANS WHILE SERVING ACTIVE DUTY IN THE MILITARY EFFECTIVE ON OR ABOUT AUGUST 16, 2012

WHEREAS, certain employees serving in the military reserve have been or are liable to be called to active duty as a result of the ongoing conflicts overseas to defend American freedom and protect our people from their declared enemies, and will continue to be required to interrupt regular City employment; and

WHEREAS, the City Council of the City of Newburgh wishes to grant certain additional benefits to such employees;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that Water Department Superintendent Jeffrey Wynans shall be entitled to receive the following benefits:

a) Employees who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days for any one continuous period of absence;

b) Employees who have exhausted their entitlement to the paid leave set forth in paragraph (a) above shall be entitled to military leave at a rate of pay equal to the Employee's rate of pay pursuant to the Non-Bargaining Unit Benefits Plan less the compensation received by the Employee as a result of his active duty. The Employee shall provide the city with an "enlisted pay chart" establishing the applicable military rate of pay;

c) Employee shall receive the same individual or family health insurance benefits provided, as received by such employee prior to his date of activation;

d) Employees shall accrue sick leave, personal time and vacation leave at the rate set forth in the Non-Bargaining Unit Benefits Plan during the period they receive benefits pursuant to this Memorandum.

e) The benefits provided for herein shall be in effect from August 16, 2012 to and including August 16, 2013. The term of this benefit may be extended by resolution in the event that the Employee's active duty status extends beyond August 16, 2013; and

BE IT FURTHER RESOLVED, that the Council of the City of Newburgh hereby extends its esteem, gratitude, appreciation and admiration to Jeffrey Wynans and all others called to active duty on behalf of this Country.

RESOLUTION NO.: 142 -2012

OF

AUGUST 13, 2012

RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836, CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, AFL-CIO TO PROVIDE FOR ADDITIONAL BENEFITS PROVIDED FOR IN SECTION 242 OF THE MILITARY LAW FOR ASSISTANT MAINTENANCE MECHANIC RICHARD SMITH WHILE SERVING ACTIVE DUTY IN THE MILITARY EFFECTIVE ON OR ABOUT AUGUST 16, 2012

WHEREAS, the City of Newburgh and the City of Newburgh Unit, Orange County Local 836, Civil Service Employees Association, Inc., Local 1000, (hereinafter "the Union"), are parties to a collective bargaining agreement; and

WHEREAS, certain members of the Union serving in the military reserve have been or are liable to be called to active duty as a result of the ongoing conflicts overseas to defend American freedom and protect our people from their declared enemies, and will continue to be required to interrupt regular City employment; and

WHEREAS, the City Council of the City of Newburgh wishes to grant certain additional benefits to such employees; and

WHEREAS, the City Council has reviewed the terms of the Memorandum of Understanding, a copy of which is annexed hereto, and has consulted with the representatives of the City, who have recommended that the City Council approve the agreement;

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 on behalf of the City of Newburgh, the Memorandum of Understanding annexed hereto, or in substantially the same form; and be it further

RESOLVED, that the Council of the City of Newburgh hereby extends its esteem, gratitude, appreciation and admiration to every member of the Union and all others called to active duty on behalf of this Country.

MEMORANDUM OF UNDERSTANDING

BETWEEN
THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836, CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000,
AND
THE CITY OF NEWBURGH

WHEREAS, the CITY OF NEWBURGH (CITY) and THE CITY OF NEWBURGH UNIT, ORANGE COUNTY LOCAL 836, CIVIL SERVICE EMPLOYEES ASSOCIATION, INC., LOCAL 1000, are desirous of entering into an agreement between the parties to provide for extended military benefits for members who are military reservists and are federally activated to military duty as of the result of the events of September 11, 2001 and the ongoing conflicts overseas beyond the benefits mandated by New York State Military Law.

IT IS HEREBY UNDERSTOOD AND AGREED BY THE PARTIES HERETO AS FOLLOWS:

1. Members of the CSEA ordered to active military duty (including ordered service in the reserve force) as a result of the events of September 11, 2001, and the ongoing conflicts overseas, shall be entitled to receive the following benefits:

a) Members who have exhausted their entitlement to paid military leave under Section 242 of the Military Law shall be entitled to an additional thirty (30) calendar days or twenty-two (22) working days of supplemental military leave at full pay, whichever is greater, in any one calendar year, not exceeding in total sixty (60) calendar days for any one continuous period of absence;

b) Members who have exhausted their entitlement to the paid leave set forth in paragraph (a) above shall be entitled to military leave at a rate of pay equal to the Member's rate of pay pursuant to the Collective Bargaining Agreement less the compensation received by the Member as a result of his or her active duty. The Member shall provide the city with an "enlisted pay chart" establishing the applicable military rate of pay.;

c) Members shall receive the same individual or family health insurance benefits provided pursuant to the Collective Bargaining Agreement, as received by such members prior to their date of activation;

d) Members shall accrue sick leave, personal time and vacation leave at the rate set forth in the Collective Bargaining Agreement during the period they receive benefits pursuant to this Memorandum.

2. The benefits provided in paragraph 1 of this Memorandum shall be in effect from August 16, 2012 to and including August 16, 2013. The terms of this Memorandum may be extended by resolution in the event that the Member's active duty status extends beyond August 16, 2013.

3. The parties agree and acknowledge that this agreement shall not establish any past practice or precedent for members called for active military duty for any reason other than the events of September 11, 2001, and currently ongoing overseas conflicts in Iraq, Afghanistan and related areas.

Dated: August _____, 2012
Newburgh, New York

AGREED TO:

CITY OF NEWBURGH

By: _____
Richard F. Herbek, City Manager

THE CITY OF NEWBURGH UNIT,
ORANGE COUNTY LOCAL 836,
CIVIL SERVICE EMPLOYEES ASSOCIATION, INC.,
LOCAL 1000,

By: _____
James Smith, President

RESOLUTION NO.: 143 - 2012

OF

AUGUST 13, 2012

A RESOLUTION MEMORIALIZING THE SUPPORT AND CONTINUATION OF THE PROPERTY PROPOSAL SUBMITTED BY THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY IN CONNECTION WITH THE HUDSON VALLEY LIGHTING PROJECT

WHEREAS, the City of Newburgh Industrial Development Agency ("IDA") has presented a proposal to this Council for the exchange of real property ultimately to be the site for Hudson Valley Lighting; and

WHEREAS, this Council is in general agreement of such exchange of real property; and

WHEREAS, the IDA will assume all liability and responsibility for necessary and required environmental clean-up of such properties; and

WHEREAS, the IDA agrees to defend, indemnify and hold the City of Newburgh harmless against any claims, actions and proceedings brought against IDA due to the negligence of IDA, in connection with and/or relating to IDA's use of the premises; and

WHEREAS, the IDA shall be responsible for the hiring of a licensed surveyor to prepare meets and bounds descriptions for the proposed properties and to pay for such services; and

NOW, THEREFORE, BE IT RESOLVED, that this Council of the City of Newburgh, New York, hereby memorializes its support of and the continuation of the property proposal submitted by the City of Newburgh Industrial Development Agency in connection with the Hudson Valley Lighting Project; and

BE IT FURTHER RESOLVED, by this Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to negotiate on behalf of the City of Newburgh a land transfer agreement and that such land transfer agreement shall be brought back to this Council for its further consideration.

RESOLUTION NO.: 144 - 2012

OF

AUGUST 13, 2012

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF JEAN-CLAUDE FRANCOIS AGAINST THE CITY OF NEWBURGH IN THE AMOUNT OF THRITY-EIGHT THOUSAND DOLLARS

WHEREAS, Jean-Claude Francois brought an action against the City of Newburgh; and

WHEREAS, the plaintiff and the City of Newburgh have reached an agreement for the payment of the settlement in the amount of Thirty-eight Thousand ($38,000.00) Dollars in exchange for a release to resolve all claims among them; and

WHEREAS, this Council has determined it to be in the best interests of the City of Newburgh to settle the matter for the amount agreed to by the plaintiff and the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City's attorneys are hereby authorized to settle the claim of Jean-Claude Francois against the City of Newburgh in the total amount of Thirty-eight Thousand ($38,000.00) Dollars and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

RESOLUTION NO.: 145 -2012

OF

AUGUST 13, 2012

A RESOLUTION ACCEPTING NINETY THOUSAND DOLLARS FROM THE GREATER HUDSON VALLEY FAMILY HEALTH CENTER IN FULL SATISFACTION OF THE AMOUNTS DUE TO THE CITY OF NEWBURGH AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SATISFACTION OF JUDGMENT

WHEREAS, the City of Newburgh and the City of Newburgh Community Development Agency commenced an action on June 8, 2000 to recover money damages in connection with a loan made to Family Health Center of Newburgh, Inc.; and

WHEREAS, the City of Newburgh recovered a total judgment against Family Health Center of Newburgh, Inc. for the sum of $278,186.51, which was entered in the action on September 18, 2006, in the Supreme Court of the State of New York, County of Orange and docketed on November 2, 2006 in the office of the Clerk of the County of Orange; and

WHEREAS, The Greater Hudson Valley Family Health Center, Inc. (GHVFHC), f/k/a Family Health Center of Newburgh, Inc., has made 6 equal annual payments of $27,818.65 for a total amount of $166,911.90 to the City in connection with said judgment; and

WHEREAS, a total of $111,274.61, in 4 annual installments of $27,818.65, remains due to the City under said judgment and GHVFHC now proposes to pay to the City $90,000.00 in a single lump-sum payment to satisfy said judgment in full; and

WHEREAS, the City Council of the City of Newburgh has determined that accepting a lump sum payment in the amount of $90,000.00 in full satisfaction of the judgment 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 accept $90,000.00 in a single lump-sum payment from GHVFMC and to execute a satisfaction of judgment releasing the lien held by the City of Newburgh.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ORANGE

X

The City of Newburgh and,
City of Newburgh Community Development Agency,

Plaintiff,

-against-

Family Health Center of Greater Newburgh, Inc.

Defendants.

X

SATISFACTION OF JUDGMENT

Index No. 2000-003429

Assigned Judge:
Lawrence I. Horowitz

WHEREAS, a judgment was entered in the above entitled action on September 18, 2006, in the Supreme Court of the State of New York, County of Orange in favor of plaintiffs, The City of Newburgh and City of Newburgh Community Development Agency against Family Health Center of Greater Newburgh, Inc. for the sum of $278,186.51 which was docketed on November 2, 2006 in the office of the Clerk of the County of Orange; and

WHEREAS, the sum of $111, 274.61.00 remains unpaid; and

WHEREAS, plaintiffs have accepted the sum of $90,000.00 in full payment of the remaining balance; and

WHEREAS, the undersigned plaintiff-judgment creditor certifies that there are no outstanding executions with any Sheriff or Marshal within the State of New York;

THEREFORE, full satisfaction of said judgment is hereby acknowledged, and the Clerk is hereby authorized and directed to make an entry of full satisfaction on the docket of said judgment.

Dated: August _____, 2012

City of Newburgh

_____

By: Richard F. Herbek
City Manager

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

On the _____ day of August, in the year 2012, before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual acted, executed the instrument.

_____

Notary Public

RESOLUTION NO.: 146 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH DAILY ORGANIZED MULTI-ACTIVITY EVENTS, LLC TO ALLOW THEM ACCESS TO ATHLETIC FIELDS, BASKETBALL COURTS AND ACTIVITY CENTER LOCATED IN DELANO-HITCH RECREATION PARK FOR THE PURPOSE OF USING SAID PROPERTY FOR THE ORGANIZATION AND ADMINISTRATION OF SPORTS AND RECREATIONAL ACTIVITIES

WHEREAS, Daily Organized Multi-activity Events, LLC wishes to enter onto City-owned property for the purpose of using said property for the organization and administration of sports and recreational activities; and

WHEREAS, such access to the property requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement, in substantially the same form annexed hereto with such other terms and conditions as required by the Corporation Counsel, with Daily Organized Multi-activity Events, LLC to allow them access to athletic fields, basketball courts and Activity Center located in Delano-Hitch Recreation Park for the purpose of using said property for the organization and administration of sports and recreational activities.

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____, 2012, by and between:

THE CITY OF NEWBURGH, a municipal corporation having its principal place of business at 83 Broadway, City Hall, Newburgh, New York 12550, hereinafter called the "City"; and

DAILY ORGANIZED MULTI-ACTIVITY EVENTS, LLC, 296 Carpenter Avenue, Newburgh, New York 12550, hereinafter called "Licensee".

WITNESSETH, that the City and Licensee, for the consideration hereinafter named, agree as follows:

ARTICLE 1: Term.

This Agreement shall run from September 1, 2012 to August 31, 2014.

ARTICLE 2: Obligation of the City.

A. The City shall grant to the Licensee a revocable license to use the athletic fields, basketball courts and Activity Center located in the Delano-Hitch Recreation Park in the City of Newburgh for organization and administration of sports and recreational activities for the period of time set forth above pursuant to a written schedule to be submitted to and approved in writing by the City Manager or his designee and in accordance with all applicable rules and regulations for the use of the facilities.

B. The City shall provide field lighting and maintenance for players/participants for the organized activities in a location in the Delano-Hitch Recreation Park to be determined by the City. The City has sole authority to cancel or delay outdoor sports and/or other recreational activities due to inclement weather. The City will make reasonable attempt to notify Licensee of cancellation of such outdoor games, events or activities due to inclement weather within two (2) hours before game, activity or event is scheduled to begin.

C. The City shall have no obligation to provide personnel, uniforms, sports equipment or other supplies necessary for the sports, games and/or recreational activities organized by Licensee.

ARTICLE 3: Obligation of Licensee.

A. The Licensee shall organize and administer sports leagues, athletic games and other recreational activities at the licensed facilities. During the term of this Agreement, the Licensee shall provide the City Manager or his designee a written schedule of all sports, games, activities and other uses of the facility for each month at least 30 days in advance and failure to do so may result in City canceling any or all such sports, game(s), activities or uses. The Licensee shall provide the City with 48 hours notice to hold a rescheduled game or activity. All games and activities must

start on time except for weather delay as determined by the City. No game or activity may be scheduled to start before 8:00 a.m. or after 8:00 p.m.

B. The Licensee shall provide for all personnel, supplies and equipment necessary and proper for the sports leagues, athletic games or recreational activities as is required by their use of the licensed facilities.

C. The Licensee shall have a representative with authority over all activities present at all sports leagues, athletic games or other recreational activities at all times. The Licensee shall provide for the registration of participants and the collection of fees for all sports leagues, athletic games or other recreational activities conducted during the period of this agreement. Noise levels shall be kept at appropriate decibel levels so as not to disturb neighbors.

D. The Licensee shall, after each day of play, return the licensed facilities to the City on that same day to a clean condition free of all equipment, garbage and debris. All garbage generated shall be deposited in proper trash receptacle. The Licensee shall repair all damage incurred to the facilities during the exercise of the license at its own sole expense. Such repairs shall be performed immediately. Licensee agrees that if such damages are not promptly and completely repaired, Licensee shall remain liable for all consequences, direct and indirect, consequential and incidental, to the City resulting from the damages and from the unavailability of such facilities resulting therefrom.

E. The Licensee shall provide all necessary security and supervision of minors participating in sports leagues, athletic games, recreational activities or present as spectators during the period of this agreement. The Licensee shall be liable for any damage done to the premises by its officers, agents, servant, employees or invitees during the period of this Agreement.

F. Licensee agrees to meet with the City Manager or his designee upon the request of the City Manager during the term of this Agreement to review the Licensee's activities pursuant to its obligations under this Agreement.

G. Any accident shall be reported to the Office of the City Manager as soon as possible and not later than twenty-four hours from the time of such accident. A detailed written report must be submitted to the City Manager as soon thereafter as possible and not later than three (3) days after the date of such accident.

ARTICLE 4: Payment.

A. The Licensee shall pay to the City, as and for a fee for the use of the facilities during the period of this agreement, FIFTY (50%) PERCENT of the gross fees collected by Licensee in organizing, scheduling and administering the sports leagues, athletic games and other recreational activities. Payment shall be remitted to the City of Newburgh by the Licensee on the last calendar day of each month.

B. The Licensee shall maintain books and records to account for the collections of fees in connection with the organizing, scheduling and administering of the sports leagues, athletic games and recreational activities and shall make such books and records available for the City's review upon ten (10) days notice to review same.

C. It is expressly understood and agreed by the parties hereto that the Licensee is an independent contractor and not an employee of the City and that any persons employed, retained or engaged by the Licensee to perform the services authorized hereunder shall be employees of the Licensee and not of the City. The Licensee shall inform persons so employed, retained or engaged of these facts.

ARTICLE 5: Insurance.

A. The Licensee shall not commence any activities under this Agreement until it has obtained all insurance required under this paragraph and such insurance has been approved by the City.

B. The Licensee shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, Workers' Compensation insurance, liability insurance covering personal injury and property damage, and other insurance with stated minimum coverages, all as listed below. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers of recognized financial standing satisfactory to the Licensor. Except for Workers' Compensation, the City of Newburgh 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 Licensee and not those of the Licensor. Notwithstanding anything to the contrary in this Agreement, Licensee irrevocably waives all claims against the City of Newburgh for all losses, damages, claims or expenses resulting from risks commercially insurable under this insurance described in this Article 5. The provisions of insurance by Licensee shall not in any way limit Licensee's liability under this Agreement.

Type of Coverage	Limit of Coverage
Worker's Compensation	Statutory
Employer's liability or similar insurance	$1,000,000 each occurrence
Automobile liability	$1,000,000 aggregate
Bodily Injury	$1,000,000 each occurrence
Property Damage	$1,000,000 each occurrence
Comprehensive General Liability, including Broad form contractual Liability, bodily injury and property damage	$1,000,000 each occurrence/ $2,000,000 aggregate

Licensee shall attach to this Agreement certificates of insurance evidencing Licensee's compliance with these requirements

C. 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 of Newburgh with respect to its interests, (ii) it shall not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the City, directed to the City Manager and the Corporation Counsel and the City shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to Licensee. 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:

1. Policy retroactive dates coincide with or precede Licensee's start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);
2. Licensee will maintain similar insurance for at least three (3) years following termination of this Agreement; and
3. If the insurance is terminated for any reason, Licensee agrees to purchase an unlimited extended reporting provision to report claims arising from the services performed under this Agreement.

ARTICLE 6: Representations of Licensee.

The Licensee represents and warrants:

A. That it is financially solvent and that it is experienced and competent to perform the type of work or to furnish the consideration to be furnished by it; and

B. That it is familiar with all federal, state, municipal and department laws, ordinances and regulations which may in any way affect the work or play or those employed or engaged therein. It is understood and agreed between the parties that the Licensee shall have no right to control the actions of City employees nor any duty to supervise the actions of City employees.

ARTICLE 7: Permits and Regulations.

The Licensee shall procure and pay for all permits and licenses necessary for the services to be rendered hereunder.

ARTICLE 8: City's Right to Terminate Agreement.

A. The City shall have the right to stop work or terminate this agreement under the following terms and conditions:

1. The Licensee refuses or fails to perform any of its obligations under this agreement; or

2. The Licensee fails to make prompt payment or perform work as required by this agreement; or
3. The Licensee fails or refuses to comply with all applicable laws or ordinances; or
4. The Licensee is guilty of substantial violation of any provision of this agreement.

B. In the event the City elects to stop work or terminate this agreement on any ground or grounds set forth in subparagraphs (1) - (4) of paragraph A, the City shall provide the Licensee with written notice, no less than fourteen (14) days prior to such stop work or termination of this agreement, of the City's intent to so stop work or terminate this agreement and the ground or grounds therefore. In the event the Licensee shall cure such ground or grounds prior to the date noticed for stop work or termination of this agreement, the City shall not stop work or terminate the agreement on such grounds.

C. The City, at its sole discretion and, with or without cause, may, without prejudice to any other rights or remedy it may have, by fourteen (14) days notice to the Licensee, terminate the agreement with the Licensee.

ARTICLE 9: Damages.

It is hereby mutually covenanted and agreed that the relation of the Licensee to the work to be performed by it under this agreement shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or property that may arise in or be incurred during the conduct and progress of said performances, whether or not the Licensee, its agents or employees have been negligent. The Licensee shall hold and keep the City free and discharged of and from any and all responsibility and liability of any sort or kind. The Licensee shall assume all responsibility for risks or casualties of every description, for loss, death or injury to persons or property arising out of the nature of the performance, other than those wholly caused by Acts of God or conditions pre-existing this license. The Licensee shall make good any damages that may occur in consequence of the performances or any part of it. The Licensee shall assume all blame, loss and responsibility of any nature by reason of the Licensee's neglect or violation of any federal, state, county or local laws, regulations or ordinances applicable to the Licensee and/or the nature of its performance.

ARTICLE 10: Indemnity and Save Harmless Agreement.

A. The Licensee agrees to indemnify and save the City, its officers, agents and employees harmless from any liability imposed upon the City, its officers, agents and/or employees arising from the negligence, active or passive, of the Licensee.

B. The City agrees to indemnify and save the Licensee, its officers, agents and employees harmless from any liability imposed upon the Licensee, its officers, agents and/or employees arising from the negligence, active or passive, of the City.

ARTICLE 11: No Assignment.

In accordance with the provisions of Section 109 of the General Municipal Law, the Licensee is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this agreement or of its right, title or interest in this agreement or its power to execute this agreement to any other person or corporation without the previous consent in writing of the City.

ARTICLE 12: Required Provisions of Law.

Each and every provision of law and clause required by law to be inserted in this agreement shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party, this agreement shall be physically amended forthwith to make such insertion.

ARTICLE 13: Notices.

Any and all notices and payments required hereunder shall be addressed as follows or to such other address as may hereafter be designated in writing by either party hereto:

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

TO: Daily Organized Multi-activity Events, LLC, Licensee
Sterling Ponder
296 Carpenter Avenue
Newburgh, NY 12550

ARTICLE 14: Waiver.

No waiver of any breach of any condition of the agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

ARTICLE 15: Modification:

This agreement constitutes the complete understanding of the parties. No modification or any provisions thereof shall be valid unless in writing and signed by both parties.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed on the day and year first above written.

THE CITY OF NEWBURGH

By: _____
RICHARD F. HERBEK
City Manager

DAILY ORGANIZED MULTI-ACTIVITY EVENTS, LLC

By: _____
STERLING PONDER

Approved as to form:

_____
MICHELLE KELSON
Corporation Counsel

_____
CHERYL A. GROSS
City Comptroller

RESOLUTION NO. 147 - 2012

OF

AUGUST 13, 2012

A RESOLUTION TO AUTHORIZE A SETTLEMENT IN THE MATTER OF THE HANOVER INSURANCE COMPANY AS SURETY FOR CANALE ELECTRIC CORPORATION AND THE CITY OF NEWBURGH

WHEREAS, Canale Electric Corporation (Canale) and the City of Newburgh (City) entered into a contract for electrical services in connection with the construction of a new Courthouse; and

WHEREAS, the City has identified deficiencies in work performed by Canale and withheld the contract balance of $127,986.07; and

WHEREAS, Canale filed for bankruptcy protection and is no longer in business; and

WHEREAS, The Hanover Insurance Company (Hanover), as Canale's surety, has made a demand for the funds held by the City for payment of claims made by Canale's creditors and subcontractors; and

WHEREAS, both the City and Hanover have claims to the funds held by the City; and

WHEREAS, the parties wish to resolve their respective claims to the funds held by the City and to settle all the disputes among them to avoid the time and expense of further legal proceedings; and

WHEREAS, this Council has determined that a settlement 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, the City's attorneys are hereby authorized to settle this matter by releasing the sum of $63,993.04 to The Hanover Insurance Company, as surety for Canale Electric Corporation and that City Manager be and he hereby is authorized to execute documents as the City's attorney may require, to effectuate the settlement as herein described.

RESOLUTION NO.: 148 - 2012

OF

AUGUST 13, 2012

A RESOLUTION DIRECTING THE CITY MANAGER TO TERMINATE THE USE OF CITY OWNED VEHICLES USED BY THE SUPERINTENDENT OF PUBLIC WORKS, SUPERINTENDENT OF WATER AND CITY ENGINEER

WHEREAS, Councilman Cedric Brown has requested that the City Manager terminate the use of on-call City owned vehicles used by the Superintendent of Public Works, Superintendent of Water and City Engineer; and

WHEREAS, the City Manager has made his opposition to such request clear as these vehicles are emergency vehicles required for use to return to work 24 hours per day 7 days a week in order to respond to emergencies such as fires, storm related damages, snow removal, snow and ice emergencies, downed trees, water and sewer main breaks, sink holes, manhole lids off, catch basins off, traffic lights out, recreation activities creating problems in City parks, board ups and securing vacant buildings, towing vehicles involved in incidents on City roads, sewer pump stations down and certain police related incidents; and this will affect the City Manager's ability to manage and operate the City in an effective manner;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby directed to terminate the use of City owned vehicles used by the Superintendent of Public Works, Superintendent of Water and City Engineer.

RESOLUTION NO.: 149 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION REGARDING THE IN REM TAX FORECLOSURE OF LIENS FOR THE YEAR 2010 RELATIVE TO 282 FIRST STREET (SECTION 22, BLOCK 6, LOT 26)

WHEREAS, The City of Newburgh commenced proceedings for the foreclosure of certain tax liens, such action being designated as Orange County Index Numbers 2010-012561; and

WHEREAS, the first position mortgage holder, by their attorney, have advised the City that they are prepared to settle such action; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter;

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 withdraw the lien on the property located at 282 First Street (Section 22, Block 6, Lot 22), in the City of Newburgh, from the List of Delinquent Taxes, provided that the sum of Eleven Thousand Six Hundred Twenty Five And 13/100 ($11,625.13) Dollars representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due taxes and charges, including but not limited to all open 2011-2012 school taxes, water charges and sewer charges, are all paid in full by certified or bank check on or before August 27, 2012.

RESOLUTION NO.: 150 -2012

OF

AUGUST 13, 2012

A RESOLUTION APPROVING THE CONSENT JUDGMENT AND AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI PROCEEDING AGAINST THE CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NO. 6996-2011, INVOLVING SECTION 4, BLOCK 12, LOT 12 (LIBERTY STREET, L.P.)

WHEREAS, Liberty Street, LP has commenced a tax certiorari proceeding against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2011-2012 tax assessment year bearing Orange County Index No. 6996-2011; and

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

WHEREAS, Liberty Street, LP is willing to settle this proceedings without interest, costs or disbursements, in the following manner: That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2011-2012 as tax map number 4-12-4 be reduced to a market value of $ 1,000,000.00.

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

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

SUPREME COURT – STATE OF NEW YORK
COUNTY OF ORANGE

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In the Matter of the Application of
LIBERTY STREET, L.P.,

Petitioner,

CONSENT JUDGMENT

- against -

BOARD OF ASSESSMENT REVIEW AND
ASSESSOR OF THE CITY OF NEWBURGH
AND THE CITY OF NEWBURGH,

Index No. 2011-006996

Respondents.

For the review of the assessment for the year 2011
of certain real property in the said CITY OF
NEWBURGH.

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PRESENT: HON. CATHERINE M. BARTLETT

UPON THE CONSENT attached hereto duly executed by the attorneys for all the parties and by all the parties, it is

ORDERED, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax year 2011-2012 as follows:

497 Liberty Street, Tax Map No. 4-12-4

be reduced in market value from $1,334,300.00, to a market value of $1,000,000.00, prior to the application of any real property tax exemptions, if any; and it is further,

ORDERED, that the Petitioner's real property taxes on said parcels above described for the 2011-2012 School, County and City taxes be adjusted accordingly and that any overpayment by Petitioner be refunded upon the entering of this Consent Judgment with the Orange County Clerk's Office; and it is further,

ORDERED, that the officer or officers having custody of the aforesaid City of Newburgh assessment rolls shall make or cause to be made upon the proper books and records and upon the assessment roll of said City the entries, changes and corrections necessary to conform such reduced market value; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the City of Newburgh and/or the County Commissioner of Finance, as the case may be, the amounts, if any, paid as City taxes and City Special District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the County of Orange, the amounts, if any, paid as County taxes and County Special District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that there shall be audited, allowed and credited to the Petitioner by the Newburgh City School District, the amounts, if any, paid as School District taxes against the original assessment in excess of what said taxes would have been if the market value had been determined as herein; and it is further,

ORDERED, that there shall be no interest paid or credited in connection with this Consent Judgment provided any refund due is made within forty-five (45) days of the service of notice of entry of this Consent Judgment; and it is further,

ORDERED, that the provisions of Real Property Tax Law § 727 shall be applicable to the 2012-2013, 2013-2014 and 2014-2015 assessment years; and it is further,

ORDERED, that upon compliance with the provisions of this Consent Judgment, these proceedings are settled without costs or disbursements to either party as against the other.

Signed: _____, 2012
Goshen, New York

ENTER:

_____
HON. CATHERINE M. BARTLETT
SUPREME COURT JUSTICE

ON CONSENT:

HON. RICHARD F. HERBEK
Acting City Manager
Dated:

PAUL J. GOLDMAN, ESQ.
Segel, Goldman, Mazzotta & Siegel, P.C.
Attorney for the Petitioner
Dated:

HON. JOANNE MAJEWSKI
Assessor
Dated:

RICHARD B. GOLDEN, ESQ.
Burke, Miele & Golden, LLP
Attorney for the Respondents
Dated:

CITY OF NEWBURGH
COUNCIL MEETING AGENDA

August 13, 2012
7:00 pm

Mayor:

1. Prayer
2. Pledge of Allegiance

City Clerk:

3. Roll Call
4. Approval of the minutes of the July 12, 2012 Work Session meeting
5. Approval of the minutes of the July 16, 2012 City Council meeting
6. Approval of the minutes of the July 30, 2012 Work Session meeting
7. City Clerk's Report for the month of July
8. Registrar of Vital Statistics Report for the month of July
9. Civil Service Administrator's Report for the month of July

Communications:

10. Notices of Claim and Tax Certiorari Matters to be referred to Corporation Counsel (copies available for review in the office of the City Clerk)

Public Hearings:

11. Public hearing concerning the housing and community development needs of the City of Newburgh in order to assist in the preparation of its Housing and Community Development Plan for fiscal year 2013.

12. Public hearing concerning a local law amending Chapter 270 entitled "Taxation" to provide for the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings".

Presentation:

13. Newburgh Community Land Bank update – Professor John Nolon

Comments from the public regarding the agenda:

Comments from the Council regarding the agenda:

City Manager's Report:

14. Local Law 4 - 2012
A local law adding Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to Chapter 270 "Taxation" of the Code of the City of Newburgh.

15. Resolution No. 125 – 2012
A resolution authorizing the City Manager to enter into a license agreement with the Greater Newburgh Partnership, Inc. to allow cleaning and greening activities on City-owned properties known as 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street.

16. Resolution No. 126 – 2012
A resolution authorizing the City Manager to execute a license agreement with Mill Street Partners, LLC in connection with the development of City-owned properties known as the mid-Broadway site.

17. Resolution No. 127 – 2012
A resolution rejecting all bids received in connection with the City of Newburgh Community Development Block Grant demolition project.

18. Resolution No. 128 - 2012
A resolution approving the standard terms of sale for property purchased through the City of Newburgh 2012 sealed bid process.

19. Resolution No. 129- 2012
A resolution approving the terms and conditions of sale for property purchased through the City of Newburgh 2012 auction.

20. Resolution No. 130- 2012
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to William Rose to the premises known as 3 Marne Avenue (Section 7, Block 7, Lot 8.1).

21. Resolution No. 131- 2012
A resolution authorizing the execution of a release of restrictive covenants and right of re-entry from a deed issued to JCL Media, Inc. to the premises known as 65 Liberty Street and 65 Liberty Street Rear.

22. Resolution No. 132- 2012
A resolution of the City Council of the City of Newburgh assuming lead agency status under the State Environmental Quality Review Act concerning an amendment of Section 300-36 and 300-80 of the Zoning Ordinance of the City of Newburgh and Section 158-2, "Actions Requiring and not Requiring Environmental Impact Statements" of the Code of Ordinances, declaring the project to be an unlisted action, considering the environmental assessment form, referring same to the Orange County Planning Department as required by Section 239 of the General Municipal Laws and scheduling a public hearing for September 10, 2012 at 7:00 pm at the Activity Center.

23. Resolution No. 133- 2012
A resolution amending Resolution 238-2011, the 2012 Budget for the City of Newburgh, New York to transfer $53,280.00 from Police/Salary to Police/Overtime to provide for overtime costs.

24. Resolution No. 134 - 2012
A resolution to authorize the award of a bid and the execution of a contract with Peak Power Systems, Inc. for the manufacturing of a back-up generator for the wastewater treatment plant at a base bid of $131,599.00.

25. Resolution No. 135- 2012
A resolution authorizing the City Manager to execute a contract with TAM Enterprises, Inc. and amending Resolution No. 238-2011, the 2012 Budget for the City of Newburgh, New York for the south interceptor sewer main repair.

26. Resolution No. 136- 2012
A resolution supporting the pursuit of intermunicipal agreements for the design and construction of infrastructure.

27. Resolution No. 137- 2012
A resolution authorizing the City Manager to accept $100,000.00 from the Newburgh Enlarged City School District to fund the salary and benefits of one police officer to be hired to backfill police department personnel currently serving in the City's secondary school as a Community Resource Office.

28. Resolution No. 138- 2012
A resolution authorizing an agreement between the City of Newburgh and Wright Risk Management Company LLC to perform workers' compensation claims runoff services.

29. Resolution No. 139 – 2012
A resolution authorizing the City Manager to enter into an agreement with various parties to provide performing artists and related services in connection with the City of Newburgh 24th Annual International Festival.

30. Resolution No. 140 – 2012
A resolution authorizing the City Manager to apply for and accept if awarded, a grant in an amount not to exceed one-million six-hundred thousand dollars from the Department of Homeland Security under the Staffing for Adequate Fire and Emergency Response Program to provide funding to hire fifteen firefighters in the City of Newburgh with no City match required.

31. Resolution No. 141 – 2012
A resolution approving additional benefits provided for in Section 242 of the Military Law for Water Superintendent Jeffrey Wynans while serving active duty in the military effective on or about August 16, 2012.

32. Resolution No. 142 – 2012
A resolution approving a memorandum of understanding with the City of Newburgh Unit, Orange County Local 836, Civil Service Employees Association, Inc. Local 1000, AFL-CIO to provide for additional benefits provided for in Section 242 of the Military Law for Assistant Maintenance Mechanic Richard Smith while serving active duty in the military effective on or about August 16, 2012.

33. Resolution No. 143 – 2012
A resolution memorializing the support and continuation of the property proposal submitted by the City of Newburgh Industrial Development Agency in connection with the Hudson Valley Lighting project.

34. Resolution No. 144 – 2012
A resolution to authorize a settlement in the matter of Jean Claude Francois against the City of Newburgh in the amount of thirty-eight thousand dollars.

35. Resolution No. 145 – 2012
A resolution accepting ninety-thousand dollars from the Greater Hudson Valley Family Health Center in full satisfaction of the amounts due to the City of Newburgh and authorizing the City Manager to execute a satisfaction of judgment.

36. Resolution No. 146 – 2012
A resolution authorizing the City Manager to execute a license agreement with Daily Organized Multi-Activity Events, LLC to allow them access to athletic fields, basketball courts and the activity center located at Delano-Hitch Recreation Park for the purpose of using said property for the organization and administration of sports and recreation activities.

37. Resolution No. 147 – 2012
A resolution to authorize a settlement in the matter of the Hanover Insurance Company as surety for Canale Electric Corporation and the City of Newburgh.

38. Resolution No. 148 – 2012
A resolution directing the City Manager to terminate the use of City-owned vehicles used by the Superintendent of Public Works, Superintendent of Water and the City Engineer.

39. Resolution No. 149 – 2012
A resolution authorizing the settlement of litigation regarding the in rem tax foreclosure of liens for the year 2010 relative to 282 First Street.

40. Resolution No. 150 – 2012
A resolution approving the consent judgment and authorizing the City Manager to sign such consent judgment in connection with the tax certiorari proceeding against the City of Newburgh in the Orange County Supreme Court bearing Orange County Index No. 6996-2011, involving Section 4, Block 12, Lot 12 (Liberty Street, LP).

Old Business:

New Business:

Public Comments Regarding General Matters of City Business:

Further Comments from the Council:

Adjournment:

City of Newburgh, Newburgh New York
Work Session of the City Council

Thursday, July 12, 2012

Members Present:	Mayor Judy Kennedy Councilwoman Regina Angelo Councilman Curlie Dillard Councilwoman Gay Councilman Cedric Brown
Also Present:	Richard F. Herbek, City Manager Michelle Kelson, Corporation Counsel
Call to Order:	The meeting was called to order by City Manager Richard F. Herbek at 6:05 pm.
Executive Session:	At 9:11 p.m. a motion was made by Councilwoman Regina Angelo and seconded by Councilwoman Gay Lee to enter into executive session regarding matters of pending litigation. YES: 5 NO: 0 CARRIED
Adjournment:	Upon consensus the Council adjourned the meeting noting the time as 10:25 p.m.

A regular meeting of the City Council of the City of Newburgh was held on Monday, July 16, 2012 at 7:00 P.M. in the Council Chambers at City Hall, 3rd Floor, 83 Broadway, Newburgh, New York 12550.

The Prayer was led by Pastor Rosie Andrews followed by the Pledge of Allegiance.

Present: Mayor Kennedy, presiding; Councilwoman Angelo, Councilman Dillard, Councilwoman Lee – 4
Absent- Councilman Brown-1

Councilwoman Lee moved and Councilwoman Angelo seconded that the minutes of the June 14, 2012 Work Session and the June 18, 2012 City Council meeting be approved.
Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy–4
CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the City Clerk's Report and the Registrar of Vital Statistics Report for the month of June be received, filed and made available to the Press.
Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy- 4
CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Civil Service Administrator's Report for the month of June be received and filed only.
Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy–4
CARRIED

COMMUNICATIONS

Councilwoman Lee moved and Councilwoman Angelo seconded that Notice of Claim: *Tanya Rhode v. City of Newburgh* be referred to Corporation Counsel with power to act.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

CARRIED

Councilwoman Angelo moved and Councilwoman Lee seconded that the Notice of Claim: *Martinez & Ernesto Garcia v. City of Newburgh;* and Summons and Verified Complaint: *Leroy Walden, Jr. & Evelyn Walden v. City of Newburgh* be referred to Corporation Counsel with power to act.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

CARRIED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 110 - 2012

OF

JULY 16, 2012

RESOLUTION SCHEDULING A PUBLIC HEARING FOR AUGUST 13, 2012 TO HEAR PUBLIC COMMENT REGARDING THE HOUSING AND COMMUNITY DEVELOPMENT NEEDS OF THE CITY OF NEWBURGH IN ORDER TO ASSIST IN THE PREPARATION OF ITS HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR FISCAL YEAR 2013

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments regarding the housing and community development needs of the City of Newburgh in order to assist in the preparation of its Housing and Community Development Plan for fiscal year 2013; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 13th day August 2012 in the third floor Council Chambers located at 83 Broadway, City Hall, Newburgh, New York

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

PROPOSED PUBLIC HEARING

RESOLUTION NO.: 111 - 2012

OF

JULY 16, 2012

A RESOLUTION SCHEDULING A PUBLIC HEARING
FOR AUGUST 13, 2012 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW AMENDING
CHAPTER 270 ENTITLED "TAXATION" TO PROVIDE FOR THE ADDITION
OF ARTICLE XII ENTITLED
"EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS"

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning an Local Law amending Chapter 270 entitled "Taxation." to provide for the addition of Article XII, entitled "Exemption for Conversion of Certain Multiple Dwellings"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 13th day of August, 2012, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

LOCAL LAW NO.: _____ - 2012

OF

_____

A LOCAL LAW ADDING ARTICLE XII ENTITLED
"EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS"
TO CHAPTER 270 "TAXATION" OF THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Article XII entitled 'Exemption for Conversion of Certain Multiple Dwellings' to Chapter 270 of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for owners of multiple dwelling buildings which are reconstructed, altered or converted to owner-occupied one-family or two-family residential buildings as authorized by Real Property Tax Law Section 421-k.

SECTION 3 - AMENDMENT

Chapter 270 entitled "Taxation" of the Code of the City of Newburgh is hereby amended by the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to read as follows:

"ARTICLE XII

Exemption for Conversion of Certain Multiple Dwellings

§270-71. Purpose.

The City Council of the City of Newburgh encourages property owners of single and two-family residential dwelling to invest in improvements to one- and two-family buildings used solely for residential purposes by providing an exemption from general municipal taxes pursuant to Section 421-K of the Real Property Tax Law of the State of New York.

§270-72. Definitions.

As used in this section, the following terms shall have the following meanings:

OWNER-OCCUPIED MULTIPLE DWELLING BUILDING – any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.

§270-73. Exemption granted; amount.

Multiple dwelling buildings that are reconstructed, altered, improved and/or converted back to an owner-occupied single-family or any owner-occupied multiple dwelling that is reduced to at most two units by such reconstruction shall be exempt from taxation levied by the City of Newburgh on the increase in assessed value attributable to such conversion to the extent provided hereinafter pursuant to Section 421-k of the New York State Real Property Tax Law. The length of said exemption shall be eight years and shall be computed in accordance with the following table:

Year of Exemption	Percent of Exemption
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

§270-74. Exemption base and market value defined.

A. Such buildings within the City of Newburgh shall be exempt for a period of one year to the extent of one hundred (100%) per centum of the increase in assessed value thereof attributable to such reconstruction alteration or improvement and for an additional period of seven years, as shown in the table set forth in Section 270-73, subject to the following:

1. The extent of such exemption shall be decreased by twelve and one-half (12.5%) per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined by the initial year of the term of the exemption, except as provided in subsection 2 of this section.

2. In any year in which a change in level of assessment of fifteen (15%) per centum or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the New York State Real Property Tax Law.

3. Such exemption shall be limited to $100,000.00 in increased market value, but not less than $10,000.00, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class 1 ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five (95%) per centum in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§270-75. Exclusions from exemption.

A. No such exemption shall be granted for reconstruction, alterations or improvements unless:

1. Such reconstruction, alteration or improvement was commenced subsequent to the date on which this Local Law takes effect;

2. The value of such reconstruction, alteration or improvement exceeds five thousand ($5,000.00) Dollars; and

3. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

B. For purposes of this section, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs.

§270-76. Time to File Application.

A. Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

B. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date referred to in Section 270-76 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§270-77. Exemption discontinuance.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributes of the owner, the exemption granted pursuant to this section shall cease.

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 when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2013.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

COMMENTS FROM THE PUBLIC REGARDING THE AGENDA

Brigidanne Flynn asked that the addresses involved in Resolutions #120-2012, #121-2012 and #122-2012 be provided. Second, while she is all in favor of competitive business, the peddling and solicitation in the city needs to be looked at closely. Current trends across the nation depict the popularity of food trucks, especially at lunch time. Vendors are parking their trucks on public streets, and possibly at metered parking spaces. Perhaps we could provide a list reminding them of current laws they should be aware of, thus ensuring compliance with health inspections, clean-up, etc.

Christine Bello remarked that the peddlers and solicitation ordinance was put into effect two councils ago to protect our businesses. She pays $12K a year just to operate her business. Those taxes are paid to support public safety, the water department and the sanitation department. If the council eliminates the 1000 Ft distance clause, then a peddler would be able to virtually set up his operation directly in front of her store for $75. A peddler could undersell her, because he or she does not have the same overhead costs that she incurs. There are three Mexican-American restaurants on her block. A half of block further is a huge taco truck that is parallel parked on Broadway. It takes up six parking spaces. The businesses on her block are starving, because peddlers there are underselling them. Beacon and Poughkeepsie both have 1000 ft radius limits, because they support their businesses. She stated to the council that its decision on this tonight is going to determine whether Newburgh supports its businesses or not.

Barbara Smith asked if there are typographical errors in Resolutions #121-2012 and #122-2012. She noticed that one resolution requires three votes to carry and the other resolution requires four votes to carry. Yet they both contain the same wording. Second, are we removing the peddling distance requirement altogether? Or are we reducing it, for example from 1000 feet to 500 feet, so that we will still have an ordinance in place that protects business owners?

Herbek explained that they are not typographical errors. It is a matter of how the properties were acquired. Also he pointed out that the peddling distance clause is being removed from the ordinance.

Janet Gianopolous remarked that the IDA is going to be doing a study in order to help us attract businesses. The study is going to look at the strengths and weaknesses, opportunities and threats. [Res. #118-2012]. So if we want to continue to attract businesses in our city, we have to continue to acknowledge that someone else can not come in, set up shop in front of a

business and undersell the shop owner. [Ord. #5-2012]. Gianopolous would be in favor of a modification, but not a revocation of the space limit. Next, it is too bad we could not hire someone from Newburgh to complete the HUD analysis. It does not help move the city forward. [Res. #123-2012]

Pastor Austin commented about Ordinance #5-2012. This is an issue of economic survival and not one of camaraderie. It generates a lot of emotions, because survival today is the very key to all of our existence. However, Newburgh has been working on attracting new businesses to this city. This is what economic development is all about. As a new business owner, she is very sensitive to overhead costs. She commends the council for its bravery and for taking a bold step in keeping the small vendors in mind. She stated that the vendors were invited by council members to go the waterfront. They gladly accepted that invitation. Then they were penalized and issued tickets. It was very embarrassing and humiliating. To date, she still has not resolved her issue with that. She applauds the council for its consideration in eliminating and not just modifying the distance clause. She pointed out that it is the smaller businesses that sustain a city.

Leo Drye remarked that he has been a small vendor at the waterfront for ten years. On June 23rd he was issued a summons ticket, similar to almost being arrested, for selling hot dogs. He was approached by an officer in front of his children. He felt threatened and embarrassed. Here he is trying to pay his mortgage and feed his children and do the right thing, and here it is that the city is trying to arrest him. He stated that he had the proper paperwork in place and a permit allowing him to peddle at the waterfront. Yet when he presented it to the officer, he was told it was not valid. He had his health inspection permit from the County Health Department, as well as proof of payment of taxes that he has been paying. All of this was overlooked, only for him to have to appear in court with twenty persons ahead of him being called to the bench one at a time for various *real* crimes. The City of Newburgh should be ashamed. He applauds any member of council who stands in favor of the vendors. He'll do everything in his power to continue to do the right thing. He has a permit to work at Front Street and he plans to stay there.

Darren Williams stated he has been a hot dog vendor at Front Street for seven years. Vendors were invited to the waterfront for an event held there on June 16th. He stated that while he was talking to his daughter, he was approached by a police officer. He was given a ticket to appear in court. This was the second time he had to appear in court for selling hot dogs. Williams stated that the judge told him that if he came back for the same offense, then he could possibly face a fifteen-day jail sentence. He was fined $250. He has not paid the ticket to date. There could be a warrant issued for his arrest, but he does not know. He came here to see what is going on with this situation.

His trailer has been towed multiple times. He has all the required paperwork, which has been signed off on by the Police Chief. Also he alleged that Councilwoman Angelo told him, "You never quit, do you?" Williams commented that he is just going to have to do jail time, because he does not plan on moving. He is trying to make a living like everyone else. He feels that life is about competition and only the strong survive. The riverfront is full of restaurant establishments lined up in a row basically selling the same thing. He said, "You can't be serious," to think that hot dogs vendors are really putting a dent into the restaurant owners' pockets.

Dawn Jackson spoke on behalf of her church. They undertake a huge Feed the Community event each year. They were invited to come to the riverfront to sell dinners in June. She stated she noticed the two men and Pastor Austin being ticketed, but since she was on the other side she did not know the reason. Subsequently when she paid for the Fourth of July event, she received a phone call saying that the church was not welcomed to the waterfront. She did not understand why, since the whole purpose for selling dinners is to raise money for the August event to feed the people of the City of Newburgh. This is crazy. In New York City you see businesses set up back to back selling goods. She felt very embarrassed. Newburgh needs a change. The riverfront should be welcoming to everybody.

A woman spoke on behalf of Steve, a hot dog vendor who has been at the waterfront for ten years. The problem is the distance requirement is a law in the code that should be removed. She does not want the young people to think that the cops are doing something wrong. Perhaps the council should limit the number of vendors at different locations, which would also help the other businesses. She has three grand children, and she can not afford to bring them all into a restaurant to eat. Also there may be diabetics who visit the waterfront. They would benefit from being able to get a quick snack or drink, instead of having to wait to be seated at a restaurant. She stated that when Steve was told to stop, he did. There were other vendors who did not obey the law and continued to sell hot dogs. She pointed out that good, law-abiding citizens are the ones getting hurt. She implored the council's mercy to allow the vendors that are down there now to be able to remain there. Children, disabled clients, diabetics and elderly persons all visit the waterfront. The bathrooms need to remain open, as well.

Lillie Howard commented about Resolutions #118-2012 and #119-2012. She stated that she is sick and tired of monies coming into the city to supposedly correct the poverty in our community. Yet she sees nothing within this Land Bank that discusses affordable housing, inclusionary zoning, or any of the things that are going to enable people in this target area the resources to be able to stay here. The bottom line is that people need to wake up. Look at

Harlem in New York City. That is the way it is going to be here in the City of Newburgh. It is time for our so-called leaders, preachers and the NAACP to stand up and show the transgressions against us. This city- the poor - is being transgressed against because there is no leadership here.

Timothy Hayes-el remarked that Ordinance #5-2012 really let's us know what time it is.He pointed out that the waterfront was developed with CDBG funds. So now we have people at the waterfront who don't want other people from the community to be there. Those funds were supposed to help create jobs for community residents. Yet there are no jobs. He pointed out that the transgressions in the city that Howard mentioned are already occurring. As far as leadership goes, it is a done deal. We can only hope for and strive to bring about a change in the city.

Pastor Rosie Andrews wanted to clarify what we think the Mayor's position is in the City of Newburgh. She feels that it would help us to communicate better if we understood what that position actually is. She feels that her remarks are appropriate at this time, because it ties into how we respond to all of the agenda items and how this city is run. Many people think that the mayoral position is similar to that of CEO. Newburgh is not a Mayor-run city. We can not expect and ask someone to take responsibility for something that he has not been charged to do in the first place.

*** Mayor Kennedy commented that Pastor Rosie's comments are not agenda- specific, and probably would be best left for the general public comments portion of the meeting ***

Omari Shakur stated that the Mayor *is* in control. That is why we have a mayor and council. This panel is the boss of the police department, code enforcement and every other city department. So don't let anyone tell you that she is only one vote. When she ran for office she stated what she would do for the city. So, in his eyes that means that she is in charge.

Mayor Kennedy pointed out that everyone is aware of the rules of meeting order. So let's stick to the rules. Everyone is allotted one time at the microphone to speak for three minutes about an agenda-specific matter. After the City Manager's Report the public can speak about general matters of business

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

COMMENTS FROM THE COUNCIL REGARDING THE AGENDA

Councilwoman Angelo wanted to clarify some things about the vendors. Three vendors had set up at the waterfront the day the Bounty ship arrived. Vendors D, Leo and Steve were ready to sell hot dogs. All of a sudden two police officers came along with copies of the Code of Ordinances in their hands. The officers read them the Summons. Angelo stated that she did not call the police.

*** The meeting was adjourned for 30 minutes due to lack of meeting order ***

RESOLUTION NO.: 112 - 2012

OF

JULY 16, 2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH NEW YORK SUPPORTING THE CONSOLIDATED FUNDING APPLICATION OF IL STRATEGY GROUP INC. A SISTER CORPORATION OF INDEPENDENT LIVING, INC. FOR URBAN INITIATIVES PROGRAM FUNDING THROUGH THE OFFICE OF COMMUNITY RENEWAL

WHEREAS, the purpose of the Urban Initiatives Program is to provide funding to New York communities for the restoration and improvement of housing, commercial areas and public facilities in urban neighborhoods; and

WHEREAS, Urban Initiatives Program funding will be awarded to organizations with a direct interest in improving the health, safety and economic viability of a distressed urban neighborhood; and

WHEREAS, IL Strategy Group, Inc., a sister-corporation of Independent Living, Inc. is requesting funding for the purpose of constructing a multi-story, mixed tenancy, fully accessible apartment building on the vacant parcel of land located at 11 Washington Terrace in Newburgh; and

WHEREAS, monies granted will be used to complete environmental assessments, soil testing, traffic and market studies, preliminary architectural drawings and other activities necessary to seek planning and zoning approvals; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh, New York fully supports the Consolidated Funding Application of IL Strategy Group, Inc., a sister-corporation of Independent Living, Inc. for Urban Initiatives Program funding through the Office of Community Renewal.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 113 - 2012

OF

JULY 16, 2012

A RESOLUTION REJECTING ALL BIDS RECEIVED IN CONNECTION WITH THE JOHNES STREET BUILDING DEMOLITION PROJECT

WHEREAS, the City of Newburgh has duly advertised for bids in connection with the Johnes Street Building Demolition Project; and

WHEREAS, two (2) bids were received and opened; and

WHEREAS, upon review of the bids it has been determined that all bids received far exceeded the pre-bid estimate; and

WHEREAS, this Council has determined that rejecting all bids is in the best interests of the City of Newburgh and the project;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that all bids received in connection with the Johnes Street Building Demolition Project be and are hereby rejected; and

BE IT FURTHER RESOLVED, that City staff is hereby authorized to take the necessary and appropriate measures to advertise the Johnes Street Building Demolition Project for re-bid.

Councilwoman Angelo moved and Councilwoman Lee seconded that resolution be adopted

Aye- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 114 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER ACCEPT A GRANT FROM THE STATE OF NEW YORK DEPARTMENT OF CRIMINAL JUSTICE SERVICES WITH NO CITY MATCH FOR THE OPERATION IMPACT IX PROGRAM TO ENHANCE LAW ENFORCEMENT IN THE CITY OF NEWBURGH TO ACHIEVE LONG-TERM CRIME REDUCTION AND AUTHORIZING THE CITY MANAGER TO EXECUTE ANY DOCUMENTS AND TAKE SUCH ACTIONS REQUIRED TO CARRY OUT SUCH PROGRAM

WHEREAS, the Orange County Operation Impact Partnership has been awarded a Grant in an amount not to exceed $676,850.00 under the Operation IMPACT IX Program with $340,650 as the City of Newburgh portion; and

WHEREAS, Operation IMPACT IX is part of a comprehensive strategy to reduce crime in New York State by enhancing law enforcement by enabling local police agencies to better analyze crime patterns and data, expand the scope of the positions of Crime Analyst and Field Intelligence Officer, expand focused enforcement on street level violence and burglary; and

WHEREAS, the Program will enhance enforcement and prosecution efforts against crime in the City of Newburgh and no City matching funds are required;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to accept a Grant award, from the New York State Department of Criminal Justice Services under the Operation IMPACT IX Program, in an amount not to exceed $340,650 with no City match required, to be used to carry out the program and implement the purposes set forth herein; and to execute all such further contracts and documentation, and take such further actions as may be appropriate and necessary to accept such grant and administer the programs funded thereby.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 115 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT IF AWARDED A GRANT FROM THE HUDSON RIVER ESTUARY PROGRAM 2012 MINI-GRANTS PROGRAM, ROUND II, IN THE AMOUNT OF $5,000.00 FOR THE SOUTH STREET PARK WATERFRONT REVITALIZATION PROJECT

WHEREAS, the Waterfront Advisory Committee, in cooperation with the Shade Tree Commission, has requested that the City of Newburgh apply for funds from the Hudson River Estuary Program 2012 Mini-Grants Program, Round II, in connection with the South Street Park Waterfront Revitalization Project; and

WHEREAS, such funding request shall be in accordance with the provisions of the Request for Applications of the New York State Department of Environmental Conservation ("NYSDEC"); and

WHEREAS, such funding shall be in an amount not to exceed Five Thousand ($5,000.00) Dollars, requiring a fifty percent (50%) match not to exceed Two Thousand Five Hundred ($2,500.00) Dollars; and

WHEREAS, upon approval of such application the City shall be required to enter into a contract with the NYSDEC for such financial assistance; and

WHEREAS, this Council has determined that making such application and accepting such funds if awarded is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to apply for and accept if awarded a grant from the Hudson River Estuary Program 2012 Mini-Grants Program, Round II, in the amount of $5,000.00 for the South Street Park Waterfront Revitalization Project; and

BE IT FURTHER RESOLVED, that the City Manager be and he is hereby authorized to enter into a contract with the New York State Department of Environmental Conservation, in a form subject to approval by the Corporation Counsel, to effectuate such financial assistance.

Councilman Dillard asked if this is the award for part of South Street that has been out for some time. Also he asked when the work would begin.

Corporation Counsel Michelle Kelson responded that she did not know the exact date.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 116 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH C & N AMUSEMENTS FOR AMUSEMENT RIDES, ATTRACTIONS AND CONCESSIONS AT THE CITY OF NEWBURGH INTERNATIONAL FESTIVAL

WHEREAS, the City of Newburgh will hold its annual International Festival on Friday, August 31, 2012 through Monday, September 3, 2012, dates inclusive;

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, a copy of which is annexed hereto, and in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with C & N Amusements for services in connection with the City of Newburgh International waterfront Festival.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

AGREEMENT FOR VENDOR SERVICES

THIS AGREEMENT is entered into as of this _____ day of _____ 2012, 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 **C & N AMUSEMENTS**, a firm with principal offices at 209 Lakeside Road, Newburgh, New York 12550, hereinafter referred to as **"VENDOR."**

ARTICLE 1. SCOPE OF WORK

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

ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning August 31, 2012, and ending September 3, 2012.

ARTICLE 3. COMPENSATION

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

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

ARTICLE 4. EXECUTORY CLAUSE

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

ARTICLE 5. PROCUREMENT OF AGREEMENT

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

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

ARTICLE 6. CONFLICT OF INTEREST

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

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

ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

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

ARTICLE 8. INDEPENDENT CONTRACTOR

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

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

ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

ARTICLE 10. BOOKS AND RECORDS

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

ARTICLE 11. RETENTION OF RECORDS

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

ARTICLE 12. AUDIT BY THE CITY AND OTHERS

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

ARTICLE 13. INSURANCE

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

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

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

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

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

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

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

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

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

ARTICLE 14. INDEMNIFICATION

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

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

ARTICLE 15. PROTECTION OF CITY PROPERTY

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

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

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

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

ARTICLE 16. TERMINATION

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

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

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

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

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

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

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

ARTICLE 17. GENERAL RELEASE

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

ARTICLE 18. SET-OFF RIGHTS

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

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

ARTICLE 19. NO ARBITRATION

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

ARTICLE 20. GOVERNING LAW

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

ARTICLE 21. CURRENT OR FORMER CITY EMPLOYEES

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

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

ARTICLE 22. ENTIRE AGREEMENT

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

ARTICLE 23. MODIFICATION

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

ARTICLE 24: CLOSE OUT & CLEAN UP

The parties agree that VENDOR shall make its best effort to remove all property and equipment from the site no later than the end of the day, September, 5, 2012. However, in the event of unforeseen delays or other circumstances beyond the control of the parties, VENDOR shall have until September 6, 2012 to remove all such property and equipment from the site.

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

THE CITY OF NEWBURGH

BY: _____
RICHARD F. HERBEK,
CITY MANAGER

DATE: _____

C & N AMUSEMENTS

BY: _____
ROBERT RIVERA

DATE: _____

APPROVED AS TO FORM

_____
MICHELLE KELSON
Corporation Counsel

_____
CHERYL A. GROSS,
City Comptroller

SCHEDULE A

SCOPE OF SERVICES

RIDES:

35% OF RIDE GROSS UP TO $30,000.00

37% OF RIDE GROSS AFTER $30,000.00

TABLES:

$125.00	EVERY GAME TRAILER
	EVERY FOOD TRAILER

RESOLUTION NO.: 117 - 2012

OF

JULY 16, 2012

A RESOLUTION APPOINTING STEVE RUELKE AND VIRGINIA DIORIO TO THE CITY OF NEWBURGH HUMAN RIGHTS COMMISSION

WHEREAS, the City of Newburgh has created the City Human Rights Commission pursuant to Section 239-q of the General Municipal Law; and

WHEREAS, this City Council deems it to be in the best interests of the City of Newburgh to appoint members to serve as Commissioners to fill vacancies and to carry on the important work of such Commission;

NOW, THEREFORE, BE IT RESOLVED, that the following persons be and are hereby confirmed and appointed to serve as Commissioners of the City of Newburgh Human Rights Commission for the term indicated:

1. Steve Ruelke, to serve a three-year term commencing on April 28, 2012 and expiring on April 27, 2015;

2. Virginia DiOrio, to serve a three-year term commencing on April 28, 2012 and expiring on April 27, 2015; and

BE IT FURTHER RESOLVED, that the following individuals be and are hereby re-appointed to the City of Newburgh Human Rights Commission for the term indicated:

1. Dr. Benilda Armstead-Jones, to serve a new three-year term commencing on April 28, 2011 and expiring on April 27, 2014;

2. Ramona L. Burton, to serve a new three-year term commencing on April 28, 2011 and expiring on April 27, 2014;

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 118 - 2012

OF

JULY 16, 2012

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF NEWBURGH APPROVING AN AGREEMENT
WITH THE CITY OF NEWBURGH INDUSTRIAL DEVELOPMENT AGENCY
AS A SUB-RECIPIENT OF FISCAL YEAR 2012
COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the City of Newburgh Industrial Development Agency ("IDA") has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement; and

WHEREAS, the 2012 Community Development Block Grant program will fund the agreement from expense code 8686.0448.8000.2012;

WHEREAS, the City wishes to engage the Agency as sub-grantee to conduct the aforementioned program for the period of such agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute the annexed agreement between the City of Newburgh and the City of Newburgh Industrial Development Agency as a sub-grantee to receive funds under the Community Development Block Grant Program from the United States Department of Housing and Urban Development.

City Manager Richard Herbek pointed out that the dollar amount is up to $15K.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

AGREEMENT

THIS AGREEMENT, entered into this _____ day of July 2012

BY AND BETWEEN:

NAME: **City of Newburgh Industrial Development Agency "The Agency"**

ADDRESS: **83 Broadway, Newburgh NY 12550**

FEDERAL EMPLOYER ID #:_____

A public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as referred to as the 'SUB-GRANTEE", and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as "CITY",

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the Sub-grantee has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement **(attachment I)**; and

WHEREAS, City wishes to engage the Agency as sub-grantee to conduct the aforementioned program for the period of such agreement;

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

WHEREAS, the City is scheduled to receive entitlement funds under the Community Development Block Grant (CDBG) Program from the United States Department of Housing and Urban Development (HUD); and

WHEREAS, the City has been duly designated to carry out activities authorized by the Newburgh City Council and HUD; and

WHEREAS, the Newburgh City Council has authorized the funding of the program and purpose as detailed in Attachment A, and the project budget not to exceed $15,000.

NOW, THEREFORE, the City, and the Agency, as Sub-grantee, for the consideration and under the conditions hereinafter set forth, do agree as follows:

Article I. SCOPE OF SERVICES

(1) The Agency, as Sub-grantee shall establish and implement a program within the City of Newburgh as set forth in the Agency, as Sub-grantee's funding proposal and assures the City that the Agency, as Sub-grantee will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said The Agency, as Sub-grantee to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Agency, as Sub-grantee will continue to maintain adequate office facilities at a suitable location within the designated area and provide essential equipment, supplies and services as needed for the operation of such office. Such office shall provide convenient access and service primarily to existing and prospective residents of the designated area. The office and services to be provided shall be clearly identified with a sign as to being funded, in whole or in part, by the City under the Housing and Community Development Act of 1974. Such office and services provided are intended to provide assistance principally to existing and prospective residents of the City and to carry out those activities authorized under this agreement.

(3) The Agency, as Sub-grantee shall maintain a complete job description for all full-time personnel to be employed by said agency for the purpose of this Agreement. Such job description shall fully describe the title, minimum education and experience requirements, salary range and benefits, work hours and responsibilities. The Agency, as Sub-grantee shall also maintain an Affirmative Action Program in accordance with the Equal Employment Opportunity provisions of Article VII.

(4) The Agency, as Sub-grantee agrees to provide a quantifiable increase in a comprehensive service already being rendered by the Agency, as Sub-grantee on the date of this agreement and/or the introduction of a new service as set forth in the attached request for funding proposal. Any changes in the scope of services included in this agreement are to be approved by the Executive Director of the City.

(5) The Agency, as Sub-grantee agrees to provide technical support to carry out this service as stated in Article I (4). The administrative requirements set forth in OMB Circular A-110, copies of which are attached and made a part of this agreement, are applicable to this agreement except those sections which are deleted.

ARTICLE II. Payment by the CDBG Program

(1) The services of The Agency, as Sub-grantee are to commence upon execution of this agreement and extend for a period ending one (1) year from the date thereof or as otherwise provided herein.

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party. This agreement may be terminated for any breach of the agreement or for other reasons herein stated. One cause for termination is failure to achieve the goals and objectives or performance standards for any one month, quarter, or semi-annual period.

ARTICLE III. SERVICES TO BE PROVIDED BY THE CITY

(1) Upon request by the Agency, as Sub-grantee, the CITY may provide such technical and/or advisory assistance as is requested, based upon requirements and availability of staff. Approval of such requests is at the sole discretion of the Executive Director of the City.

(2) If, in the opinion of the City, technical assistance is required from HUD or New York State, a request may be initiated by the City for such assistance.

ARTICLE IV. PROGRAM DOCUMENTATION

(1) The Agency, as Sub-grantee hereby agrees to maintain confidential documentation for all clients served and all activities sponsored in the conduct of the aforesaid program. These confidential records will be subject to and made available for periodic site review by the Compliance Officer/representative of the City. For each such review, the representative of the City will prepare a written report containing comments on overall program performance and effectiveness.

(2) The Agency, as Sub-grantee hereby agrees to maintain separate and complete accounting for all funds received from the City of Newburgh under this agreement. Complete and accurate time and attendance records will be maintained for all personnel receiving funds under this grant.

(3) Certified yearly audits of the Agency, as Sub-grantee must be submitted to the City for review by the City's CPA. If the Agency, as Sub-grantee is a Governmental unit or agency, such as the County, it will comply with the Single Audit regulations and the audit will be on file at the main governmental office.

ARTICLE V. COMPENSATION

(1) Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this agreement that the agreement of the City to fund the Agency, as Sub-grantee shall be deemed executory to the extend that CDBG grant monies are available to it for the purpose of carrying out the terms of this contract and that no liability shall be

incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this agreement.

(2) Total payment under this Contract shall not exceed) Thirty Thousand DOLLARS as full payment for all services rendered by the Agency, as Sub-grantee during the period of this agreement. The adopted budget of the Agency, as Sub-grantee is annexed hereto as Attachment "3".

(3) The City may withhold any payment whenever the Agency, as Sub-grantee fails to achieve its program goals for the vouchered expenditure period. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

(1) Within thirty (30) days of the execution of this Agreement, and on a monthly basis, thereafter, for the term of this Agreement, the City shall pay, and the Agency, as Sub-grantee agrees to accept as full compensation for such services and in conformity with the approved budget attached hereto, the following amounts under this Agreement:

(a) For the first month and for each succeeding monthly period, payments will be made based upon vouchers submitted which reflect actual authorized expenses per budget for the period and contain documentation for all expenditures. Vouchers documenting expenditures for the billing period must be submitted on or before the 15th of the month. In no event shall such expenditures exceed unless prior written approval of the excess expenditure of funds is obtained from the Executive Director of the City.

(c) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from CDBG funds. Neither the City shall be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

(1) In carrying out the obligation of this Contract, the Agency, as Sub-grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Agency, as Sub-grantee shall take affirmative action to ensure that applicants for employment and employees of the Agency, as Sub-grantee are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(2) The Agency, as Sub-grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Agency, as Sub-grantee shall state that all qualified

applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.

(3) The Agency, as Sub-grantee shall also comply with Executive Order 11246, as amended, and HUD regulations (24 CFR 130) applicable to HUD assisted construction contracts.

(4) No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE VIII. ASSIGNMENT BY THE AGENCY, AS SUB-GRANTEE

The Agency, as Sub-grantee represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the Executive Director of the City.

ARTICLE IX. RECORDS AND REPORTS

(1) The Agency, as Sub-grantee shall maintain accounts and records, including personnel, property and financial records, adequate to identify the account for all costs pertaining to its performance under this Agreement, and such other records as may be deemed necessary by the Agency, as Sub-grantee, the City, and/or HUD to assure proper accounting for project funds, both Federal and non-Federal shares. The Agency, as Sub-grantee agrees that such records shall be open for inspection by any authorized representative of the City, or its assignee under this Agreement.

(2) The Agency, as Sub-grantee shall submit a report to the City identifying prescribed activities funded under this Agreement. This report will be submitted with the monthly, quarterly, or semi-annual voucher and will be the format as prescribed in Attachment "1" or in such other form agreed as may be required by the Executive Director of the City.

ARTICLE X. AUDITS

(1) Certified yearly audits made by a Certified Public Accountant shall be submitted to the City for review within three (3) months of the end of each year of this agreement. If the Agency, as Sub-grantee is a governmental unit or agency, it will comply with Single Audit regulations and will file the audit in the main office of the governmental unit.

(2) The Agency, as Sub-grantee shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, HUD or the Comptroller General of the United States or any authorized representative and will be retained for such periods of time as may be required by Federal, State and local statutes, but in any event, not less than three (3) years.

ARTICLE XI. CONFIDENTIALITY

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the Agency, as Sub-grantee in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents. The Agency, as Sub-grantee hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Act of the State of New York.

ARTICLE XII. FACILITIES AND PERSONNEL

The Agency, as Sub-grantee represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder. The Agency, as Sub-grantee further represents that it will terminate and dismiss from further performance of work and services under this agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to the Agency, as Sub-grantee by the City that such officer, employee, agent sub-contractor or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for the Agency, as Sub-grantee to replace to meet its obligations under this Agreement. It is expressly understood that nothing in the Article shall relieve the Agency from meeting its obligations under the terms and conditions of this Agreement.

ARTICLE XIII. INTEREST OF CORPORATION, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

(1) The Agency, as Sub-grantee hereby agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.

(2) The Agency, as Sub-grantee further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.

(3) The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

ARTICLE XIV. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEE THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

(1) No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Community Development Block Grant Program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect,

in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

(2) The Agency, as Sub-grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE XV. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member or delegate of the Congress of the United States, or other federal officials, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

The Agency, as Sub-grantee represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE XVII. CHANGES AND MODIFICATIONS

The City, at any time by written notice to and with the written agreement of the Agency, as Sub-grantee, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Agency, as Sub-grantee or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Agency, as Sub-grantee or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

(1) In the event of termination as herein provided, any completed reports prepared by the Agency, as Sub-grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City/THE CITY and shall be submitted to it.

(2) In the event of termination, the Agency, as Sub-grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Agency, as Sub-grantee, the City may withhold from any payments due the Agency, as Sub-grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by the Agency, as Sub-grantee.

ARTICLE XIX. INDEMNIFICATION

(1) The Agency, as Sub-grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all

persons, including third parties, and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act, or failure to act, of the Agency, as Sub-grantee or its agents, sub-contractors, servants or employees.

(2) If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Agency, as Sub-grantee hereby agrees to save harmless the City from and against any and all loss, expense, damage or injury whatsoever.

THE FOLLOWING INDEMNIFICATION CONDITIONS DO NOT APPLY TO UNITS OF GOVERNMENT OR GOVERNMENTAL AGENCIES SUCH AS ORANGE COUNTY OR New York STATE.

(3) The City hereby assumes entire responsibility and liability for which it would otherwise be legally responsible for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act or failure to act of the City or its agents, sub-contractors or employees (except the City shall be responsible for the acts of the Agency, as Sub-grantee, its agents and employees).

(4) The Agency, as Sub-grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.

(A) The Agency, as Sub-grantee shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

(B) The Agency, as Sub-grantee shall carry Liability and Property Damage Insurance with limits of not less than:

PROPERTY DAMAGE LIABILITY

Each Occurrence

$1,000,000

PERSONAL INJURY LIABILITY

Each Person	Occurrence
$1,000,000	$2,000,000

ARTICLE XX. MODIFICATION

This Agreement may not be modified orally. It may only be modified by written agreement signed by the parties hereto. Notices of any nature referred to in this agreement shall be in writing by certified mail or delivery by hand, or sent by facsimile. Notices shall be effective on the date of receipt

To the City: City Manager
Executive Office
83 Broadway,
Newburgh, NY 12550

To the Agency: Executive Director
City of Newburgh IDA
83 Broadway,
Newburgh, NY 12550

With a copy to: Michelle Kelson
Corporation Counsel
83 Broadway
Newburgh NY 12550

With a copy to: Thomas Whyatt
Oxman Tulis Kirkpatrick Whyatt
120 Bloomingdale Road
Suite 100
White Plains, NY 10605

IN WITNESS WHEREOF, the **Sub-grantee, City** have executed this Agreement the day and year herein mentioned.

SUB-GRANTEE WITNESS BY: _____

City of Newburgh Industrial Development Agency

By_____

Title_____

Date:_____

CITY OF NEWBURGH WITNESS BY:_____

By_____
City Manager

Date_____

APPROVED AS TO FORM BY:

_____
Corporation Counsel

APPROVED BY:

_____
Comptroller

ATTACHMENT I

SCOPE OF SERVICES

Business Development

1. Create a database of businesses in the City by sector (NAICS). Identify clusters, important employers and make businesses aware of available assistance programs (website and direct mail).

1. Complete a small business SWOT Analysis including outreach to and with local businesses.

2. Prepare and Distribute a directory of small business programs available from local, CDBG, IDA, State and federal entities.

3. Develop a 2013 action plan of goals and objectives for review and adoption by City Council , CDBG Advisory group and IDA Board of Directors.

4. Create and City and IDA Business website which will house data and services and promote an online one stop shop (ie. website development).

5. Develop a formal intake form to assess individual business needs that come to the City for help.

Small Business Lending

1. Create a simplified application and agreement for small businesses so they can access the same privileges large businesses receive.
2. Assist local businesses access to CDBG and IDA resources.

Workforce Development Coordination

1. Identify workforce growth obstacles and opportunities; refer findings to Workforce Development Initiative and related resources.
2. Educate Businesses on workforce training and hiring incentive programs.

RESOLUTION NO.: 119 - 2012

OF

JULY 16, 2012

A RESOLUTION REALLOCATING A PORTION OF THE $196,000.00 ECONOMIC DEVELOPMENT INITIATIVE GRANT FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR PLANNING AND DESIGN WORK IN THE NEWBURGH COMMUNITY LANDBANK TARGET AREA AND AUTHORIZING AN AGREEMENT WITH THE NEWBURGH COMMUNITY LANDBANK AS A SUB-RECIPIENT OF THE GRANT FUNDS

WHEREAS, by Resolution No. 45-2010 of March 8, 2010 the City of Newburgh accepted an Economic Development Initiative Grant, Federal Action Number B-08-SP-NY-0469 ("EDI Grant") in the amount of $196,000.00 from the United States Department of Housing and Urban Development for planning and design efforts; and

WHEREAS, by Resolution No. 230-2010 of September 7, 2010, adopted on October 18, 2010, the City of Newburgh established a budget for the EDI Grant, which included $86,000.00 for a Broadway Corridor study; and

WHEREAS, the Newburgh Community Land Bank submitted a proposal to reallocate $86,000.00 of the EDI Grant funds for planning activities in the Newburgh Community Land Bank target area; and

WHEREAS, the City Council finds that reallocating the EDI grant funds 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 this Council authorizes the reallocation of $86,000.00 of the EDI Grant funds for planning activities in the Newburgh Community Land Bank target area; and

BE IT FURTHER RESOLVED, that the City Manager is hereby authorized to execute a sub-recipient grant agreement in substantially the same form as annexed hereto with other provisions as Counsel may require with the Newburgh Community Land Bank for the administration of the reallocated grant funds consistent with the planning activities set forth in the scope of work set forth in Schedule "A" of the agreement.

Mayor Kennedy clarified that $86K is going to be allocated.

Councilwoman Lee desired clarification of the resolution. She wished that the resolution simply stated $86K.

The City Manager pointed out that this is a grant that the City had received to do various planning and development studies in the mid-Broadway area. Originally it was connected to the Armory. These are planning funds that are going to be utilized for the mid-Broadway project. The City is working closely with the developer and the Newburgh Community Land Bank.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 120 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE SALE
OF CITY OWNED PROPERTIES
THROUGH THE SEALED BID PROCESS

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by tax foreclosure *in rem*; and

WHEREAS, the City of Newburgh now desires to dispose of these properties;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold through a sealed bid process; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all action necessary to implement this resolution.

The list of properties was read

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 121- 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING A PUBLIC AUCTION OF CITY OWNED PROPERTIES

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by tax foreclosure *in rem* and through other sources of title; and

WHEREAS, the City of Newburgh now desires to dispose of these properties; and

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning the parcels on the attached Schedule "A" is in the best interests of the City of Newburgh; and

WHEREAS, the properties on the attached Schedule A are to be sold to the highest bidder and are subject to the final approval of each sale by this Council; and

WHEREAS, the City of Newburgh has determined that it is in the best interests of the City to retain a professional auction company to conduct the public auction of City owned properties; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; 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 enter into an agreement, in a form subject to approval of Corporation Counsel with such other terms and conditions as the City Manager and Corporation Counsel may require, with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with a public auction; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all steps and execute any and all instruments and documents necessary to implement this resolution.

The list of properties was read

Councilwoman Lee asked whether these properties remain city properties or do they get conveyed to the Land Bank in the event they are not sold at auction.

The City Manager pointed out that these are city properties. There is no intention to transfer these properties to the Land Bank.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 122- 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING A PUBLIC AUCTION OF CITY OWNED PROPERTIES

WHEREAS, the City of Newburgh has acquired title to several parcels of real property by means other than *in rem* tax foreclosure proceedings; and

WHEREAS, the City of Newburgh now desires to dispose of these properties; and

WHEREAS, upon the recommendation of City staff, this Council has determined that auctioning the parcels on the attached Schedule "A" is in the best interests of the City of Newburgh; and

WHEREAS, the properties on the attached Schedule A are to be sold to the highest bidder and are subject to the final approval of each sale by this Council; and

WHEREAS, the City of Newburgh has determined that it is in the best interests of the City to retain a professional auction company to conduct the public auction of City owned properties; and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the properties on the list attached hereto as Schedule A are to be sold at public auction to the highest bidder subject with the final approval of each sale by this Council; 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 enter into an agreement, in a form subject to approval of Corporation Counsel with such other terms and conditions as the City Manager and Corporation Counsel may require, with Haroff Auction and Realty, Inc./Absolute Auctions & Realty, Inc. for services in connection with a public auction; and

BE IT FURTHER RESOLVED, the City Manager be and he hereby is directed to take all steps and execute any and all instruments and documents necessary to implement this resolution.

The list of properties was read

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

RESOLUTION NO.: 123 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ERIN COUSINS TO COMPLETE THE ANALYSIS OF IMPEDIMENTS TO FAIR HOUSING STANDARDS AS REQUIRED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WHEREAS, the City of Newburgh is a municipal corporation duly created and chartered under the laws of the State of New York; and

WHEREAS, the Analysis of Impediments to Fair Housing (AI) is an assessment required by the United States Department of Housing and Urban Development to provide local government, grantees, housing developers and non-profits with the tools to affirmatively further fair housing; and

WHEREAS, the Department of Housing and Urban Development is committed to eliminating racial and ethical segregation, illegal physical and other barriers to persons with disabilities and other discriminatory practices in housing; and

WHEREAS, Erin Cousins has completed the first two phases of the analysis, community outreach and statistical analysis, as an intern, and will complete the policy analysis and authoring the documentation by January 1, 2013; and

WHEREAS, City of Newburgh completed the AI in 2006 and is required to make updates to that document; and

WHEREAS, this Council has reviewed such agreement annexed hereto and made a part hereof, and has determined that entering into such agreement is in the best interests of the City of Newburgh; and

WHEREAS, the 2012 Community Development Block Grant program will fund the agreement from expense code 8686.0448.8100.2012 in the amount not to exceed $7,000;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement with Erin Cousins to complete the 2012 Analysis of Fair Housing.

The City Manager pointed out that the amount is up to $7K.

Mayor Kennedy commented that half of the work is completed already, so it makes sense to finish the analysis.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy- 4

ADOPTED

AGREEMENT

THIS AGREEMENT, entered into this _____ day of _____ 20___

BY AND BETWEEN:

Erin Cousins
Cornwall NY

hereinafter referred to as the "VENDOR", and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as "CITY", and the City, a public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as "THE CITY".

ARTICLE I. SCOPE OF SERVICES

(1) The Vendor shall establish and implement a program within the City of Newburgh as set forth in the Vendor's funding proposal and assures the City that the Vendor will employ personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said Vendor to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Vendor agrees to provide a quantifiable increase in a comprehensive service already being rendered by the Vendor on the date of this agreement and/or the introduction of a new service as set forth in the attached request for funding proposal. Any changes in the scope of services included in this agreement are to be approved by the Executive Director of the City.

(3) The Vendor agrees to provide administrative support to carry out this service as stated in Article I(4). The administrative requirements set forth in OMB Circular A-110, copies of which are attached and made a part of this agreement, are applicable to this agreement except those sections which are deleted.

ARTICLE II. TERMS OF CONTRACT

(1) The services of the Vendor are to commence upon execution of this agreement and extend for a period ending one (1) year from the date thereof, or as otherwise provided herein.

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party. This agreement may be terminated for any breach of the agreement or for other reasons herein stated. One cause for termination is failure to achieve the goals and objectives or performance standards for any one month, quarter, or semi-annual period.

ARTICLE III. SERVICES TO BE PROVIDED BY THE THE CITY

(1) Upon request by the Vendor, the THE CITY may provide such technical and/or advisory assistance as is requested, based upon requirements and availability of staff. Approval of such requests is at the sole discretion of the City Manager of the City.

(2) If, in the opinion of the City, technical assistance is required from HUD or New York State, a request may be initiated by the City for such assistance.

ARTICLE IV. PROGRAM DOCUMENTATION

(1) The Vendor hereby agrees to maintain confidential documentation for all clients served and all activities sponsored in the conduct of the aforesaid program. These confidential records will be subject to and made available for periodic site review by the Compliance Officer/representative of the City. For each such review, the representative of the City will prepare a written report containing comments on overall program performance and effectiveness.

(2) The Vendor hereby agrees to maintain separate and complete accounting for all funds received from the City of Newburgh under this agreement. Complete and accurate time and attendance records will be maintained for all personnel receiving funds under this grant.

(3) Certified yearly audits of the Vendor must be submitted to the City for review by the City's CPA. If the Vendor is a Governmental unit or agency, such as the County, it will comply with the Single Audit regulations and the audit will be on file at the main governmental office.

ARTICLE V. COMPENSATION

(1) Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this agreement that the agreement of the City to fund the Vendor shall be deemed executory to the extend that CDBG grant monies are available to it for the purpose of carrying out the terms of this contract and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this agreement.

(2) Total payment under this Contract shall not exceed) $7,000 DOLLARS as full payment for all services rendered by the Vendor during the period of this agreement. The adopted budget of the Vendor is annexed hereto as Attachment "2".

(3) The City may withhold any payment whenever the Vendor fails to achieve its program goals for the vouchered expenditure period. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

ARTICLE VI. METHOD OF PAYMENT

(a) $1,000.00 on the date of the execution of the contract to commence work, $2,500.00 on the submission of the first draft no more than 12 weeks following the commencement of the contract, and $3,500.00 upon submission of the final draft no more than 18 weeks from the commencement of the contract.

(b) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from CDBG funds. Neither the City shall be obligated by this agreement to make any payments from the General Fund or any other funds.

ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY

(1) In carrying out the obligation of this Contract, the Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Vendor shall take affirmative action to ensure that applicants for employment and employees of the Vendor are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(2) The Vendor shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Vendor shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.

(3) The Vendor shall also comply with Executive Order 11246, as amended, and HUD regulations (24 CFR 130) applicable to HUD assisted construction contracts.

(4) No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

ARTICLE VIII. ASSIGNMENT BY THE VENDOR

The Vendor represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the Executive Director of the City.

ARTICLE IX. RECORDS AND REPORTS

(1) The Vendor shall maintain accounts and records, including personnel, property and financial records, adequate to identify the account for all costs pertaining to its performance under this Agreement, and such other records as may be deemed necessary by the Vendor, the City, and/or HUD to assure proper accounting for project funds, both Federal and non-Federal shares. The Vendor agrees that such records shall be open for inspection by any authorized representative of the City, or its assignee under this Agreement.

(2) The Vendor shall submit a report to the City identifying prescribed activities funded under this Agreement. This report will be submitted with the monthly, quarterly, or semi-annual voucher and will be the format as prescribed in Attachment "1" or in such other form agreed as may be required by the Executive Director of the City.

ARTICLE X. AUDITS

(1) Certified yearly audits made by a Certified Public Accountant shall be submitted to the City for review within three (3) months of the end of each year of this agreement. If the Vendor is a governmental unit or agency, it will comply with Single Audit regulations and will file the audit in the main office of the governmental unit.

(2) The Vendor shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, HUD or the Comptroller General of the United States or any authorized representative and will be retained for such periods of time as may be required by Federal, State and local statutes, but in any event, not less than three (3) years.

ARTICLE XI. CONFIDENTIALITY

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the Vendor in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents. The Vendor hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Act of the State of New York.

ARTICLE XII. FACILITIES AND PERSONNEL

The Vendor represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder. The

Vendor further represents that it will terminate and dismiss from further performance of work and services under this agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to the Vendor by the City that such officer, employee, agent sub-contractor or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for the Vendor to replace to meet its obligations under this Agreement. It is expressly understood that nothing in the Article shall relieve the Agency from meeting its obligations under the terms and conditions of this Agreement.

ARTICLE XIII. INTEREST OF CORPORATION, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

(1) The Vendor hereby agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the area which would conflict in any manner or degree with the performance of its obligations under this Agreement.

(2) The Vendor further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.

(3) The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

ARTICLE XIV. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES OF THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

(1) No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City, its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the Community Development Block Grant Program, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

(2) The Vendor shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

ARTICLE XV. INTEREST OF CERTAIN FEDERAL OFFICIALS

No member or delegate of the Congress of the United States, or other federal officials, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT

The Vendor represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

ARTICLE XVII. CHANGES AND MODIFICATIONS

The City, at any time by written notice to and with the written agreement of the Vendor, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Vendor or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Vendor or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT

(1) In the event of termination as herein provided, any completed reports prepared by the Vendor under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City/THE CITY and shall be submitted to it.

(2) In the event of termination, the Vendor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Vendor, the City may withhold from any payments due the Vendor for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by the Vendor.

ARTICLE XIX. INDEMNIFICATION

(1) The Vendor hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act, or failure to act, of the Vendor or its agents, sub-contractors, servants or employees.

(2) If any personal shall make a claim for any damage or injury (including death resulting therefrom) as described above, the Vendor hereby agrees to save harmless the City from and against any and all loss, expense, damage or injury whatsoever.

THE FOLLOWING INDEMNIFICATION CONDITIONS DO NOT APPLY TO UNITS OF GOVERNMENT OR GOVERNMENTAL AGENCIES SUCH AS ORANGE COUNTY OR NEW YORK STATE.

(3) The City hereby assumes entire responsibility and liability for which it would otherwise be legally responsible for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties and for all property damage when such personal and/or property damage is cause by, results from, arises out of or occurs in connection with any act or failure to act of the City or its agents, sub-contractors or employees (except the City shall be responsible for the acts of the Vendor, its agents and employees).

ARTICLE XX. MODIFICATION

This Agreement may not be modified orally. It may only be modified by written agreement signed by the parties hereto.

IN WITNESS WHEREOF, the **Vendor, City** have executed this Agreement the day and year herein mentioned.

VENDOR

_____

By_____

Title_____

Date:_____

WITNESS:

CITY OF NEWBURGH

By_____
City Manager

Date_____

WITNESS

BY:_____

APPROVED AS TO FORM BY:

APPROVED BY:

Corporation Counsel

Comptroller

Objective	Tasks	Outcome
-Review data collected -Wrap up outreach campaign	-Meet with CVH staff to discuss surveys and public meetings. -Identify holes in data	-Status report on outreach campaign, action plan for public meeting to discuss the findings of the Analysis
I. Introduction and Executive Summary of Analysis		A. Who conducted B. Participants C. Methodology Used D. How Funded
II. Jurisdictional Background Data	-Update statistics with most current Census data	A. Demographic Data (snapshot) B. Income Data
II. Jurisdictional Background Data	-Analyze demographic trends and patterns	C. Employment Data D. Housing Profile E. Maps F. Other Relevant Data
III. Evaluation of Jurisdiction's Current Fair Housing Status	- Determine if there have been any housing discrimination suits filed since the last Analysis of Impediments Report. -Evaluate the housing discrimination complaint process for impediments.	A. Fair housing complaints or compliance Reviews Discrimination findings B. Fair housing discrimination suit filed by the department of Justice or private plaintiffs C. Reasons for any trends D. Discussion of other fair housing concerns or problems (regional patterns)
IV. Identification of Impediments to Fair Housing Choice	-Speak with housing practitioners, City staff, and residents about the success of Neighborhood revitalization programs, and other public sector housing services.	A. Public sector: Zoning and Site selection, Neighborhood Revitalization, Municipal and Other Services, PHA and Other Assistance/Insured Housing Provider Tenant Selection Procedures; Housing Choices for Certificates and Voucher Holders
IV. Identification of Impediments to Fair Housing Choice	-Analyze local lending institutions lending practices and policies looking for predatory lending or discrimination	B. Private Sector: Lending policies and practices
IV. Identification of Impediments to Fair Housing Choice	-Review of municipal enforcement of building code violations and programs to address problems such as	C. Private and public sector: Fair Housing Enforcement Informational programs

	vacancy and abandonment.	
V. Assessment of Current Public and Private housing programs and activities in the Jurisdiction	-How do current programs respond to housing issues highlighted through the outreach campaign?	
Conclusions	-Determine what impediments to fair housing in the City of Newburgh (if any) can be addressed by the City.	
Recommendations	-Develop a list of steps to address any impediments identified.	Conclusions and recommendations will be discussed in a public meeting organized to share findings of the report.
Appendices		Maps, Sources, Details regarding outreach campaign TBD

APPENDIX I. Scope of Work : ***Analysis of Impediments to Fair Housing Choice***

RESOLUTION NO.: 124 - 2012

OF

JULY 16, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MASTER SERVICES AGREEMENT BETWEEN THE CITY OF NEWBURGH AND C.T. MALE ASSOCIATES, PC FOR DAM RELATED ENGINEERING SERVICES

WHEREAS, the City of Newburgh through a competitive process in which proposals for professional services were solicited, reviewed and evaluated to provide dam related Engineering Services for ongoing dam inspection analysis and repairs; and

WHEREAS, the City has received a proposal from CT Male Associates, P.C. which has been identified as the most qualified firm to provide said services;

WHEREAS, such professional services are funded under General Fund or applicable Enterprise Fund on a project specific basis and the length of the contract shall be for one (1) year with an option to extend the term of service for up to two (2) additional years for a maximum of three (3) years; and

WHEREAS, the scope of work and budget for individual work elements will be subject to further approved by the City Council;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into a master services agreement with C.T. Male Associates, P.C. for dam related Engineering Services.

Councilwoman Angelo moved and Councilwoman Lee seconded that the resolution be adopted.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

ADOPTED

ORDINANCE NO.: 5- 2012

OF

JULY 16, 2012

AN ORDINANCE AMENDING CHAPTER 223 OF THE CODE OF ORDINANCES ENTITLED "PEDDLERS, VENDORS AND SOLICITORS"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that:

Section 1. Chapter 223 of the City Code of Ordinances entitled "Vendors, Peddlers and Solicitors" be and is hereby amended as follows:

§ 223-11. Use of public space, streets and certain property.

A. No vendor or peddler shall have any exclusive right to any location in the public streets, nor shall one be permitted a specified stationary location, nor shall he be permitted to operate in any congested area where his operations reasonably would or might impede or inconvenience the public or cause congestion or public disorder or block or impede the free flow of pedestrian or vehicular traffic. For the purpose of this chapter, the judgment of a police officer or other City officer or official charged with the duty or possessing the authority to enforce the City Code and any applicable laws, rules or regulations, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced or the use made by the vendor or peddler is contrary to the provisions hereof. Such officer or official shall have the authority to compel any vendor(s) or peddler(s) to move to a different location in order to relieve congestion or otherwise resolve any disputes and restore calm and order at any public location.

B. No vendor or peddler shall engage in any vending business on any sidewalk unless such sidewalk has at least an eight-foot-wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk or, if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.

C. No vendor or peddler shall occupy more than 10 linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no vendor or peddler operating any vending business on any sidewalk shall occupy more than four linear feet to be measured from the curb toward the property line.

D. No vending vehicle, pushcart, stand, goods or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure, including but not limited to lampposts, parking meters, mailboxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers.

E. A vendor or peddler shall not place a vehicle, pushcart or stand, or conduct a general vending business, at a location in the roadway where stopping, standing or parking is prohibited or during a time period when stopping, standing or parking is restricted.

F. A vendor or peddler shall not place a vehicle, pushcart or stand, or conduct a general vending business, in the roadway in a metered parking space unless such vendor has complied with the coin requirements of such meter. A vendor or peddler shall not remain in a metered parking space for a period of time in excess of the maximum time permitted at such space. A vendor or peddler shall not allow any vehicle, stand, platform or other device used to display or carry wares, food, merchandise or other products for sale to extend beyond the delineated limits of such parking space.

G. A vendor or peddler shall not place a vehicle, pushcart or stand or conduct a general vending business in the roadway within 15 feet of a fire hydrant or within a safety zone.

H. No vending pushcart, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within 20 feet from an entranceway to any building, store, theater, movie house, sports arena or other place of public assembly.

I. No vendor or peddler shall vend within any bus stop or taxi stand, or on the sidewalk immediately adjacent thereto, or within 10 feet of a crosswalk at any intersection or within 10 feet of any driveway.

J. Each vendor or peddler vending from a pushcart or stand in a street or roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a vendor or peddler vend so as to restrict the continued maintenance of a clear passageway for vehicles.

K. Unless otherwise allowed by law, rule, regulation or permit, no vendor shall operate within 20 feet of any other vendor whose location can be determined to have been previously and continuously established.

L. Where exigent circumstances exist and a police officer, or other officer or employee of any City agency authorized to enforce this chapter, gives notice to a vendor or peddler to temporarily move from any location such vendor or peddler shall not vend from such location.

(1) For the purposes of this subsection, "exigent circumstances" shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any

obstructions in the public space, an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

(2) When a vendor or peddler has received notice to temporarily move from any location where exigent circumstances exist, such vendor or peddler shall immediately stop all vending business and, within one minute, begin to and as quickly as possible move his goods, vehicle, pushcart or stand from the entire area in which the exigent circumstances exist as determined and stated by a police officer or other authorized person giving such notice to move. A vendor or peddler shall not return to the area of the exigent circumstances while such condition continues to exist. In the absence of a statement to the contrary by an authorized person, it shall be presumed that the exigent circumstances will continue to exist in such area for a period of two hours from the time notice to move was given to the vendor or peddler.

M. No vendor or peddler licensed under this chapter shall leave any items, wares, goods, merchandise, vehicles, pushcart(s), stand(s), platform(s), boxes, bales, containers, trash or other equipment or material on any City or other public property or on private property without the permission of the owner thereof overnight, but must remove same to a private secured location at close of business.

N. No vendor or peddler shall trespass upon private property where the owner or proprietor thereof shall have prohibited such activity thereon.

Section 2. This Ordinance shall take effect immediately.

Mayor Kennedy suggested that the council table this resolution. There are a lot of pieces to this that need to be looked at further. She would like to put a moratorium in place to prevent persons from being fined while the council is working on it. There are a lot of factors to discover, and they do not wish to exacerbate the problem by issuing fines. Somewhere in here is a win-win solution. We just need to put our heads together to reach it.

Councilman Dillard mentioned that to be fair and equitable to everyone, the waterfront exists for the pleasure and enjoyment of all of the people in the City of Newburgh. He believes that we can all come under one solid accord in reaching a solution. He agrees that it should be tabled. Yet as it is tabled tonight, rest assured that they are going to be working on it tomorrow. We are asking the business owners and the vendors to come together, so that we will not have anything like this arise in the future.

Councilwoman Lee agrees to table this for now as they find a happy medium. But she agrees that the waterfront is for everyone. No one group or two or three groups should be able to say who can or can not use the waterfront. That is appalling. She supports the small businesses and all of the businesses in our city. She acknowledges that all businesses pay taxes, not just a select few.

Councilwoman Lee moved and Councilwoman Angelo seconded that the ordinance be tabled.

Ayes- Councilwoman Angelo, Councilman Dillard, Councilwoman Lee, Mayor Kennedy-4

TABLED

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

There was no new business to come before the council.

PUBLIC COMMENTS REGARDING GENERAL MATTERS OF CITY BUSINESS

Lillie Howard wants everyone to understand that she is speaking from a heart filled with love, not hatred. She is concerned to see that there is nothing for our young people. It is fabulous to see that Poughkeepsie has *Youth Build*. At one time she thought Newburgh had applied for *Youth Build*, but she does not know what has become of that application. Next she spoke to those who may not understand what it feels like to have a loved one killed by the police. She stated that you will never know until you have walked in those same shoes. It is outright disgusting to hear how some of the people in this audience have been talking about the Lembhard family on the Voy website. What do we think would happen in our city if these were White youth who were being killed by Black Police Officers? She spoke directly to the city council and said, "Your police department is out of control." She has to ask herself if this is being done deliberately, so that you can chase a certain group of people out of the community. Something is wrong when you are continuously being told about the behavior of your police department, and yet nothing changes. To her that shows that you are in agreement with the behavior. She urged the council to address this problem, because you've got a keg of dynamite ready to explode in the City of Newburgh.

Jan Murchison wants to ensure that sensitivity training for police officers be a priority use of grant money for the enhancement of law enforcement. These officers are rude and disrespectful. She stated she previously spoke with the police chief, Mr. Herbek and the Corporation Counsel when this first happened to the Lembhard family. Nothing is getting better. The police are acting like rogue officers. Those officers should be transferred out of this department, because no one is safe here anymore. There are solutions to deal with the problem, but no one is heeding the suggestions. We are sitting here spinning our wheels. She does not know why she even comes to all of these meetings, because nothing is being done.

Jason Alfred stated he was pulled over by a City of Newburgh police officer earlier today for no reason whatsoever. The female officer was very rude toward him, and she proceeded to handcuff him for allegedly running a red light. He stated that he advised her that he was recording her behavior from the onset of the stop. She told him, "Take the ticket and you better hope that I never pull you over alone." He stated he is not a threat to anybody. Now when he gets pulled over, is he just supposed to sit there and wait for something bad to happen? This is ridiculous and things are really getting out of hand.

Omari Shakur remarked that he is a spokesperson for the Lembhard family. He stated he is present tonight because the city council decided to bring the police officers back to work. He feels that the reason the meeting was shut down was because they did not want to discuss it. He is asking for the police chief's resignation. An autopsy was performed in May, in which three staff members of the police department were present. There is a chain of command, and somebody lied. But at the very least he feels that the police chief knew, because three of his officers showed up at the autopsy. Shakur feels that council members were ill-informed of the autopsy findings, and pertinent information was withheld. Yet it was voted to bring these officers back to work.

He may not have won the campaign for mayor, but he knows what a mayor is supposed to do. The first thing he would do is convene his fellow panel members and ask the City Manager why they were not informed about the autopsy. The official report from the Medical Examiner states that Lembhard was shot fifteen times. Is following protocol defined as shooting a man fifteen times, eight of which were in the back? Is this what we want for our community?

[Councilman Brown arrived during this portion of the meeting]

Jose Servellon spoke on behalf of his nephew. The family is in need of the police department to sign forms for Immigration. His nephew is twenty-seven years old, and he has been in the country since he was six years old. His nephew was a victim of assault in 2009 and he suffered great injuries. Servillon feels that the sergeant does not want to sign these important forms for his nephew to remain in the country. He asked the council for its assistance, as these forms need to be signed within the next two weeks.

Rasheeda commented that she works for the Center of Hope. The late Michael Lembhard's brother Basil attended the center. She asked the council what is the message we are sending to our children when we allow police officers to return to work after shooting an individual 15 times? She does not understand it. Are we trying to create a civil war in the community? She tearfully stated that she does not know how to explain to the youth that this cop literally got away with murder. How does she tell the kids to continue to respect the law when the law continues to betray them?

Also not one business owner at the waterfront allowed any of the youth to work at their restaurant. The wages were going to be paid for by the County Department of Social Services for the purpose of training the children and teaching them the value of jobs. The applications were denied because they

did not want to deal with that. She has stopped coming to these meetings, because when you meet too much nothing gets done. Without jobs, the kids are going to resort to stealing and robbing. Right now the violence is contained here in the City. But when it starts to spread into the surrounding towns, then it will be dealt with.

Last, she has heard terrible statements about the Lembhard family. She pointed out how young Donald Lembhard lost his brother, yet he volunteers his time to an organization dedicated to the youth in the community.

Adrian Coolidge thanked Pastor Andrews for praying for Newburgh. He stated that perhaps his late nephew Michael Lembhard is in Heaven looking down on us. Perhaps he sees us all fighting and not correcting the problem. Coolidge stated that if we put these police officers back on the street, then we won't be moving the city forward. People are going to be afraid to be stopped by the police. These officers are not going to feel comfortable working in this environment either. Every time they have to get out of their police car to answer a call, they are going to be living in fear of what could happen. He remarked that there are still a lot of good police officers in our city. He had even heard on the news that there is talk about bringing back some of the veteran police officers, which might not be a bad idea. He feels that the police chief needs to do something. Why can't we switch police officers with another town? He is sure there are senior officers elsewhere that would love to come to Newburgh. Those officers should be put back to work somewhere else, not Newburgh. Let's keep the department safe and the community safe.

Sandra Harris would like to know our plans for working together on peddling ordinance that was tabled. She thinks it is atrocious that the waterfront restaurants do not want vendors present. The restaurants need to support the people of the City of Newburgh, because it is the people who support the restaurants. This apparent line of division is ridiculous. It needs to be addressed and rectified.

Councilman Dillard responded that the plan is for them to develop a timeline in-house, and get the information out to the vendors. He stated that they are going to deal with this and come to a solution in a short manner of time

Sheila Monk commented that her heart goes out to the family. She recalled a statement that was made on television, in which someone stated that the family needs to continue on with their lives. She experienced being physically hit by a police officer just a few weeks ago. She can not even imagine a cop just blatantly shooting a person fifteen times. We can not bring Michael Lembhard back, but we can change the life of another person. We do

this by changing the laws. We, as a community, really have to stick together. This is not a coincidence. God is showing us these things to wake us up. We need a Michael Lembhard Law so this does not happen to anybody else.

Next, she attends meeting after meeting, and it is apparent that the community is not in the plans of the City of Newburgh. There is nothing for our children to do. We have to stop asking for different things, and start demanding them. You have to demand your right and your respect. She understands that the new council can only do but so much. A lot of things have happened in the prior administration. There are election seats coming up. We have to start voting. She has been learning that there is a lot of dirty politics that exists. But she is not going anywhere. God has his warriors on his side and we are fighting the good fight.

Janet Gianopolous stated that perhaps it is a Freudian slip, but we *do* need a Board of Ethics in place. Ethics is basically at the core of all these issues she is hearing. The council needs to have its citizens' civilian boards in place to give advice. Also the CDBG Advisory Committee needs to be in place so that it is able to advise us of the expenditure of CDBG funds. We do not have a good handle on where the money has been invested. We need that committee to meet as soon as possible.

Next, she congratulated the City of Newburgh on the state's passage of the parking tribunal. We need to think about how this poor community can benefit from the $2-$3 Million in revenue that can be generated from the parking tribunal. It has been a while since this was passed, and we need to have a plan as to how we can get those parking tickets adjudicated to bring in revenue. Last, she applauded the council for tabling the matter of vendors and fixed businesses. Fixed businesses are not able to move anywhere. We need to discuss the issues. Also what are the advantages of changing the footage and fees for the street vendors and mobile vendors? We have to come to a fair understanding and use our brains on everything.

Barbara Smith read Isaac Newton's Third Law of Motion, in which *for every action there is an equal and opposite reaction*. She stated this is what we are dealing with in our city government. She is concerned about the amendment of a local law amending Article VIII of the City Charter, in which she feels that the council was stripped of its legislative powers to protect the interest of the tax-payers of this city. [SEE COMMENTS ATTACHED]

Juanita King stated she has been in the forefront for her cousin since March 8, 2012. Naturally, tensions are going to be high. Her family has not slept or eaten since March 7th. When she and her family react, it should be expected. She stated that if you do not want her reaction, then you should

remove her from the room. And if you remove her, you are going to remove her by force. She stated that the police department has been antagonizing her family since Day 1. The police force shows discrimination. Basil was stabbed on July 4th. While the entire family was at the hospital by his side, her 15-year old son was arrested. When it was discovered that he was not the person they were looking for, he was released on his own accord on Chambers Street. He is a minor, and he should have been released to his mother.

Second, she stated that police officers were driving by on the day the Grand Jury rendered its decision, laughing and waving at her family. It would have been wrong if she had thrown a garbage can at them. The police have stopped her family members for no reason. This is the type of harassment her family has been enduring. It stops now or her family is going to start.

Read and Submitted by Barbara Smith @ City Council Mtg. held Monday July 16, 2012

Newton's third law

" Law III: To every action there is always an equal and opposite reaction: or the forces of two bodies on each other are always equal and are directed in opposite directions. "

Why am I concerned?

Upon receiving several water and sanitation bills lately, I realized that the city council no longer is petitioned by resolution to warrant for the collection of these fees, which prompted an inquiry to my City Manager. See attachment 1

I use Newton's third law because I believe it adequately describes the action taken unbeknownst to the City Council on June 14, 2010. A local law amending Article VIII of the City's Charter. This amendment was presented as extraneous and merely housekeeping to put things in order. In reality it turned out to be something quite different.

Because of time constraints I can not adequately discuss my concerns, I will attempt to capsulize my concerns and give you all the research I have accumulated to help you come to a just conclusion.

I am asking you to review and bring back to memory the meeting that stripped you of one of the powers designated to you as the Legislators of this City's business.

I will read a salient point that our charter gave you to protect the interest of the tax-payers of this city. Attachment 2

Because I believe this is a government of the people, by the people and for the people, I made a request of the City Manager to re-address this issue and give you back the power this amendment took from you. He did not agree with me, but in his good judgment he believes that if the council approved the resolution, it should be the Council who initiates the process to reverse the amendment. This issue is important enough for you to act on. Good government can not and should not methodically take away the powers of their legislators. With the interest of the people in mind it should never be too time consuming or should we be too busy to conduct business within the dictates of the charter that the city has adopted, after all these are the codes we live and govern by.

The key words are, deliver to the Council so you may confirm the warrant to collect. Ask yourselves, what does a warrant do? Is it a legal document? Why did the authors of our charter believes checks and balances are important?

I close with a quote from Colin Powell, "*None of us can change our yesterdays, but all of us can change our tomorrows.*"

Take back one of your powers to legislate for the people.

File for Minutes

Due to lack of order in the meeting hall, the meeting was adjourned at 8:55 P.M.

Respectfully Submitted,

KATRINA COTTEN
DEPUTY CLERK

City of Newburgh, Newburgh New York
Work Session of the City Council

Monday, July 30, 2012

Members Present:	Mayor Judy Kennedy Councilwoman Regina Angelo Councilman Curlie Dillard Councilwoman Gay
Members Absent:	Councilman Cedric Brown
Also Present:	Richard F. Herbek, City Manager Michelle Kelson, Corporation Counsel
Call to Order:	The meeting was called to order by City Manager Richard F. Herbek at 6:00 pm.
Executive Session:	At 6:02 p.m. a motion was made by Councilwoman Regina Angelo and seconded by Councilwoman Gay Lee to enter into executive session regarding matters pertaining to the employment history of a particular employee and matters of pending litigation. YES: 4 NO: 0 CARRIED
Adjournment:	Upon consensus the Council adjourned the meeting noting the time as 8:15 p.m.

Account#	Account Description	Fee Description	Qty	Local Share
	Marriage License	Marriage License	23	402.50
	Season Boat Launch Permit	Season Boat Launch Permit	7	700.00
			Sub-Total:	**$1,102.50**
1255	Duplicate Taxi License	Duplicate Taxi License	1	25.00
			Sub-Total:	**$25.00**
A1255	Conservation	Conservation	4	6.40
			Sub-Total:	**$6.40**
A12550003	Misc. Fees	Certified Copies - Marriage	20	200.00
			Sub-Total:	**$200.00**
A12550008	Misc. Fees	Copies	131	32.75
			Sub-Total:	**$32.75**
A12550010	Misc. Fees	Returned Check	1	20.00
			Sub-Total:	**$20.00**
A12550012	Thumbprint Fee	Thumbrpint Fee	1	5.00
			Sub-Total:	**$5.00**
A12550013	Private Trash Collector	Private Trash Collector	11	2,200.00
			Sub-Total:	**$2,200.00**
A15200001	False Alarms	False Alarms	6	2,413.00
			Sub-Total:	**$2,413.00**
A1550	Public Pound	Public Pound	2	20.00
			Sub-Total:	**$20.00**
A15500004	Dog Redemption	Redemptions	2	70.00
			Sub-Total:	**$70.00**
A15500010	Vet Bill (rabies)	Vet Bill (Rabies)	2	56.00
			Sub-Total:	**$56.00**
A21150012	Zoning Map 11x17	Zoning Map 11x17	1	10.00
			Sub-Total:	**$10.00**
A25010001	Liquor Tax	Liquor Tax	2	188.00
			Sub-Total:	**$188.00**
A2544	Dog Licensing	Female, Spayed	4	30.00
		Female, Unspayed	7	87.50
		Male, Neutered	8	60.00
		Male, Unneutered	6	75.00
			Sub-Total:	**$252.50**
A25900004.0001	ALARM PERMIT PENALTY	ALARM PERMIT PENALTY	17	2,550.00
			Sub-Total:	**$2,550.00**
A25900008	Alarm Permit	Alarm Permit	7	700.00
			Sub-Total:	**$700.00**
A25900011	Petroleum Dispensers	Petroleum Dispensers	26	2,600.00
			Sub-Total:	**$2,600.00**

Account#	Account Description	Fee Description	Qty	Local Share
A25900012	Peddlers Permit	On Foot - Per Yr.	1	50.00
		With Vehicle - Per Yr.	1	100.00
			Sub-Total:	**$150.00**
A25900019	Taxi Application Fee	Taxi Application Fee	2	200.00
			Sub-Total:	**$200.00**
A25900020	Taxi Drivers License	Taxi Drivers License	3	300.00
			Sub-Total:	**$300.00**
			Total Local Shares Remitted:	**$13,101.15**

Amount paid to:	NYS Ag. & Markets for spay/neuter program	51.00
Amount paid to:	NYS Environmental Conservation	109.60
Amount paid to:	State Health Dept. For Marr. Licenses	517.50

Total State, County & Local Revenues:	**$13,779.25**	**Total Non-Local Revenues:**	**$678.10**

Lorene Vitek

City Clerk

8/2/2012

Date

CITY OF NEWBURGH

CITY CLERK'S OFFICE
83 BROADWAY
NEWBURGH, NEW YORK 12550
PHONE (845)569-7311
FAX (845)569-7314

LORENE VITEK
CITY CLERK

KATRINA COTTEN
LISETTE ACOSTA-RAMIREZ
DEPUTY CLERKS

AUGUST 3, 2012

MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: REGISTRAR OF VITAL STATISTICS

I RESPECTFULLY REPORT THAT THERE HAS BEEN RECEIVED IN THE OFFICE OF VITAL STATISTICS DURING THE MONTH OF JULY 2012 THE SUM OF $6,212.00 AS FOLLOWS:

222 CERTIFIED COPIES OF BIRTH CERTIFICATES	$2,220.00
399 CERTIFIED COPIES OF DEATH CERTIFICATES	$3,992.00
TOTAL	$6212.00

IN ADDITION:

522 BIRTHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

370 DEATHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

Lorene Vitek

LORENE VITEK

PERSONNEL REPORT
CIVIL SERVICE COMMISSION
JULY 2012

COLLECTOR:	Sabrina Davis 352 Robinson Avenue Newburgh, NY	Temp Cashier Resigned 7/6/12 $10/hr.
	Erin DeGraw 515 Garden Street Newburgh, NY	Temp Cashier Appt. Temporary 7/6/12 $10/hr.
POLICE:	John Staton 106 Shaker Court North New Windsor, NY	Police Detective Suspended w/pay 7/6/12 $71,253
WATER:	Samuel Rolon 2998 Rt. 9W New Windsor, NY	Maintenance Mechanic Appt. Temporary 7/18/12 $41,508
	Robert Gerdes 228 Clay Hill Rd Kerhonkson, NY	Heavy Equipment Operator Appt. Temporary 7/23/12 $47,113

LOCAL LAW NO.: 4 - 2012

OF

AUGUST 13, 2012

A LOCAL LAW ADDING ARTICLE XII ENTITLED "EXEMPTION FOR CONVERSION OF CERTAIN MULTIPLE DWELLINGS" TO CHAPTER 270 "TAXATION" OF THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Article XII entitled 'Exemption for Conversion of Certain Multiple Dwellings' to Chapter 270 of the Code of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to adopt a real property tax exemption from general municipal taxes in the City of Newburgh for owners of multiple dwelling buildings which are reconstructed, altered or converted to owner-occupied one-family or two-family residential buildings as authorized by Real Property Tax Law Section 421-k.

SECTION 3 - AMENDMENT

Chapter 270 entitled "Taxation" of the Code of the City of Newburgh is hereby amended by the addition of Article XII entitled "Exemption for Conversion of Certain Multiple Dwellings" to read as follows:

"ARTICLE XII

Exemption for Conversion of Certain Multiple Dwellings

§270-71. Purpose.

The City Council of the City of Newburgh encourages property owners of single and two-family residential dwelling to invest in improvements to one- and two-family buildings used solely

for residential purposes by providing an exemption from general municipal taxes pursuant to Section 421-K of the Real Property Tax Law of the State of New York.

§270-72. Definitions.

As used in this section, the following terms shall have the following meanings:

OWNER-OCCUPIED MULTIPLE DWELLING BUILDING - any building or structure designed and occupied as the temporary or permanent residence or home of two or more families, including the owner of such building.

§270-73. Exemption granted; amount.

Multiple dwelling buildings that are reconstructed, altered, improved and/or converted back to an owner-occupied single-family or any owner-occupied multiple dwelling that is reduced to at most two units by such reconstruction shall be exempt from taxation levied by the City of Newburgh on the increase in assessed value attributable to such conversion to the extent provided hereinafter pursuant to Section 421-k of the New York State Real Property Tax Law. The length of said exemption shall be eight years and shall be computed in accordance with the following table:

Year of Exemption	Percent of Exemption
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

§270-74. Exemption base and market value defined.

A. Such buildings within the City of Newburgh shall be exempt for a period of one year to the extent of one hundred (100%) per centum of the increase in assessed value thereof attributable to such reconstruction alteration or improvement and for an additional period of seven years, as shown in the table set forth in Section 270-73, subject to the following:

1. The extent of such exemption shall be decreased by twelve and one-half (12.5%) per centum of the "exemption base" each year during such additional period. The "exemption base" shall be the increase in assessed value as determined by the initial year of the term of the exemption, except as provided in subsection 2 of this section.

2. In any year in which a change in level of assessment of fifteen (15%) per centum or more is certified for a final assessment roll pursuant to the rules of the State Board, the exemption base shall be multiplied by a fraction, the numerator of which shall be the total assessed value of the parcel on the immediately preceding final assessment roll (after accounting for any physical or quantity changes to the parcel since the immediately preceding assessment roll), and the denominator which shall be the total assessed value of the parcel on the immediately preceding final assessment roll. The result shall be the new exemption base, notwithstanding the fact that the Assessor receives certification of the change in level of assessment after the completion, verification and filing of the final assessment roll. In the event the Assessor does not have custody of the roll when such certification is received, the Assessor shall certify the recomputed exemption to the local officers having custody and control of the roll, and such local officers are hereby directed and authorized to enter the recomputed exemption certified by the Assessor on the roll. The Assessor shall give written notice of such recomputed exemption to the property owner, who may, if he or she believes that the exemption was recomputed incorrectly, apply for a correction in the manner provided by Title 3 of Article 5 of the New York State Real Property Tax Law.

3. Such exemption shall be limited to $100,000.00 in increased market value, but not less than $10,000.00, of the property attributable to such reconstruction, alteration or improvement, and any increase in market value greater than such amount shall not be eligible for the exemption pursuant to this section. For the purposes of this section, the market value of the reconstruction, alteration or improvement shall be equal to the increased assessed value attributable to such reconstruction, alteration or improvement divided by the Class I ratio in a special assessing unit or the most recently established state equalization rate or special equalization rate in the remainder of the state, except where the state equalization rate or special equalization rate equals or exceeds ninety-five (95%) per centum in which case the increase in assessed value attributable to such reconstruction, alteration or improvement shall be deemed to equal the market value of such reconstruction, alteration or improvement.

§270-75. Exclusions from exemption.

A. No such exemption shall be granted for reconstruction, alterations or improvements unless:

1. Such reconstruction, alteration or improvement was commenced subsequent to the date on which this Local Law takes effect;

2. The value of such reconstruction, alteration or improvement exceeds five thousand ($5,000.00) Dollars; and

3. The greater portion, as so determined by square footage, of the building reconstructed, altered or improved is at least five years old.

B. For purposes of this section, the terms "reconstruction," "alteration" and "improvement" shall not include ordinary maintenance and repairs.

§270-76. Time to File Application.

A. Any exemption pursuant to this Article shall be granted only upon application by the property owner on a form prescribed by the State Board of the Office of Real Property Services. The application shall be filed with the Assessor of the City of Newburgh on or before the taxable status date of March 1 to be eligible for an exemption to be entered on the assessment roll prepared on the basis of said taxable status date.

B. If satisfied that the applicant is entitled to an exemption pursuant to this section, the assessor shall approve the application and such building shall thereafter be exempt from taxation and special ad valorem levies as provided in this article commencing with the assessment roll prepared on the basis of the taxable status date referred to in Section 270-76 of this article. The assessed value of any exemption granted pursuant to this article shall be entered by the assessor on the assessment roll with the taxable property, with the amount of the exemption shown in a separate column.

§270-77. Exemption discontinuance.

In the event that a building granted an exemption pursuant to this article ceases to be used primarily for residential purposes or title thereto is transferred to other than the heirs or distributes of the owner, the exemption granted pursuant to this section shall cease.

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 when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law and shall apply to assessment rolls on the basis of taxable status dates occurring on and after January 1, 2013.

SECTION 6 - FILING

In addition to the Office of the New York State Secretary of State, copies of this Local Law shall be filed with the State Board of the Office of Real Property Services and the City of Newburgh Assessor.

RESOLUTION NO.: 125 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LICENSE AGREEMENT WITH THE GREATER NEWBURGH PARTNERSHIP, INC. TO ALLOW CLEANING AND GREENING ACTIVITES ON CITY-OWNED PROPERTIES KNOWN AS 140 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 10) 146 MONTGOMERY STREET (SECTION 12, BLOCK 4, LOT 2.1) 137 SMITH STREET (SECTION 12, BLOCK 4, LOT 4.1) AND 207 WATER STREET (SECTION 12, BLOCK 3, LOT 2.1)

WHEREAS, The Greater Newburgh Partnership, Inc. ("GNP") is a non-profit organization created for the improvement of the City of Newburgh, the greater Newburgh area and its many stakeholders; and

WHEREAS, the City of Newburgh is the owner of real properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York; and

WHEREAS, the GNP has offered to provide services to the City by performing cleaning and greening activities for the beautification of the aforementioned properties and has requested access to the properties to conduct these activities; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with The Greater Newburgh Partnership to allow access to City-owned properties known as 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street for the purpose of performing cleaning and greening activities.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and twelve, by and between the GREATER NEWBURGH PARTNERSHIP, INC., with offices at _____ as "LICENSEE"; and the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following title:

SCHEDULE "A"

140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, and more accurately described on the official tax map of the City of Newburgh as Section 12, Block 4, Lot 10; Section 12, Block 4, Lot 2.1; Section 12, Block 4, Lot 4.1 and Section 12, Block 3, Lot 2.1, respectively, City of Newburgh, New York

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties located at 140 Montgomery Street, 146 Montgomery Street, 137 Smith Street and 207 Water Street, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform "greening" improvements on property owned by Licensor. No improvements other than planting beds, walkways and the installation of a fence surrounding the perimeter of the property may be erected on the premises. The erection of a fence must be in conformance with Chapter 166 of the City Code.

Second: Licensee agrees to do such work and maintain said facilities in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority obtaining any and all permits required thereby. If, in the course of performing such work, Licensee, or any employees, agents, contractors and consultants engaged by

Licensee to perform the subject work, find, uncover, identify or otherwise locate asbestos or other hazardous material, Licensee, or employees, agents, contractors and consultants of Licensee, shall immediately cease and desist from the performance of the subject work and report said findings to the City Manager.

Third: Licensor acknowledges that the use of the subject properties shall inure to the benefit of both parties, and shall be satisfactory, adequate and sufficient consideration for the Licensee granted hereunder.

Fourth: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor due to the negligence of Licensee, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million ($1,000,000.00) Dollars.

Fifth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall name Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Sixth: This Agreement and the license or privilege term is from _____, 20__ to _____, 20___ and will be subject to renewal on mutual agreement of both parties for additional one (1) year terms each.

Seventh: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties hold said premises.

Eighth: Without limitation to the general provisions of this Agreement, it is understood and agreed that said facilities shall be installed in substantially the location and position shown in the attachments hereto, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

WITNESSETH: THE CITY OF NEWBURGH

LICENSOR

By: _____

Richard F. Herbek, City Manager

GREATER NEWBURGH
PARTNERSHIP, INC.

LICENSEE

By: _____

Name:
President

SCHEDULE "A"

140 Montgomery Street	Section 12, Block 4, Lot 10
146 Montgomery Street	Section 12, Block 4, Lot 2.1
137 Smith Street	Section 12, Block 4, Lot 4.1
207 Water Street	Section 12, Block 3, Lot 2.1

RESOLUTION NO.: 126 - 2012

OF

AUGUST 13, 2012

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LICENSE AGREEMENT WITH
MILL STREET PARTNERS, LLC IN CONNECTION WITH THE DEVELOPMENT OF
CITY OWNED PROPERTIES KNOWN AS THE MID-BROADWAY SITE

WHEREAS, the City of Newburgh wishes to develop the City-owned .66 acre Lander Street surface parking lot (between Chambers Street and Lander Street) as well as the 1.8 acre principal site that fronts on Broadway (the "Mid-Broadway Site"); and

WHEREAS, by Resolution No. 78-2012 of May 29, 2012, the City Council of the City of Newburgh authorized the City Manger to negotiate a development and land disposition agreement with Mill Street Partners, LLC for the development of the Mid-Broadway site; and

WHEREAS, Mill Street Partners, LLC has requested that the City of Newburgh allow them access to the Mid-Broadway site prior to finalizing the development and land disposition agreement for the purposes of conducting certain pre-development activities, including but not limited to survey work and preliminary environmental testing; and

WHEREAS, such access to the properties requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of this resolution; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into a license agreement with Mill Street Partners, LLC, and their contracted agents, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, to allow access to the Mid-Broadway site for the purposes of and to perform predevelopment activities.

LICENSE AGREEMENT

This Agreement, made this _____ day of _____, two thousand and twelve by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and MILL STREET PARTNERS, LLC, a limited liability company organized and existing under the laws of the State of New York, having an office at 853 Broadway, New York, New York 10003, and their consultants and contractors as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor, on behalf of itself and its employees, agents and contractors, known as 132, 136, 138, 140, 142, 142A, 144, 146 and 148 Broadway; 6, 10, 12 and 16 Johnston Street; and 6, 8 and 14 Lander Street, and more accurately described on the official tax map of the City of Newburgh as Section 30, Block 3, Lot(s) 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37 and 38, City of Newburgh, New York, hereinafter collectively referred to as "140 Broadway".

AND WHEREAS, Licensor is willing to give said license or privilege on the following terms and conditions:

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property located at 140 Broadway, in the City of Newburgh, New York, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary for the purposes of inspecting the property which inspections may include, but are not limited to, conducting surveys, physical inspections, tests, engineering and construction evaluation and reports, architectural study and planning, and environmental study, testing, and such other tests and evaluations as are reasonably required for an evaluation of the property and the prosecution of any applications for governmental approvals.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall

maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million ($1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, Licensee and such agents shall name Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall commence on _____, 20__ and expire and terminate upon the execution of a land development agreement between Licensor and Licensee.

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

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By: _____
Richard F. Herbek, City Manager

MILL STREET PARTNERS, LLC

LICENSEE

By: _____

RESOLUTION NO.: 127 - 2012

3-e

OF

AUGUST 13, 2012

A RESOLUTION REJECTING ALL BIDS RECEIVED
IN CONNECTION WITH THE CITY OF NEWBURGH
COMMUNITY DEVELOPMENT BLOCK GRANT
BUILDING DEMOLITION PROJECT

WHEREAS, the City of Newburgh has duly advertised for bids in connection with the Community Development Block Grant Building Demolition Project for the demolition of 159 Grand Street, 10 Dubois Street and 113 Washington Street; and

WHEREAS, two (2) bids were received and opened; and

WHEREAS, upon review of the bids it has been determined that all bids received were non-responsive to the bid requirements; and

WHEREAS, this Council has determined that rejecting all bids is in the best interests of the City of Newburgh and the project;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that all bids received in connection with the City of Newburgh Community Development Block Grant Building Demolition Project be and are hereby rejected.

RESOLUTION NO.: 128 - 2012

OF

AUGUST 13, 2012

A RESOLUTION APPROVING THE
STANDARD TERMS OF SALE FOR PROPERTY PURCHASES
FOR THE CITY OF NEWBURGH 2012 SEALED BID PROCESS

WHEREAS, this Council, by Resolution No.: 120-2012 authorized the sale of City owned properties through the sealed bid process; and

WHEREAS, such properties shall be sold pursuant to the attached Standard Terms of Sale for Property Purchases; and

WHEREAS, this Council has reviewed such Standard Terms of Sale for Property Purchases;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Standard Terms of Sale for Property Purchases, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Sealed Bid Process.

Standard Terms of Sale For Property Purchases

PLEASE NOTE SOME TERMS ARE SPECIFIC FOR AN AUCTION PROCESS AND MAY NOT BE APPLICABLE

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009 - 2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2009 - 2010, 2010-2011 and 2011-2012 and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009 - 2010, 2010-2011 and 2011-2012 and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the sealed bid sale any of the properties listed on the schedule of real property or cancel the sale of any property at any time prior to closing.
9. Notice is hereby given that all sealed bid properties lie within the City of Newburgh's East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of the Purchaser to redevelop such parcel so designated in accordance with same.
10. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must obtain a Certificate of Occupancy for all buildings on the property and make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be

conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of $250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

11. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
12. The owner of the property, or his agent, shall not be permitted to bid on the property or purchase same, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens. Purchaser shall provide information necessary to complete, and shall execute, the necessary forms and documents required for recording the deed in the City of Newburgh Clerk's Office. Offer to Purchase Form and sale cannot be assigned. Unless the City agrees in writing, the purchaser executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal.
13. The Purchaser will complete and execute the Sealed Bid Application. The approval of each bid by Resolution of the Newburgh City Council will not constitute a Contract of Sale and the City reserves the right to reject any bid and/or application prior to the closing of title and the recording of the deed.
14. All recording costs and transfer taxes shall be paid by the purchaser. **All deposits and payments must be in cash or guaranteed funds made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions.**
15. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
16. The entire purchase price and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before **December 7, 2012. The City is not required to send notice of acceptance to the Purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of $250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
17. Previously defaulting parties are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this sale. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
18. If the successful bidder fails to tender such amount due by the close of business on **December 7, 2012**, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
19. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall <u>not</u> be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.

20. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.
21. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
22. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. For properties acquired by the City by *in rem* tax foreclosure, the City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
23. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Consulting Engineer.
24. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.
25. The successful purchaser on each parcel must remove any associated signage within seven (7) days after the recording of the deed.
26. By acknowledging and executing the sealed bid application, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.

RESOLUTION NO.: 129 - 2012

OF

AUGUST 13, 2012

A RESOLUTION APPROVING THE TERMS AND CONDITIONS OF THE AUCTION FOR THE CITY OF NEWBURGH 2012 PROPERTY AUCTION

WHEREAS, this Council, by Resolution Nos.: 121-2012 and 122-2012, respectively, authorized a public auction of City owned properties; and

WHEREAS, such properties shall be sold pursuant to the attached Terms and Conditions of the Auction; and

WHEREAS, this Council has reviewed such Terms and Conditions of the Auction;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the Terms and Conditions of the Auction, attached hereto and made a part of this Resolution, be and are hereby approved for the City of Newburgh 2012 Property Auction.

Terms and Conditions of the Auction
DATE: October 3, 2012
TIME: TBD
LOCATION: Homewood Suites
Newburgh N.Y. 12550

STANDARD TERMS:

1. City of Newburgh acquired title to these properties in accordance with Article 11 of the Real Property Tax Law of the State of New York, and most of all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture, except for these properties not acquired by in rem tax foreclosure as follows: 33 City Terrace, Section 29, Block 4, Lot 16 and 251 Third Street, Section 22, Block 1, Lot 17.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; (e) 2009-2010, 2010-2011 and 2011-2012 school taxes, water rents and assessments, and sewer rents and assessments and any other applicable charges (including, but not limited to, omitted and pro rata taxes, demolition charges, interest and penalties); and (f) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the public auction.
4. The properties are sold subject to unpaid school taxes for the tax years of 2009-2010, 2010-2011 and 2011-2012, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any school taxes paid by the City for the tax year 2009-2010, 2010-2011 and 2011-2012, and subsequent levies up to the date of the closing. Upon the closing, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.**

   For all properties other than 16 William Street, the deed will contain provisions stating that the purchaser is required to either: a) both obtain a building permit within twelve (12) months of the date of the deed and to rehabilitate any existing building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed, or b) complete demolition of such building within twelve (12) months of the date of the deed. Within such eighteen (18) month rehabilitation period, the purchaser must either: i) obtain a Certificate of Occupancy for all buildings on the property, or ii) make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy. The deed shall also require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. The deed shall also require that the property may not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued for rehabilitation of the building or demolition of the building is completed. Failure to comply with any of the requirements in the deed shall cause the title to the property to revert to the City of Newburgh. A written request made to the City Manager for an extension of the twelve (12) month building permit period or the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of $250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to obtain a building permit or rehabilitate of up to, but not to exceed, three (3) months.

Any additional request thereafter shall be made in writing and placed before the City Council for their consideration.

For 16 William Street, a Certificate of Appropriateness has been issued by the Architectural Review Commission to permit demolition of the existing building located thereon. The deed to such property shall require that demolition of such building be completed within six (6) months of the deed, and shall also provide that the property may not be conveyed to any other person before demolition of the building is completed; otherwise, title shall revert to the City of Newburgh.

6. A property with no existing building and which is substandard in size under zoning, purchased by an adjoining property owner must be merged with the adjoining property at title closing.

7. All informational tools, such as slides, tax maps, deeds, photos, auction listings, auction catalogs, auction signs, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. THE CITY, THE AUCTIONEER, AND THE BROKER MAKE NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.
8. The City of Newburgh reserves the right, in its sole discretion, to withdraw from the auction any of the properties listed on the schedule of real property.
9. Notice is hereby given that the properties identified as 61 Campbell Street, Section 23, Block 7, Lot 4; 87 Carson Avenue, Section 45, Block 8, Lot 10; 22 City Terrace, Section 29, Block 5, Lot 27; 33 City Terrace, Section 29, Block 4, Lot 16; 330 Liberty Street, Section 12, Block 1, Lot 16; 374 Liberty Street, Section 10, Block 1, Lot 31; 163 S. William Street, Section 45, Block 2, Lot 2; 162 South Street, Section 11, Block 3, Lot 21; 81 South Street, Section 19, Block 1, Lot 5; 251 Third Street, Section 22, Block 1, Lot 17; 16 William Street, Section 35, Block 3, Lot 14; 50 William Street, Section 38, Block 2, Lot 36; 122 William Street, Section 44, Block 3, Lot 17; 79 William Street, Section 39, Block 2, Lot 23; 85 William Street, Section 39, Block 2, Lot 21; and 87 William Street, Section 39, Block 2, Lot 20 lie within the East End Historic District as designated upon the zoning or tax map. These parcels are being sold subject to all provisions of law applicable thereto and it is the sole responsibility of any bidder to redevelop such parcel so designated in accordance with same. In addition to the foregoing, 16 William Street has been issued a Certificate of Appropriateness by the Architectural Review Commission to permit demolition of the existing building located thereon.
10. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
11. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the successful purchaser following the closing of sale.
12. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchasers shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Bidder acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Bidder also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.

AT THE AUCTION

13. All bidders are required to register and provide suitable personal identification, such as a driver's license and passport, at registration. Auctioneer reserves the right to decline registration if identification is not sufficient. Individuals, other than lawyers, acting on behalf of others, not in attendance at the auction,

must produce a "Power of Attorney" duly executed and notarized. Incorporated entities, (Inc. , Corp., LLC, etc.) are required to provide a corporate resolution with a corporate seal affixed where applicable, authorizing the purchase of real property, prior to the transfer of title, and are encouraged to provide same at registration,

14. All bidders are required to use the bidder number issued to them for all purposes associated with the auction. A bidder may not bid on behalf of a party who is on the prohibited bidder list. A party will be added to such list if he has defaulted in payment of a purchase price or taxes following a purchase. Previously defaulting parties are not allowed to bid.
15. The former owner of the property, or his agent, shall not be permitted to bid on the property or purchase same at the public auction, unless the amount exceeds the amount of tax arrears. If the former owner reacquires the property, all liens existing prior to the foreclosure, will be reinstated and the purchaser (former owner) must sign an agreement to reinstate the liens.
16. The auctioneer's decision regarding any disputes is final, and the auctioneer reserves the right to reject any bid that is not an appreciable advancement over the preceding bid.
17. The Successful Bidder will execute an Offer to Purchase form at the auction for each property he/she is the successful bidder on. The approval of each bid by Resolution of the Newburgh City Council will bind the bidder only and will not constitute a Contract of Sale and the City reserves the right to reject any bid prior to the closing of title and the recording of the deed.
18. The Successful Bidder shall provide information necessary to complete and shall execute the necessary forms and documents required for recording the deed in the Orange County Clerk's Office. The bidder executing the auction terms and conditions of sale may not assign or otherwise transfer his right to complete the bid, unless the City agrees in writing. The deed prepared will be in the name of the successful bidder (and spouse) only. No third party bidding will be accepted, unless the bidder identifies that he is bidding as an agent for a disclosed principal, or unless the bidder is a lawyer.
19. The Successful Bidder shall be responsible for the payment of an eleven percent (11%) buyer's premium (1% buyer's premium discount for cash and other guaranteed funds) in addition to the accepted purchase price, an advertising fee of 1.5% of the bid price, and the closing fees/costs. The "buyer's premium" is the fee/commission earned by the auctioneer. Accepted purchase price is the amount of the bid by the highest bidder, which has been approved by the Newburgh City Council.
20. All required deposits must be paid in full for all successful bids immediately upon being declared the successful bidder. Any successful bidder, who fails to tender the deposit, will be forbidden to participate in this or any other auction. Any parcels which the City did not receive deposits for, per these terms and conditions, will be considered to be defaulted, and the bidder will be disqualified from further bidding. Furthermore, upon a default in payment for any one parcel, either during the auction or subsequent thereto, the bidder shall not be permitted to purchase any other parcel(s) bid on, and any deposit monies paid thereon will be forfeited to the City. Additionally, if a declared high bidder at the auction leaves the auction without making the required down payment, he/she will be prohibited from participating at future auctions held by NYSAuctions.com, Haroff Auction & Realty, Inc., Absolute Auctions & Realty, Inc., and the City of Newburgh reserves the right to take legal action against this high bidder.
21. The terms "bidder", "highest bidder" and "successful bidder" shall all have the same meaning.
22. $1,000.00 or 20% of the total contract price (total contract price is the combination of the high bid and the buyer's premium, as defined in Section 23 of these terms and conditions), whichever is higher, shall be paid as a down payment on the day of the auction upon execution of an Offer to Purchase Form. Total contract prices selling for less than $1,000.00 must be paid in full at auction, including all closing costs will be paid with the down payment on the day of the auction for each parcel; to wit; (a) New York State Transfer Tax [$2.00 for each $500.00 of the purchase/bid price]; (b) Filing Fee for the Real Property Transfer Report [$125.00 for residential and $250 for commercial]; (c) Filing Fee for combined Gains Transfer Tax Affidavit [$5.00]; and (d) all fees required by the Orange County Clerk for recording of the deed [$40.00 to record one page deed; $5.00 for each additional page; and $.50 for any cross reference]. *Closing costs may be subject to an increase in fees as required by law, without notice.* All recording costs and transfer taxes shall be paid by the purchaser. **All deposits must be made in credit/debit card (Master Card or VISA), cash or guaranteed funds (bank checks/tellers checks/cashiers check) made payable to the "City of Newburgh Comptroller" and drawn on banks insured by the Federal Deposit Insurance Corporation (FDIC). No exceptions. Wire transfers will not be accepted. The City Comptroller may refund overage of a deposit made in**

excess of the total contract price plus closing costs/fees once the funds have cleared, or apply said sum to the balance owing on the purchase price.

AFTER THE AUCTION

23. All bids shall be subject to approval by the Newburgh City Council, which shall have the right, in the Council's sole discretion, to reject any bid for any reason whatsoever.
24. The entire balance of the accepted purchase price, the buyer's premium as defined in Section 19 of these terms and conditions, and all closing costs/fees must be paid by cash or guaranteed funds to the City of Newburgh Comptroller's Office on or before December 3, 2012. *The City of Newburgh does not accept credit card payments for the balance of the purchase price, buyer's premium and closing costs/fees after the date of the auction.* **The City is not required to send notice of acceptance or any other notice to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the deposit shall be forfeited.** The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of $250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should any bidder fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the bidder. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.
25. Previously defaulting parties from prior auctions or other sales of city property are not allowed to bid. If a purchaser owes any outstanding and delinquent taxes to City of Newburgh, those delinquent taxes must be paid in full prior to closing on any purchases made at this auction. Failure to comply with this provision will be grounds for default and forfeiture of any deposits paid.
26. If the successful bidder fails to tender such amount due by the close of business on December 3, 2012, then, the City may, but is not obligated to offer any unsold property to the second highest bidder. All terms and conditions for the sale set forth herein above shall apply to the second highest bidder and/or any other purchaser.
27. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the successful bidder shall be entitled only to a refund of the purchase money paid with interest. Purchasers agree that they shall <u>not</u> be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
28. All sales shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh and/or Haroff Auction & Realty and Absolute Auction & Realty arising from this sale.
29. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, buyer's premium, and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**
30. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
31. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
32. Evictions, if necessary, are solely the responsibility of the successful bidder after closing and recording of the deed.

33. The successful purchaser on each auction parcel must remove the auction sign within seven (7) days after the recording of the deed.
34. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the auction date. If such conveyance occurs, the purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price at auction and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts.