CITY OF NEWBURGH
COUNCIL MEETING AGENDA
SESION GENERAL DEL CONSEJAL
April 25, 2022
7:00 PM

Mayor/Alcaldesa

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

City Clerk:/Secretaria de la Ciudad

3. Roll Call / Lista de Asistencia

Communications/Communicaciones

4. Resolution No. 97 - 2022 - Resolution to Appoint President Pro-Tem

   A resolution appointing Ramona Monteverde as the President Pro-tem to serve in the absence of the Mayor as the presiding official at City Council meetings

   Una resolución nombrando a Ramona Monteverde como Presidente Pro-Tem para servir en la ausencia del Alcalde como presidente oficial en las reuniones del Consejo Municipal

5. Arbor Day Proclamation

   Proclamación del Día del Árbol

6. Approval of the minutes from the City Council meeting of April 11, 2022 / Aprovacion del Acta de la Reunion General del Consejal del 11 de abril de 2022
7. City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

Presentations/Presentaciones

8. PCRRB Annual Report Presentation

   Presentación anual de la Junta Comunitarias de Revisión y Relaciones Policiales

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

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

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

9. Resolution No. 98 - 2022 - Award of Bid No. 2.22 Browns Pond Permanent Generator

   Resolution to authorize the award of a bid and the execution of a contract with Power With Prestige, Inc for the construction of the Browns Pond Pump Station Permanent Generator at a cost not to exceed $384,000.00

   Resolución que autoriza la adjudicación de una oferta y la ejecución de un contrato con Power With Prestige, Inc para la construcción del Generador Permanente de la Estación de Bombas de la Charca de Brown con un costo que no exceda $384,000.00

10. Resolution No. 99 - 2022 - Allocation of $500,000 of ARPA Funding to Browns Pond PS Generator Project

    Resolution authorizing and allocating $500,000.00 of American Rescue Plan Act of 2021 funding to the Browns Pond Pump Station Permanent Generator Project

    Resolución que autoriza y asigna $500,000.00 de financiamiento de la Ley del Plan de Rescate Americano de 2021 al Proyecto del Generador Permanente de la Estación de Bombas de la Charca de Brown

11. Resolution No. 100 - 2022 - Proposal with QUEST for Pre-Renovation Asbestos & Lead Testing at the DRC

    Resolution authorizing the City Manager to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. (QUES&T) for limited pre-renovation asbestos and lead paint surveys at the Dutch Reformed Church at a cost of $4,879.00

    Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un acuerdo con Quality Environmental Solutions & Technologies, Inc. (QUES&T) para la realización de estudios limitados de asbesto y pintura de plomo antes de una renovación en la Iglesia Reformada Holandesa por un costo de $4,879.00

12. Resolution No. 101 - 2022 - River Sweep - Event Sponsorship

    Resolution to sponsor the 2022 River Sweep Hudson River Cleanup

    Resolución para patrocinar el evento de limpieza del río Hudson de 2022

13. Resolution No. 102 - 2022 - Crown Castle - ISP Upgrade

    Resolution authorizing the City Manager to execute an agreement with Crown

Castle to increase network speeds and expand the wide area network to include 300 Broadway at a total cost of $8,150.00

Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo con Crown Castle para aumentar la velocidad de la red y expandir la red de área amplia para incluir a 300 Broadway por un costo total de $8,150.00

14. Resolution No. 103 - 2022 - 120 Grand Street - Site Development Agreement

Resolution authorizing the City Manager to execute a Site Development Agreement with The Genesis Group/ZWC Global for the transfer and redevelopment of property located at 120 Grand Street (Section 24, Block 2, Lot 17)

Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo de desarrollo de área con The Genesis Group/ZWC Global para la transferencia y nuevo desarrollo de la propiedad en la 120 de la calle Grand (Sección 24, Bloque 2, Lote 17)

15. Resolution No. 104 - 2022 - New York-New Jersey Watershed Protection Act

Resolution of the City Council of the City of Newburgh urging the United States Congress to enact the New York-New Jersey Watershed Protection Act H.R. 4677

Resolución del Concejo Municipal de la Ciudad de Newburgh urgiendo al Congreso de los Estados Unidos a promulgar H.R. 4677 la Ley de Protección de las Cuencas Hidrográficas de Nueva York y Nueva Jersey

16. Resolution No. 105 - 2022 - Home Rule Request - S8390/A9625

Resolution requesting the State Legislature to enact Senate Bill S8390 and Assembly Bill A9625 authorizing the City of Newburgh to impose a hotel and motel tax

Resolución que solicita a la Legislatura del Estado que promulgue las propuestas de ley del Senado S8390 y de la Asamblea A9625 que autorizan a la Ciudad de Newburgh a imponer un impuesto a los hoteles y moteles

17. Resolution No. 106 - 2022 - Home Rule Request - S8587/A9650A

Resolution requesting the State Legislature to enact Senate Bill S8587 and Assembly Bill A9650A authorizing the City of Newburgh to establish an administrative adjudication procedure for code and ordinance violations

Resolución que solicita a la Legislatura del Estado que promulgue las propuestas de ley del Senado S8587 y de la Asamblea A9650A que autorizan a la Ciudad de Newburgh a establecer un procedimiento de adjudicación administrativa para las infracciones de códigos y ordenanzas

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

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

Adjournment/ Aplazamiento:

RESOLUTION NO. _97_ - 2022

OF

APRIL 25, 2022

A RESOLUTION APPOINTING RAMONA MONTEVERDE AS THE PRESIDENT PRO-TEM TO SERVE IN THE ABSENCE OF THE MAYOR AS THE PRESIDING OFFICIAL AT CITY COUNCIL MEETINGS

WHEREAS, it is the official duty of the Mayor of the City of Newburgh to preside over the Council meetings to ensure that business of the city is performed according to the Rule of Order; and

WHEREAS, it is sometimes necessary for the Mayor to be absent either through illness or must attend another meetings that are essential to the betterment of the affairs of the City; and

WHEREAS, Section C4.11 of the City Charter states that "the Council may appoint one of its members as President Pro Tem, who, in the absence or disability of the Mayor, shall preside over the meetings of the Council and perform the duties, exercise all the functions and have the powers of the Mayor during the continuance of such absence or other disability";

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newburgh that Ramona Monteverde is appointed as President Pro Tem to serve in the absence of the Mayor; and

BE IT FURTHER RESOLVED by the City Council of the City of Newburgh that this resolution shall supersede Resolution No. 10-2018 of January 8, 2018.

RESOLUTION NO.: 98 - 2022

OF

APRIL 25, 2022

A RESOLUTION TO AUTHORIZE THE AWARD OF A BID AND THE EXECUTION OF A CONTRACT WITH POWER WITH PRESTIGE, INC. FOR THE CONSTRUCTION OF THE BROWNS POND PUMP STATION PERMANENT GENERATOR AT A COST NOT TO EXCEED $384,000.00

WHEREAS, the City of Newburgh owns and operates the Browns Pond Pump Station that transfers raw water to the City's Water Filtration Plant for treatment and proposed to replace the portable generator with a permanent standby generator, installed at the pump station site, to provide service in case of primary power failure; and

WHEREAS, the City of Newburgh has duly advertised for bids for the construction of a permanent generator at the Browns Pond Pump Station; and

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

WHEREAS, funding for such project shall be derived from American Rescue Plan Act of 2021;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the bid for the construction of the permanent generator at the Browns Pond Pump Station be and it hereby is awarded to Power With Prestige, Inc. for the amount of $384,000.00, and that the City Manager be and he is hereby authorized to enter into a contract for such work in this amount.

ADVERTISEMENT FOR BIDS

Bid No. 2.22
for
Browns Pond Permanent Generator

Sealed Bids for the construction of the Browns Pond Pump Station Permanent Generator will be received by the City of Newburgh Comptroller's Office until **11:00 a.m.** (local time) **Thursday, April 7, 2022** at City Hall, City of Newburgh, 83 Broadway – 4th floor, Newburgh, New York 12550, at which time the Bids received will be opened and read aloud. All Bids must be submitted in a sealed envelope ***clearly marked*** "BID #2.22 for Browns Pond Permanent Generator".

The Project consists of construction of a permanent generator at the Browns Pond Pump Station and related site and electrical modifications. Bids will be received for a single prime Contract. Bids shall be on a lump sum basis as indicated in the Bid Form.

Complete sets of the drawings, specifications, and bid forms, becoming available to the public on March 10, 2022, may be viewed and downloaded at no charge by visiting the Empire State Purchasing Group website at: www.BidNetDirect.com/new-york/city-of-newburgh, selecting the "Open Solicitations" tab and title of solicitation. Vendors may have to register if visiting this site for the first time.

Bidders must obtain and download all Bidding Documents, including any Addenda and other Bid correspondence, from the Empire State Purchasing Group (Issuing Office) website in order to be considered as, and placed on, the official Plan Holders list, receive Addenda and other Bid correspondence. Bids received from Bidders other than those on the official Plan Holders list will not be accepted.

All Bids must be made on the official Bid Form or an exact copy by reproduction thereof and enclosed in a sealed envelope. **All Bids must be in original form and signed in *blue ink, except for a Notary Public*.** Photocopies will not be accepted and will result in a rejection of the Bid.

All Bids must meet the requirements of the General Municipal Law of the State of New York and all other applicable federal, state and local statues. Bidders are required to comply with the prevailing wage rates as prescribed by the laws of the State of New York. Bidders shall confirm the rates prior to the Bid and assemble Bid prices accordingly. Whenever State and Federal wage rate determinations list different minimum rate of pay for the same class of workers, the contractor and all subcontractors shall pay the higher of the two rates.

The City of Newburgh is exempt from sales and compensating use taxes of the State of New York and of cities and counties on all materials to be incorporated into the Work.

Bid security shall be furnished in accordance with Article 8 of the Instructions to Bidders.

Bidders shall furnish proof of qualifications to perform the Work as described in Article 3 the Instructions to Bidders.

Bidders shall comply with all statutory requirements in accordance with Article 24 of the Instructions to Bidders.

Time of commencement of the Work and Contract Times for completion shall be in accordance with Article 4 of the Agreement.

The successful Bidder will be required to furnish construction performance and payment bonds in the full amount of the contract price. The successful Bidder will be required to comply with all provisions of the Federal Government Equal Employment Opportunity clauses issued by the Secretary of Labor on May 21, 1968 and published in the Federal Register (41CFR Part 60-1, 33 F.2 7804).

OWNER reserves the right to reject any and all Bids, to waive any and all informalities and the right to disregard all nonconforming, non-responsive or Conditional Bids.

OWNER:	**Contact:**	**ENGINEER:**	**Contact:**
City of Newburgh	Jason C. Morris, P.E.	Arcadis of New York, Inc.	Dana Bryant, P.E.
83 Broadway	City Engineer	855 Route 146, Suite 210	Project Engineer
Newburgh, NY 12550	(845) 569-7448	Clifton Park, NY 12065	(518) 250-7300

BY ORDER OF THE CITY OF NEWBURGH

By: _____ Dated: Wednesday, March 9, 2022
Janice Gaston, City Comptroller

CITY OF NEWBURGH – AN EQUAL OPPORTUNITY EMPLOYER

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

MEDIA SOURCE	**PUBLICATION DATE**
Hudson Valley Press	Wednesday, March 9, 2022
Mid-Hudson Times	Thursday, March 10, 2022

+ + END OF ADVERTISEMENT FOR BIDS + +

Unofficial Bid Tabulation

City of Newburgh, NY

Project: Bid #2.22 - Browns Pond Pump Station Permanent Generator

Bid Opening: Thursday, April 7, 2022 at 11:00 AM (EST)

Opened and read aloud Bids received: Elizabeth Garrison, Administrative Assistant to Commissioner of Public Works and City Engineer

Witnessed Opening/Recording of Bids: Helen Reilly, Grant Administrator (on behalf of City Comptroller)

Recorded Bids opened at Bid Opening: Robert Van Vlack, Senior Account Clerk

Wayne Vradenburgh, Superintendent of Water Department

Bidder Name	Line Item 1: Lump Sum Bid Price	*Contingency Allowance*	Total Lump Sum Bid Price
Power With Prestige Inc.	$374,000.00	*$10,000.00*	**$384,000.00**
TAM Enterprises, Inc.	$427,622.00	*$10,000.00*	**$437,622.00**
All Bright Electric	$411,549.00	*$10,000.00*	**$421,549.00**
Ray S. Pantel, Inc.	$412,000.00	*$10,000.00*	**$422,000.00**

Posting for BidNet
EDG

Sent via E-mail

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

Arcadis of New York, Inc.
855 Route 146
Suite 210
Clifton Park
New York 12065
Phone: 518 250 7300
Fax: 518 371 2757
www.arcadis.com

Date: April 11, 2022
Our Ref: 30083549
Subject: Bid No. 2.22 – Browns Pond Pump Station Permanent Generator Bid Results and Recommendation

Dear Mr. Morris,

Arcadis of New York, Inc. (Arcadis) has reviewed the tabulated Bids received by the City of Newburgh (City) on April 7, 2022, for Bid No. 2.22 – Browns Pond Pump Station Permanent Generator. A total of four Bids were received. The tabulated Bid results are enclosed for your convenience. The apparent low Bidder is Power With Prestige Inc. of Newton, New Jersey with a base bid of $384,000.00, inclusive of a $10,000.00 allowance.

We have reviewed the Bids and have determined the apparent low bidder to be responsive in accordance with the Instructions to Bidders. There were minor informalities in the Bid submitted but Arcadis does not view the informalities as significantly affecting the Bid and suggests that the bidder be asked to submit the following items from the Qualifications Statement to the City prior to Award:

- Workers' compensation Experience Modification Rate (EMR) for the years 2021 and 2017.
- Audited balance sheets for the past 3 years.

Upon receipt and acceptance of the items above, Arcadis recommends that the City consider awarding the Contract for Bid No. 2.22 to Power With Prestige Inc. in the amount of $384,000.00. If you have any questions pertaining to this project, please call me at your earliest convenience so that we can be of further assistance.

Sincerely,
Arcadis of New York, Inc.

Dana Bryant, P.E.
Principal Engineer

Email: dana.bryant@arcadis.com
Direct Line: 518 250 7347

CC. R. Ostapczuk, Arcadis

Enclosures:
Bid Opening Report

RESOLUTION NO.: 99 - 2022

OF

APRIL 25, 2022

A RESOLUTION AUTHORIZING AND ALLOCATING $500,000.00 OF AMERICAN RESCUE PLAN ACT OF 2021 FUNDING TO THE BROWNS POND PUMP STATION PERMANENT GENERATOR PROJECT

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

WHEREAS, the City of Newburgh proposes to allocate $500,000.00 of ARPA funds received to complete the Browns Pond Pump Station Permanent Generator Project; and

WHEREAS, the City Council finds that authorizing and allocating $500,000.00 of ARPA funds to support the completion of the Browns Pond Pump Station Permanent Generator Project is in the best interests of the health, safety and welfare of the residents of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager of the City of Newburgh be and he is hereby authorized to allocate $500,000.00 of American Rescue Plan Act of 2021 funds to the Browns Pond Pump Station Permanent Generator Project; and that the City Manager is authorized to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary administer the Browns Pond Pump Station Permanent Generator Project funded thereby.

RESOLUTION NO.: 100 - 2014

OF

APRIL 25, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL AND EXECUTE AN AGREEMENT WITH QUALITY ENVIRONMENTAL SOLUTIONS & TECHNOLOGIES, INC. (QUES&T) FOR LIMITED PRE-RENOVATION ASBESTOS AND LEAD PAINT SURVEYS AT THE DUTCH REFORMED CHURCH AT A COST OF $4,879.00

WHEREAS, the City of Newburgh wishes to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. (QUES&T) for limited pre-renovation asbestos and lead paint surveys in connection with renovations of the Dutch Reformed Church; and

WHEREAS, the proposal includes evaluation and sampling and preparation of an environmental testing report; and

WHEREAS, the cost for these services will be $4,879.00 and funding shall be derived from A.1918.0400 Grant Match; and

WHEREAS, the City Council has reviewed the annexed proposal and has determined that such work would be in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to accept a proposal and execute an agreement with Quality Environmental Solutions & Technologies, Inc. for limited pre-renovation asbestos and lead paint surveys for the renovations at the Dutch Reformed Church at a cost of $4,879.00.

QuES&T

Quality Environmental Solutions & Technologies, Inc.

April 11, 2022

City of Newburgh
83 Broadway
Newburgh, NY 12550

ATTN: Jason C. Morris, PE

Via E-mail: JMorris@cityofnewburgh-ny.gov

Re: Former Dutch Reformed Church
Request for Proposal – Limited Pre-Renovation Environmental Testing Services

Dear Mr. Morris,

Thank you for the opportunity to discuss the needs of the City of Newburgh in the environmental consulting and remediation services area. **Qu**ality **E**nvironmental **S**olutions **& T**echnologies, Inc. **(QuES&T)** is pleased to submit the attached proposal to provide Limited Pre-Renovation Environmental Testing Services at the Former Dutch Reformed Church, located at 134 Grand Street, Newburgh, NY 12550.

QuES&T is a NYS Certified Minority Business Enterprise committed to remaining a leader in the environmental training and technical consulting industry. **QuES&T**'s extensive Nuclear Power Industry experience makes us uniquely qualified to provide technical support in state-of-the-art techniques for engineering and contamination control. Additionally, this experience enables us to integrate the essential concepts of "critical path" schedules and minimizing personnel exposures while maintaining a high level of attention to the specific details of each project. **QuES&T** personnel satisfy numerous ANSI and NUREG experience requirements of the Nuclear Regulatory Commission. Our staff has served in various capacities in the Health Physics and Nuclear Engineering disciplines in operational power reactors, nuclear powered vessels, radio-pharmaceuticals and government prototypes.

We are confident you recognize that selection of a qualified technical consultant for professional services, such as pre-construction inspection, project design, project management and air monitoring, represents a step as critical as selecting a reputable environmental remediation contractor. **QuES&T** feels strongly that the success of any remediation project is defined primarily in the planning and design phase. A technically sound project design combined with proper oversight provides the most cost-effective solution and ensures the gains recognized are not at the expense of future liability to the City of Newburgh.

In this regard, **QuES&T** has successfully completed remediation projects, for our client companies, in support of Nuclear and Fossil commercial power plant maintenance outages, facility renovation and demolition, cGMP facility upgrades, recovery from contamination following catastrophic events (e.g. steam line explosions, fires), school building renovations, Corporate asbestos management programs, facility Operations & Maintenance (O&M) programs, UST removals, sub-surface investigations, contaminated soil remediation, LBP stabilization and commercial/residential asbestos & lead abatements.

Technical consulting services are available in the area of regulatory compliance audits, OSHA safety, air monitoring, respiratory protection, laboratory services, building hazard assessments (EPA, HUD, commercial), LBP Risk Assessments, management plans, NYS/NESHAP pre-demolition inspections and full scope project management; including development of remediation response actions and management of all required project and personnel records. Our staff of experienced environmental professionals can prepare all required specifications and procedures to ensure your programs comply with federal, state and municipal regulatory requirements.

QuES&T offers a wide range of OSHA and environmental safety training. Our full range of asbestos safety certification training ensures that our client's employees receive the appropriate training to maximize their safety and minimize your liability. **QuES&T** offers accredited initial and refresher training programs for Operations & Maintenance (O&M), Asbestos Abatement Workers and Supervisors, Project Monitors, Asbestos Project Sampling Technicians (RH-II), Asbestos Project Designers, Asbestos Inspectors (RH-III) and Management Planners. Our accredited training facility (EPA, NYS) contains the most modern equipment to support the hands-on portion of each training program. On-site training services are available for groups of at least twenty-five students and can be tailored to meet the specific needs of the City of Newburgh.

QuES&T provides a full range of services in the area of Respiratory Protection. Our technical staff has extensive experience in the development of regulatory compliance programs for NUREG 0041 and OSHA 1910.134 Respiratory Protection Programs. Quantitative or qualitative respirator fit services can be provided at **QuES&T**'s facility or yours.

For additional information concerning this submittal, please contact us at (845) 298-6031. We look forward to working with the City of Newburgh in the environmental consulting and remediation services area.

Sincerely,

Rudy Lipinski - LEED®AP
Director of Field Operations
NYS/AHERA Inspector/Project Designer
Cert. #AH 05-09049

PRE-RENOVATION ENVIRONMENTAL TESTING SERVICES
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
FORMER DUTCH REFORMED CHURCH
134 Grand Street
Newburgh, NY 12550

QuES&T agrees to provide the following services:

- ***Limited Pre-Renovation Asbestos Survey***
  - Provide licensed NYS/AHERA Asbestos Inspector(s) to perform a Limited Pre-Renovation Asbestos Survey throughout accessible interiors and exteriors of the above-referenced location. No sampling of interior and exterior spaces that would require a lift and/or extensive building/site preparation/scaffolding to access.
  - Perform collection and analysis of suspect friable Asbestos-containing Materials (ACM) using Polarized Light Microscopy (PLM) 198.1 analytical protocol and as required, approved method 198.8 for Vermiculite.
  - Perform collection and analysis of suspect non-friable organically bound Asbestos-containing Materials (ACM) using both Polarized Light Microscopy-NOB (PLM-NOB) and Quantitative Transmission Electron Microscopy (QTEM) analytical protocols.
  - Discussion of laboratory results for all bulk samples (PLM 198.1, 198.8 & QTEM/PLM).
  - Documentation of all analytical laboratory certifications.
  - Identify estimated quantities, locations, types and conditions of Asbestos-containing Materials (ACM) for inclusion in the pre-construction environmental survey report.

Limited Pre-Renovation XRF Lead-Based Paint Survey

- Provide Niton-certified IH Technician(s) to perform representative In-Situ measurements using a Niton XLp Model 300A XRF Meter on accessible, representative painted surfaces & immovable objects throughout accessible interiors and exteriors of the above-referenced locations. No sampling of interior and exterior spaces that would require a lift and/or extensive building/site preparation/scaffolding to access.
- Locations and quantity of representative In-situ measurements will be based on the observed homogeneity of painted surfaces.
- Sequential and summary reports will be provided of all surfaces tested.
- Summarize lead-based paint identified for inclusion in the environmental survey report.

PRE-RENOVATION ENVIRONMENTAL TESTING SERVICES
for
CITY OF NEWBURGH
83 Broadway
Newburgh, NY 12550
at
FORMER DUTCH REFORMED CHURCH
134 Grand Street
Newburgh, NY 12550

COST ESTIMATE

- ***LIMITED PRE-RENOVATION ENVIRONMENTAL TESTING SERVICES***

Inspection Labor	$ 1,120.00
PLM Bulk Sample Analysis (90 samples @ $19/layer)	$ 1,710.00[A]
PLM-NOB/QTEM Bulk Sample Analysis (26 @ $49/layer)	$ 1,274.00
XRF Equipment Rental (1 day @ $175/day)	$ 175.00
Limited Pre-Renovation Environmental Testing Report	$ 500.00
Travel & Misc. Materials	$ 100.00
Estimated Inspection Total	**$ 4,879.00**

A. *As per the testing requirements, for surfacing materials, set forth in the NYSDOH communication, dated May 6, 2016, if vermiculite is present (regardless of the amount), one of the two approved methods must be used for the detection and quantitation of asbestos content.*

If Vermiculite is detected, within surfacing materials sampled (NYS ELAP 198.1), as per the NYSDOH guidelines, samples will be analyzed in conformance with NYS ELAP 198.8. Sample analysis is $300/sample analyzed on a two-week turnaround time.
Prior to sample analysis, the lab will notify **QuES&T** the number of samples containing vermiculite, who in turn will review associated costs with ***City of Newburgh*** for approval to move forward with analysis.

***NOTES:**
1. Estimated number of samples to be collected/analyzed. Client shall be charged for actual services rendered and samples analyzed.
2. Sample analysis turnaround (TAT) commences upon laboratory receipt of samples and excludes Weekends & Holidays.

This proposal is based on the following assumptions:

- **QuES&T** shall perform all inspections visually; using reasonable care and judgment. Localized demolition will be performed to access representative concealed surfaces, as practicable. ***Client/ Representatives*** recognize & agree that ACM/LBP concealed within structural components & accessible only through extensive mechanical or structural demolition may not be identified as part of this survey.

- **QuES&T** shall not be responsible for damage caused to building finishes, surfaces or equipment by sampling. Responsibility and cost for repair of damaged building finishes, surfaces and equipment shall be by ***Client / Representatives.***

- **QuES&T** will exercise reasonable caution to minimize disturbance of ACM/LBP during the inspection process. However, clean-up of ACM/LBP disturbed or dislodged during the inspection process shall be the responsibility of ***Client / Representatives***.

- ***Client / Representatives*** shall be responsible for providing immediate access into all inspection areas and securing same upon completion of inspection activities.

- Inspection work to be conducted upon receipt of written Notice to Proceed and/or associated Purchase Order Number.

- Inspection work to be conducted during normal weekday business hours (Mon–Fri, 8am–5pm). ***Client / Representatives*** will provide access to all respective buildings concurrently.

ACCEPTANCE OF PROPOSAL #P22-7866

To Execute This Agreement, Please Review, Sign, Date & Return to QuES&T.
Payment Terms: Payment Shall Be Net 30 Days; Following Delivery Of Final Report; Late Payments Shall Be Assessed a Penalty of 1.5% per Month.

City of Newburgh – Authorized Representative:

By _____ _____ _____
Signature *Print Name & Title* *Date*

RESOLUTION NO.: 101 - 2022

OF

APRIL 25, 2022

A RESOLUTION TO SPONSOR THE 2022 RIVER SWEEP HUSDON RIVER CLEANUP

WHEREAS, the City of Newburgh Conservation Advisory Council proposes to hold the 2022 River Sweep Hudson River Cleanup on May 7, 2022; and

WHEREAS, the 2022 River Sweep Hudson River Cleanup is an event designed to clean and beautify City-owned waterfront property along the Hudson River, including South Street Park, Ward Brothers Park, the Washington Street Boat Launch and the former Consolidated Iron and Metal Site; and

WHEREAS, this City Council finds that supporting the 2022 River Sweep Hudson River Cleanup as a City-sponsored event is in the best interests of the residents of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby supports and sponsors the 2022 River Sweep Hudson River Cleanup as a City-sponsored event.

THE CITY OF NEWBURGH
PERMIT APPLICATION

83 Broadway
Newburgh, NY 12550
Telephone: 845 569-7301
Fax: 845-569-7546

1. **Check where applicable. Complete all questions. Print or type**
2. **$50.00 fee must be submitted with application.**
3. **Permit must be submitted at least two weeks prior to event.**

1. **NAME OF ORGANIZATION:** Newburgh Conservation Advisory Council
2. **TYPE:** not for profit _____ community City church _____ club _____
3. **ADDRESS:** 123 Grand St. Newburgh
4. **TELEPHONE:** 845 313-2944 **DATE OF PERMIT SUBMISSION:** 3/21/22
5. **NAME OF OFFICER OR DIRECTOR:** Chuck Thomas Chair
6. **CONTACT PERSON:** Chuck Thomas **SAME** X
   TITLE: Chair, CAC
7. **ADDRESS:** 123 Grand St. Newburgh NY 12550
8. **TELEPHONE** 845 569-7380 **FAX:** _____
   EMAIL Conservation@cityofnewburgh-ny.gov Chuckthomas227@gmail.com
9. **REASON FOR PERMIT:** River Sweep Hudson River Cleanup
10. **LOCATION (exact):** South St. Park, 2 South St + Boat launch and former Consolidated Iron area (T's time permits)
11. **DATE OF ASSEMBLY:** 5/7/22 time 10 AM

Request waiver of fee.

12. **PLANNED ACTIVITIES:** Trash Cleanup
Talent _____
Table Games (specify type): _____
Water Games (i.e. sprinkler): _____
Amusement Rides (specify type): N/A
Parade (include route): _____
_____
Animals (specify type): _____
Ministry: _____ **Rally:** _____ **Music:** _____ **Live or recorded music:** _____
Location of music: _____

MUST BE IN ACCORDANCE WITH THE CITY'S CODE OF ORDINANCES. NO ELECTRONIC AMPLIFICATION IS ALLOWED. SEE ALSO PERMIT CONDITIONS.

13. **Other (explain):** N/A WILL GET GENERATOR

14. **Admission charge:** Yes_____ No X

15. **Sanitary Facilities:** Yes_____ No X Type and location: _____

16. **Special Requests (i.e. barricades)** N/A

17. **Estimated number of participants:** 25

Age Groups: Young children _____ Adolescents 5 Adults 20

18. **Security to be provided:** N/A

19. **Has the applicant previously sought permits for assemblies in public places?**
Yes X **No**_____ **If so, state when and where:** River Sweep
South St. Park 2021

LOCAL LAW #1-2019 PROHIBITS SMOKING ON CITY PROPERTY UNLESS A DESIGNATED SMOKING AREA IS REQUESTED AND PROPOSED BY THE APPLICANT AND APPROVED BY THE CITY

20. **Will there be a designated smoking area? Yes**_____ **No** X

If yes, please identify the locatin and how it will be marked for participants:
_____
_____

PERMIT CONDITIONS

All persons holding any event under a permit issued under this article or which would be within this article, although a permit was not obtained, shall be responsible for the following:

1. **After the conclusion of the event, cleaning the area used for the event, removing all rubbish, trash garbage and debris, and returning said area to substantially the same condition it was prior to said event.**

Request City to remove bagged trash + large items

2. **Paying to the City of Newburgh the cost of repairing or replacing any City Property damaged during the course of the event.**

re: door toilet etc

3. **During an event, the use of mechanical or electrical amplification equipment for the playing music, speaking or other purposes shall be forbidden between the hours of 11 p.m. and 10 a.m. within 2,000 feet of any residence and shall be forbidden within 2,000 feet of any house of worship during the conducting therein of any worship service. All other municipal ordinances relating to noise shall remain in full force and effect.**

INSURANCE REQUIREMENTS

A certificate of Liability Insurance, covering the event to be held must be approved by the Corporation Counsel. The City of Newburgh must be a named as an additional insured on the Certificate with the limits of liability of at least one million dollars ($1,000,000) for each occurrence and two million dollars ($2,000,000) aggregate for bodily injury and fifty thousand dollars ($50,000) for each occurrence and one hundred thousand dollars ($100,000) aggregate for property damage. In instances where, in the judgment of the City Manager, unusual risk of liability are present, he may require a sufficient additional amount of insurance to indemnify the City against the additional risk of loss. The policy must be written by a company authorized to do business in New York State and must be acceptable to the City Manager.

CAC requests City Sponsorship + waiver of insurance

APPLICATION REGULATIONS FOR PROCESSING

The application required by Section 17-132 must be filed with the Office of the City Manager at least two weeks prior to the date on which the event is sought to be held. The application shall be reviewed by the Police Department, Fire Department, Department of Public Works and Recreation, who may recommend approval or disapproval. The Corporation Counsel shall review and approve, and upon payment of the required fee, the City Manager may approve the application and issue the permit subject to such conditions as are imposed by this article or in his discretion to protect the public health, safety, convenience and welfare.

THIS IS TO CERTIFY THAT I HAVE READ AND UNDERSTOOD THE WITHIN DESCRIBED CONDITIONS SET FORTH IN THE ORDINANCE AND WILL COMPLY AND OBSERVE ALL REGULATIONS AND LAWS AS STATED WITHIN THIS ORDINANCE FOR ASSEMBLIES IN PUBLIC PLACES.

Applicant Signature — **Date** 5/21/22

If organization, state name of organization and applicant's title in the organization:

City of Newburgh's CAC — Chair

Organization — **Title**

FOR OFFICE USE ONLY

Permit Fee Payment:

Date_____Receipt No. _____N/A_____

Certificate of Insurance:

Date: _____Approved: _____ Disapproved: _____ Not Required_____

_____

CORPORATION COUNSEL

Date	Department Name/Title	Recommendation	Adjustment
_____	Codes_____	Yes ____ No____	_____
_____	Fire_____	Yes ____ No ____	_____
_____	Police _____	Yes ____ No ____	_____
_____	DPW_____	Yes ____ No ____	_____
_____	Recreation_____	Yes ____ No ____	_____

CITY MANAGER: approved _____ **denied** _____

_____ _____

Todd Venning
City Manager

DATE

RESOLUTION NO.: 102 - 2022

OF

APRIL 25, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH CROWN CASTLE TO INCREASE NETWORK SPEEDS AND EXPAND THE WIDE AREA NETWORK TO INCLUDE 300 BROADWAY AT A TOTAL COST OF $8,150.00

WHEREAS, the City proposes to increase network internet speeds and expand the wide area network to include 300 Broadway; and

WHEREAS, the City of Newburgh received a proposal from Crown Castle to amend the parties' Master Telecommunications License Agreement to include the increased network speed and expansion of the wide area network; and

WHEREAS, the total cost of the services will be $8,150.00, and funding shall be derived from A.1680.0448; and

WHEREAS, this Council has determined that accepting such proposal and entering into the contract is in the best interests of the City of Newburgh;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he hereby is authorized to execute an agreement with Crown Castle for increased network speed and expansion of the wide area network to include 300 Broadway at a cost of $8,150.00.

RESOLUTION NO.: 103 - 2022

OF

APRIL 25, 2022

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SITE DEVELOPMENT AGREEMENT WITH THE GENESIS GROUP/ZWC GLOBAL FOR THE TRANSFER AND REDEVELOPMMENT OF PROPERTY LOCATED AT 120 GRAND STREET (SECTION 24, BLOCK 2, LOT 17)

WHEREAS, the City of Newburgh wishes to redevelop the City-owned property located at 120 Grand Street (the "Property"); and

WHEREAS, the City issued a Request For Proposals ("RFP") for the development of the Property and received four (4) responses from developers interested in pursuing development projects on the Property; and

WHEREAS, the Mayor's Strategic Economic Development Advisory Committee reviewed the responses to the RFP and recommended to City Council that The Genesis Group/ZWC Global Partners (by David Garland and Wayne Warner, as managing members) or a yet-to-be formed company that is effectively owned, managed, and controlled by Mr. Garland and Mr. Warner be selected to develop the Property; and

WHEREAS, the parties have negotiated a site development agreement for the transfer and redevelopment of the Property, which is annexed hereto; and

WHEREAS, this Council finds that the Property is not required for public use and that approving such site development agreement is necessary, appropriate and in the best interests of the City;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh that the City Manager be and he is hereby authorized to execute on behalf of the City of Newburgh the site development agreement with The Genesis Group/ZWC Global Partners (by David Garland and Wayne Warner, as managing members) or a yet-to-be formed company that is effectively owned, managed, and controlled by Mr. Garland and Mr. Warner, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, for the transfer and redevelopment of the property at 120 Grand Street.

SITE DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWBURGH

AND

NEW 120 GRAND STREET, LLC

DATED AS OF _____, 2022

Regarding:
120 Grand Street, Tax ID 24-2-17
City of Newburgh, Orange County, New York

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SITE DEVELOPMENT AGREEMENT

SITE DEVELOPMENT AGREEMENT ("Agreement") dated _____, 2022 between the City of Newburgh, a municipality of the State of New York, having a principal office at City Hall, 83 Broadway, Newburgh, NY 12550 ("City") and New 120 Grand Street, LLC, a New York limited liability company having an address c/o Arciero McMillan & Burgess, P.C., 299 Windsor Highway, New Windsor, New York 12553 ("Developer").

W I T N E S S E T H:

WHEREAS, the City is the owner of the property located at 120 Grand Street in the City of Newburgh, more accurately described as Section 24, Block 2, Lot 17 on the official tax map of the City of Newburgh, described in Section 3.01 hereof (the "Property"); and

WHEREAS, the City desires to provide for the redevelopment of the Property for commercial uses; and

WHEREAS, pursuant to a request for proposals, based on their representations as to qualifications, experience and financial capacity, the City selected the Developer to redevelop the Property; and

WHEREAS, the Developer has proposed to acquire the Property from the City for the purposes of developing the Property, and City desires to convey the Property to the Developer pursuant to the terms set forth in this Agreement; and

WHEREAS, the Developer acknowledges that the City is conveying the Property subject to the terms and conditions set forth herein for the purpose of providing for the redevelopment of the Property in accordance with this Agreement;

NOW THEREFORE, in consideration of mutual covenants herein contained and the payment of the sum of on dollar by the Developer to City, the receipt of which is hereby acknowledged, the parties agree as follows:

ARTICLE 1
DEFINITIONS

SECTION 1.01 Definitions. Any terms set forth in this section shall have the meanings ascribed to them for all purposes of this Agreement, unless the context clearly requires otherwise.

"Approvals and Permits" shall mean, collectively, all approvals and permits actually issued from all governmental or administrative agencies or regulatory bodies having jurisdiction for the construction and operation of the redevelopment of the Property, including, without limitation, all site plan approvals, zoning variances, easement and franchise agreements. "Approvals and Permits" shall also mean all applications for building permits, licenses, permits and permissions to construct

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and maintain all on-site and off-site improvements, curbcuts, roadway, mediate cuts and utility lines and services.

"Architect" shall mean a professional architect or professional engineer or firm of professional architects or professional engineers licensed by the State of New York, and reasonably acceptable to City.

"Business Day" shall mean a day other than i) any Saturday, Sunday, or other day on which banks located in the City of Newburgh are authorized or required to be closed, or ii) any day on which the offices of the City of Newburgh are closed.

"Certificate of Occupancy" shall mean a permanent certificate of occupancy issued by the City of Newburgh Code Compliance Bureau.

"City" shall mean the City of Newburgh, a municipal corporation of the State of New York having a place of business at 83 Broadway, Newburgh, New York 12550, its successors and/or assigns.

"Claims" shall mean any and all claims (whether in tort, Agreement or otherwise), demands, liabilities, obligations, damages, penalties, costs, charges and expenses, for losses, damage, injury and liability of every kind and nature and however caused, and taxes, including, without limitation, reasonable fees of architects, engineers and attorneys, administrative or judicial actions, suits, orders, liens, notices, notice of violations, investigations, complaints, requests for information, proceedings, or other communication (written or oral), whether criminal or civil.

"Closing Date" shall mean the date of closing of title pursuant to Section 3.03.

"Closing Deadline" shall mean the date which is set forth in Schedule "C" as the closing deadline.

"Completion Deadline" shall mean the date which is set forth in Schedule "C" noted as the "Project Completion Deadline."

"Developer" shall mean **NEW 120 Grand Street, LLC**, its successors and/or assigns to the extent permitted under Section 12.01 of this Agreement.

"Earnest Money" shall mean the amount payable pursuant to Section 4.01(a).

"Force Majeure" shall mean acts of God, strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the United States or any civil or military authority in the exercise of its police powers; insurrection, civil disturbances, or riots; or impossibility of procuring materials.

"Governmental Authority" shall mean the United States, State of New York, and any political subdivision thereof, and any agency, department, commission, board, bureau or instrumentality of

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any of them having jurisdiction over the Property including, but not limited to the United States, the U.S. Environmental Protection Agency, or any state or local environmental protection agency.

"Housing Units" shall mean apartment units intended to be occupied by a single person or family other than on a transient basis.

"Improvements" shall mean any buildings, structures, or other improvements, now or hereafter constructed or place upon, under or affixed to the Property, including without limitation any fixtures.

"Lending Institution" shall mean any insurance company, bank or trust company, college, university charitable institution or union, pension, profit or retirement fund or trust, governmental agency or fund, real estate investment trust, or other financial or lending institution whose loans on real estate or respect thereto are regulated by state or federal law, and which is not a Related Party to the Developer.

"Liens" shall mean any interest in real or personal property securing an obligation owed to a person, whether such interest is based on the common law, statute or agreement, and including, but not limited to, a security interest arising from a mortgage, encumbrance, pledge, conditional sale or trust receipt or a lease, consignment or bailment for security purposes. The term "Lien" includes reservations, exceptions, encroachments, projection, easements, right of way, including but not limited to, mechanics', materialman's, warehousemen's and carriers' liens and other similar encumbrances affecting real property. For purposes hereof, a "person" shall be deemed to be the owner of real or personal property which it has acquired or holds subject to a conditional sale agreement or other arrangement pursuant to which title to the property has been retained by or vested in some other person for security purposes.

"Net Proceeds" shall mean so much of the proceeds with respect to which that term is used as remain after payment of all fess for the costs of adjustment and collection, services, expenses, and taxes (including reasonable attorneys' fees) incurred in obtaining such proceeds.

"Person" shall mean an individual, partnership, corporation, trust, unincorporated organization or Government Authority.

"Plans and Specifications" shall mean the plans, specifications, drawings and related documents for the Improvements which shall be prepared by a New York Stated Licensed Architect or Professional Engineer, and shall be as detailed as the plans required to be submitted to the building inspector of the City for purposes of obtaining a building permit, including but not limited to a site plan that includes a landscaping plan, a drainage plan, pedestrian and vehicle ingress and egress, a floor plan, mark-outs for water, sewer and utilities, exterior materials, colors and elevations, parking, and signage, including all amendments and modifications thereof made in accordance with the terms hereof.

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"Project" shall mean the development project, which shall include renovation of three floors of commercial space for use(s) permitted in the applicable zone(s); restoration of the existing building in accordance with New York State Historic Preservation Office and City of Newburgh Architectural Review Commission standards; and outreach, training and hiring of local area residents in connection with the construction project. No residential use or change of building footprint is contemplated or shall be allowed.

"Project Lender" shall mean a Lending Institution that is the mortgagee of a Project Mortgage financing construction of the Project.

"Project Mortgage" shall mean one or more mortgages on Developer's interest in the Property and Improvements obtained from a Lending Institution, the proceeds of which are used for the development of the Project including, without limitation, soft costs, hard costs and financing costs related thereto and any refinancing by a Lending Institution.

"Property" shall mean the property described at Section 3.01 to be conveyed pursuant to this Agreement.

"Purchase Price" shall mean the purchase price set forth in Section 4.01.

"Related Party" shall mean, with respect to any Person, any other Person if such other Person controls or is controlled by or under common control with the Person.

"Taxes" shall mean all taxes, assessments, water and sewer rents, rates and charges, vault license fees or rentals, levies license and permit fees and all other governmental impositions and charges of every kind and nature whatsoever, extraordinary as well as ordinary, foreseen and unforeseen, which shall be charged, levied, laid, assessed, imposed upon, become due and payable out of or in respect of, or become liens upon the whole or any part of the Property or Improvements, together with all interest and penalties, under all present or future laws, ordinances, requirements, orders, directives, rules or regulations or the federal, state, county, school and city governments and of all other Governmental Authorities whatsoever.

"Title Insurer" shall mean such title insurance company as shall be mutually acceptable to the City and the Developer for the issuance of the policies of title insurance referred to in Section 3.02.

SECTION 1.02 Interpretation. As used in this Agreement, the masculine shall include the feminine and neuter and vice versa, the singular shall include the plural and the plural shall include the singular, as the context may require. References to sections or subsections herein shall mean the applicable section of subsection of this Agreement, unless the context clearly requires otherwise.

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ARTICLE 2
DEVELOPER'S REPRESENTATIONS

SECTION 2.01 Developer's Representations. Developer makes the following representations and warranties to City in conjunction with the conveyance of the Property:

(a) Developer is a limited liability company duly formed and in good standing under the laws of the State of New York; is duly qualified to transact business in the State of New York; and has the requisite corporate power and authority to enter into this Agreement and any other documents required by the Parties to effectuate this Agreement including. The execution, delivery and performance by Developer of such documents does not conflict with or result in a violation of Developer's organizing documents or any judgment, order or decree of any court or arbiter to which Developer is a party or by which it is bound. Such documents are valid and binding obligations of Developer, enforceable in accordance with their terms. There is no suit, action, proceeding or litigation pending or, to the best of Developer's knowledge, threatened, against or affecting the Developer by or before any court, arbitrator, administrative agency or other Governmental Authority which might have material effect on the validity of the transaction contemplated hereby or the ability of the Developer to perform its obligations under this Agreement.

(b) Developer intends to proceed to seek the Approvals and Permits for the construction of the Project promptly following the execution of this Agreement.

(c) Developer has the requisite financial capacity and technical expertise and is in all respects capable of constructing the Project prior to the Completion Deadline.

(d) The Project will be constructed to meet all requirements of Permits and Approvals and applicable requirements of any Governmental Authority having jurisdiction over the Developer, the Property, the Improvements or their use or operation.

(e) All certificates or statements furnished to the City by or on behalf of the Developer in connection with the transaction contemplated hereby are true and complete.

ARTICLE 3
CONVEYANCE OF PROPERTY AND ACCEPTABLE TITLE

SECTION 3.01 Conveyance of Property. Upon satisfaction of the conditions precedent to conveyance set forth in Article 5 of this Agreement, and subject to the further terms of this Agreement, City shall convey to Developer and Developer shall purchase, at the price and upon the terms and conditions set forth in this Agreement, the Property in the City of Newburgh, Orange County, the Property, which includes:

(a) the real property located in Orange County and described in Schedule "A" attached hereto and made part hereof (the "Land");

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(b) all right, title and interest currently held by the City, if any, in and to any and all strips and gores of land adjacent to or adjoining the Land, and all of the Land lying in the bed of any street or highway in front of or adjoining the Land to the center line thereof and to any unpaid award for any taking by condemnation or any damages to the Land by reason of a change of grade of any street or highway;
(c) all appurtenances and all the estate and rights currently held by the City in and to the Land.
(d) the appurtenances and all the estate and rights currently held by the City in and to the Land and Improvements; and
(e) all right, title and interest currently held by the City, if any, in and to the furniture, machinery, fixtures, equipment attached to or located on the Land or the Improvements (collectively referred to in the Agreement as the "Equipment")

SUBJECT TO the any easements or rights-of-way of record, and rights of reverter reserved herein as further described in Section 11.04.

SECTION 3.02. Title; Permitted Exceptions. City shall convey fee simple title to the Property in accordance with the terms of this Agreement, subject only to the following exceptions (collectively referred to as the "Permitted Exceptions"):

(a) the matters set forth in Schedule "B" attached hereto;
(b) the City's right of reverter set forth in Section 11.04;
(c) restrictions, easements, rights of way and encumbrances disclosed in policies of title insurance which have been made available to the Purchaser;
(d) statutory liens for current taxes, assessments or other governmental charges not yet delinquent; and
(e) zoning, entitlement and other land use and environmental regulations by the City, provided that such regulations have not been violated.

SECTION 3.03 Closing. Except as otherwise provided in Schedule C, the closing of title pursuant to this Agreement (the "Closing") shall take place at 10:00 a.m. on a specific date determined by the parties, but in no event later than 18 months from the date of this Agreement, at the offices of the Corporation Counsel at City Hall, 83 Broadway, Newburgh, NY, or at such other date or location as may be agreed to by the parties (the actual date of the Closing being herein referred to as the "Closing Date").

ARTICLE 4
PURCHASE PRICE; ACCEPTABLE FUNDS

SECTION 4.01 Purchase Price; Down Payment. The purchase price (the "Purchase Price") to be paid by Developer for the Property shall be $51,000.00, payable as follows:

(a) The Developer shall pay to the City a down payment of $1,000.00 (the "Earnest Money") upon the execution of this Agreement, which Earnest Money shall be non-refundable, except to the extent provided in Section 7.02.

(b) The Earnest Money shall be applied as a credit toward the Purchase Price at Closing.
(c) The balance of the Purchase Price shall be paid to the City at Closing.

SECTION 4.02 Acceptable Moneys. All monies payable under this Agreement, unless otherwise specified in this Agreement shall be paid by:

(a) Certified checks of the Developer on behalf of the Developer or any person making a purchase money loan to the Developer drawn on any bank, savings bank, trust company or savings and loan association having a banking office in the State of New York, payable to the order of the City; or
(b) Official bank checks drawn by any such banking institution, payable to the order of the City.

ARTICLE 5
CONDITIONS PRECEDENT

SECTION 5.01 Conditions to Developer's Obligation; Right to Terminate. In addition to the conditions otherwise set forth herein, the Developer's obligations to purchase shall be contingent upon the following conditions:

(a) Prior to conveyance of the Property, the Developer shall have the option to terminate this Agreement, but without the right to receive a refund of the Earnest Money and any costs incurred by Developer in connection with the Project.

(b) Developer shall be deemed to have waived all contingencies if written notice is not given to City on or prior to the Closing Date.

SECTION 5.02 Conditions to City's Obligations. In addition to the conditions otherwise set forth herein, City's obligations to convey the Property shall be contingent upon the following conditions:

(a) Developer shall have paid the Purchase Price as provided in Article 3 of this Agreement.
(b) Developer shall have deposited all Required Guarantees, if any, required by this Agreement.
(c) Developer shall have obtained all required Approvals and Permits for the Project.
(d) Developer shall not be in default under this Agreement.

SECTION 5.03 City's Right to Terminate. City shall have the right to terminate this Agreement by written notice to the Developer, but without any obligation to refund the Earnest Money, if all of the conditions precedent to conveyance set forth in Section 5.01 have not been satisfied by the Closing Deadline.

SECTION 5.04 Termination of Agreement. Upon termination by either party pursuant to this Agreement, this Agreement shall be null and void, and no action, claim or demand may be based on any term or provision of this Agreement, other than Sections 6.03 (Indemnity) and 9.05(e) (Environmental Indemnity).

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ARTICLE 6
COVENANTS

SECTION 6.01 Developer's Covenants. In addition to the agreements otherwise set forth herein, Developer makes the following covenants for the benefit of City.

(a) Design and Approvals:

i. Developer will cause to be prepared by an Architect a project design for the Project and submit Plans and Specifications to the City's land use boards in sufficient time for review and approval prior to the Closing Deadline.

ii. Developer shall obtain all necessary Approvals and Permits at least 30 days prior to the Closing Deadline.

iii. Developer shall receive City's prior written approval, not to be unreasonably withheld, of all architects, engineers and general contractors to be engaged in the planning, design, and construction of any Public Improvements. The City may reasonably withhold prior written approval, apart from any other considerations, unless and until (1) Developer provides an insurance company bond to the City for the City's estimated value of any public improvements, plus 20 percent; and (2) any of Developer's architects, engineers, and contractors specifically agree to complete work for City, at City's request, in the event of Developer's default.

iv. If any lien is filed or asserted, including, without limitation, any lien for the performance of any labor or services or the furnishing of materials, whether or not valid, and made against the Property or any part thereof in the interest therein of the City, or the interest therein of a Party under this Agreement, other than Liens for Taxes not yet payable, or payable without the addition of any fine, penalty, interest or cost for non-payment, Permitted Encumbrances, or liens being contested as permitted by this Section, then Developer, upon receipt of notice of the filing, assertion, entry or issuance of such lien (regardless of the source of such notice) shall give written notice thereof to City within 5 business days and, except where the validity of such Lien is being contested in accordance with the provisions of this Section, take all action (including the payment of money and/or the securing of a bond) at its own expense as may be necessary or appropriate to obtain the discharge in full thereof and to remove or nullify the basis therefor. Nothing contained in this Agreement shall be construed as constituting the express or implied consent to or permission of the City for the performance of any labor or services or the furnishing of any materials that would give rise to any Lien against City's interest in the Property. The Developer may, at its sole expense contest, after prior written notice to the City, by appropriate action conducted in good faith and with due diligence in the amount or validity or application, in whole or in part, of any Lien, if (1) such proceeding shall suspend the execution or enforcement of such Lien against the Property or Improvements or any part thereof or any interest therein, or in this

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Agreement, of the Sell or Developer or against any of the rentals or other amounts payable under this Agreement, (2) neither the Property or Improvements nor any part thereof or interest therein would be in any danger of being sold, forfeited or lost, (3) City would not be in any reasonable danger of any civil or any criminal liability, other than normal accrual of interest, for failure to comply therewith, and (4) the Developer shall have furnished such security, if any, as may be required in such proceedings; if such proceeding could result in the City being in any reasonable danger of civil liability, including accrual of interest, fines and/or penalties, the Developer shall deliver a written confirmation to the City that the Developer shall indemnify and hold the City harmless from any claims, liabilities, costs or expenses as may derive with respect thereto, and the Developer shall provide to the City such security as the City may reasonably require.

v. At the written request of the City, the Developer shall provide all reasonable information as may be requested with respect to any Lien, the status thereof, the amount in dispute, and the action taken or proposed to be taken by the Developer in connection therewith.

(b) Completion Deadline:

i. Developer will complete the construction of the Project not later than the Completion Deadline.

(c) Construction. In construction of the Project, Developer:

i. Shall at its own cost and expense obtain all Approvals and Permits;
ii. Shall comply with all requirements of Governmental Authorities applicable to the construction and installation of the Improvements;
iii. Shall perform the construction and installation of the Project expeditiously, in compliance with the Plans and Specifications, in a good and workmanlike manner and in accordance with the provisions of this Agreement.
iv. Shall pay all proper accounts for work done or materials furnished under all Agreement which it has entered into relating to the construction of the Project.

SECTION 6.02 City's Covenants. City covenants that it will comply with the following covenants between the date of this Agreement and the Closing, unless this Agreement is earlier terminated in accordance with its terms:

(a) The City shall not encumber the Property or enter into any lease or other occupancy agreement therefor, without the prior written consent of the Developer.
(b) The City shall allow for Developer or Developer's representatives access to the Property upon reasonable prior notice pursuant to Section 9.05 of this Agreement.
(c) City hereby agrees that it will consent in its capacity as owner when reasonably requested by Developer, at Developer's expense, to any application for planning or other regulatory

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approvals necessary in connection with the contemplated use of the Property for the Project consistent with this Agreement, subject to Section 9.04.

SECTION 6.03 Indemnity. Developer shall at all times indemnify and hold the Seller harmless from and against and all Claims, including reasonable attorneys' fees, which may be imposed upon, incurred by or asserted against the Seller, its officers, employees, and agents (the "Indemnified Parties"), arising during the term of this Agreement upon or about the Property or resulting from, arising out of, or in any way connected with (1) breach of the representations and warranties set forth in Section 2.01, whether prior to or after the Closing; (2) the funding of the costs of the Project; (3) the planning, design, acquisition, site preparation, construction, renovation, equipping, installation, or completion of the Project or any part thereof or the effecting of any work done in or about the Property; (4) any defects, whether latent or patent, in the Improvements; (5) the maintenance, repair, replacement, restoration, rebuilding, upkeep, use, occupancy, ownership, leasing, subletting or operation of the Improvements or any portion thereof; or (6) any act or omission of Developer or any of its agents, concessionaires, contractors, servants, employees, tenants, or invitees ("Permittees"), including without limitation any failure by Developer to perform or comply with any of the covenants, agreements, terms, conditions or limitations of this Agreement, but excluding liability caused by the negligence or intentional misconduct of the Indemnified Parties. The Developer shall require any of its Permittees who perform construction work on the Property to agree to indemnify the Indemnified Parties and Developer for Claims with respect to the Permittee's scope of work, excluding negligence or willful misconduct of the party to be indemnified. If any action or proceeding is brought against Seller because of any one or more of the Claims, Developer, at its sole cost and expense, upon written notice from Seller, shall defend that action or proceeding by competent counsel acceptable to Seller.

ARTICLE 7
OBJECTION TO TITLE, FAILURE TO PERFORM

SECTION 7.01 Developer to Deliver Title Report. Developer shall cause a copy of an updated title report from the Title Insurer to be forwarded to City within sixty (60) days of the date of this Agreement. Service of the updated title report shall constitute notice of the Developer's objections to title, as said objections might be outlined in a Schedule B or Schedule B-1. City shall be entitled to a reasonable period of time of not less than one hundred eighty (180) days to remove any defects in or objections to title noted in such title report. Developer shall be deemed to have waived any objections to title if not made within (10) days after furnishing the title report to the City.

SECTION 7.02 Developer's Right to Terminate. If City is unable to cause title to the Project to be conveyed at the Closing in accordance with the provisions of this Agreement, Developer may elect to accept such title as City may be able to cause to be conveyed. If Developer shall not so elect, Developer may terminate this Agreement upon thirty (30) days' notice to City. Upon such termination, the Agreement shall be null and void and the parties hereto shall be relieved of all further obligations and liability except that the provisions of Section 9.05(e) and Section 6.03 shall survive the closing.

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ARTICLE 8
DESTRUCTION, DAMAGE OR CONDEMNATION

SECTION 8.01 General Obligations Law to Control. The provisions of Section 5-1311 of the General Obligations Law shall apply to the sale and purchase provided for in this Agreement.

ARTICLE 9
SITE CONDITIONS; INVESTIGATIONS; APPROVALS

SECTION 9.01 As-Is Condition. At Closing, Seller shall convey the Property in "as is" condition. The Seller expressly disclaims any warranties or representations whatsoever. After Closing, any costs related to the Property will be the responsibility of the Developer.

SECTION 9.02 No Representations. No representation, statement or warranty, express or implied, has been made by Seller as to the condition of the Property, or its permitted use under applicable zoning, building, land use and similar laws, ordinances and regulations. Developer assumes all responsibility for compliance with such use regulations, and Seller shall have no liability or responsibility for any defect in the Property or for any limitations upon the use of the Property.

SECTION 9.03 Developer to Obtain Approvals. Developer, at its sole expense, shall take all actions that it reasonably deems necessary to obtain, and shall make and diligently prosecute all applications for Approvals and Permits. Nothing in this Agreement shall be construed as the consent, request, approval, or agreement of Seller, express or implied, by inference or otherwise, to any applications for Approvals and Permits made by Developer to any agency or body of the City, nor any agreement or Agreement to change, amend, modify, or alter any local law, code, or ordinance of the City or any agency or body of the City.

SECTION 9.04 Zoning and Planning Approvals. The Developer anticipates that the development of the Project as presently contemplated will not require an amendment to the City of Newburgh zoning code or a use variance. In the event of any proposed modifications by the Developer to its proposed Project, the Developer understands that the granting of such requests is within the discretion of the applicable governmental body and that nothing in this Agreement obligates the City, the Seller, or any other governmental body to provide for such approvals. Any risks associated with obtaining land use board approvals shall be exclusively borne by the Developer. The Project shall conform with all applicable zoning requirements as they may be so amended.

SECTION 9.05 Environmental and Soil Investigation and Testing.

(a) City grants to Developer the right to conduct an examination to obtain a report or reports by a qualified consultant or consultants (the "Consultants") concerning the presence of any (i) contamination of the Property by hazardous materials; (ii) apparent violation of environmental requirements upon or associated with activities upon the Property; (iii) potential incurrence of environmental damages by the prior or current owner(s) or

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operator(s) of the Property; or (iv) such other survey, soil, subsoil, geological and engineering investigations as Developer may desire or as may be required by an Governmental Authority which must approve any aspect of the development of the Project. Developer shall provide a copy of any such report(s) to City.

(b) Developer may terminate this Agreement on or before 180 days after the date of this Agreement, but without the right to receive a refund of the Earnest Money, in the event such report indicates the presence of any objectionable material as contemplated in paragraph (a).

(c) Such investigation and testing may include, without limitation, (i) site inspection; (ii) drilling, core sampling, taking of samples for analysis, installing, monitoring and testing devices; (iii) interviews of present occupants of the Property; (iv) a review of public records concerning the Property and other properties in the vicinity of the Property; and (v) a review of aerial photographs of the Property and other evidence of historic land uses.

(d) The investigation and testing any be performed at any time or times, except that entry upon the Property shall be on reasonable notice, and under reasonable conditions. The Consultants are hereby authorized to enter upon the Property for such purposes and to perform such testing, including drilling, core sampling, and the taking of such other samples as may be necessary to conduct the investigation and testing as required in the opinion of the Consultants. The Consultants may install, and monitor such testing and sampling devices as in their opinion are reasonable and necessary. City shall have the right to be present during all testing and sampling and survey work.

(e) Developer shall pay all costs and expenses of such investigation and testing, and Developer shall indemnify and hold City harmless from and against all costs and liabilities relating to Developer's activities. Developer shall further repair and restore any damage to the Property caused by or occurring during Developer's investigation and testing and return the Property to substantially the same condition as existed prior to such entry. Developer and Consultants shall provide evidence of insurance satisfactory to City prior to having access to the site.

ARTICLE 10
CLOSING OBLIGATIONS; APPORTIONMENTS

SECTION 10.01 City's Closing Obligations. At the Closing, the City shall deliver the following to the Developer:

(a) A quitclaim deed, including the covenant required by Section 13 of the Lien Law, properly executed and in proper form for recording so as to convey the title required by this Agreement (including without limitation the right of reverter set forth in Section 11.04).

(b) A bill of sale conveying, transferring and selling to Developer all right, title and interest of the City in and to any Equipment on the Property.

(c) A non-foreign affidavit, properly executed and in recordable form, containing such information as shall be required by Section 1445 of the Internal Revenue Code of 1986, as amended and the regulations issued therefor.

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(d) Such affidavits as Developer's title company shall reasonably require in order to omit from its title insurance policy all exceptions for judgments, bankruptcies or other returns against persons or entities whose names are the same as or similar to the City's name.
(e) A designation agreement designating the "reporting person" for purposes of completing IRS Form 1099-S
(f) Subject to Permitted Exceptions, possession of the property in the condition required by this Agreement.
(g) Possession of the Property in the condition required by this Agreement, subject to the Permitted Exceptions.

SECTION 10.02 Developer's Closing Obligations. At the Closing, Developer shall do the following:

(a) Developer shall deliver to City the portion of Purchase Price payable at Closing.
(b) Developer shall cause the deed to be recorded, duly complete all required real property transfer tax returns and cause all such returned and check in payment of such taxes to be delivered to the appropriate officers promptly after Closing.
(c) Developer shall deliver a designation agreement designated the "reporting person" for purposes of completing IRS Form 1099-S.

SECTION 10.03 Apportionments. All real estate taxes, school taxes, and utilities with respect to the Property will be apportioned as of the date of Closing Date. Water and sewer charges and sanitation fees will be paid by the City to the Closing Date.

ARTICLE 11
DEFAULTS AND REMEDIES

SECTION 11.01 Remedies on Default.

(a) Termination of Agreement by Seller. Upon the occurrence of any default under this Agreement by Developer, Seller may, at its option, or any time thereafter, give written notice to Developer specifying the default and stating that this Agreement shall terminate on the date specified in such notice, which shall be not less than fifteen (15) days after the date of such notice. Upon the date specified in the notice, this Agreement and all rights of Developer under this Agreement shall terminate. The termination of this Agreement does not relieve Developer of its liability and obligations under Section 9.05(e) and Section 6.03 of this Agreement, which shall survive. Upon such termination Seller will retain the Earnest Money as liquidated damages. The termination of this Agreement and the retention of the Earnest Money will be the sole remedy available to Seller for such default by Developer Developer will not be liable for additional damages or for specific performance.

(b) Termination by Developer. Upon the occurrence of any default by Seller, Developer may, at its option, at any time thereafter, give written notice to Seller specifying the default and stating that this Agreement shall terminate on the date specified in such notice, which shall

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not be less than fifteen (15) days after the date of such notice. Upon the date specified in the notice, this Agreement shall terminate. The termination of this Agreement shall not relieve the Developer of its liability and obligations under Section 9.05(e) and Section 6.03 of this Agreement, which shall survive. If Seller defaults under this Agreement, this provision does not preclude Developer from seeking specific performance of this Agreement but Developer shall have no right to seek monetary damages from Seller for Seller's defaults hereunder.

SECTON 11.02 Force Majeure. If Seller or Developer shall be delayed, hindered in or prevented from the performance of any act required under this Agreement by Force Majeure, then performance of that act shall be excused for the period of the delay (but not exceeding ninety (90) days) and the period for the performance of the act shall be extended for a period equivalent to the excusable period of the delay (but not to exceed ninety (90) days), provided the party delayed shall give the other party notice and full particulars of the Force Majeure within a reasonable time after the event occurs. The parties may agree to further time extensions pursuant to this section upon mutual written consent.

SECTION 11.03 Cumulative Rights and Remedies. Each right and remedy under this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement or not or hereafter existing at law or in equity or by statute or otherwise, and the exercise by Seller of any one or more of those rights or remedies shall not preclude simultaneous or later exercise by Seller or any or all other rights or remedies Seller may have.

SECTION 11.04 City's Right of Reverter. The Property shall be developed and used solely for the Project in conformity with the laws, ordinances, codes, rules and regulations of the City of Newburgh and State of New York. The deed, an example of which is described in Schedule "D" attached hereto, will contain provisions stating that, among other things, the Developer is required to rehabilitate any building on the Property for the Project and bring it into compliance with all State, County and Local standards for occupancy within twenty-four (24) months of the date of the deed. Within such twenty-four (24) month time period the Developer must obtain a Certificate of Occupancy for all buildings on the property for the use stated in the definition of the Project in this Agreement. The deed shall require the Developer to schedule an inspection by City officials at or before the end of the twenty-four (24) month period for compliance with the terms of this Agreement. If the Developer 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 or entity before a Certificate of Occupancy or Certificate of Compliance is issued for such purposes.

ARTICLE 12
MISCELLANEOUS PROVISIONS

SECTION 12.01 Assignment and Subletting. The Developer and Seller agree that the Developer has been selected by the Seller based on unique and specific qualifications relating to the

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development of the Project. Prior to the Closing Date, the Developer shall not sell, assign, mortgage or transfer any interest in the Property or this Agreement without the prior written consent of the Seller, which shall be at the discretion of the Seller. Notwithstanding, any such assignment, Developer shall remain responsible for the covenants set forth in Article 6. Developer shall be the managing partner or controlling shareholder of any transferee. Any transferee shall have the qualifications and financial responsibility necessary in the determination of the Seller to assure compliance with the obligations of the Developer herein. Any transferee, by instrument in writing satisfactory to the Seller and in recordable form, shall, for itself and its successors and assigns, have assumed all of the obligations of the Developer under this Agreement and agreed to be subject to all conditions and restrictions herein.

SECTION 12.02 Entire Agreement; Amendment. This Agreement embodies and constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior agreements, understandings, representations and statements, oral or written, are merged into this Agreement. Neither this Agreement nor any provision hereof may be waived, modified, amended, discharged or termination except by an instrument signed by the party against whom the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument. In the event that any provision of this Agreement is held to be unenforceable under applicable law, this Agreement will continue in full force and effect without such provision and will be enforceable in accordance with its terms.

SECTION 12.03 No Waiver. No waiver by either party hereto of any failure or refusal by the other party hereto to comply with its obligations hereunder shall be deemed a waiver ofay other or subsequent failure or refusal by such party to so comply.

SECTION 12.04 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York, without giving effect to any conflict of laws principles that may apply. The State courts located in New York State, County of Orange, shall have exclusive jurisdiction to adjudicate any disputes arising out of or relating to, this Agreement. Each party hereto consents to the jurisdiction of such court and waives any right it may otherwise have to challenge the appropriateness of the forum for any reason. Arbitration shall not be used to resolve any claims, controversies, or disputes between the parties.

SECTION 12.05 Recording. Either party shall have the right to record, at its own expense, a memorandum of this Agreement.

SECTION 12.06 Captions. The captions in this Agreement are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Agreement or any of the provisions hereof.

SECTION 12.07 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs or successors and permitted assigns.

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SECTION 12.08 Severability. In the event that any of the provisions, or portions, or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, Seller and Developer shall negotiate an equitable adjustment in the provision of this Agreement with a view toward effecting the purpose of this Agreement, and the validity and enforceability of the remaining provisions or portions, or applications thereof, shall not be affected thereby.

SECTION 12.09 Notices. All notices required or permitted under this Agreement shall be in writing and shall be delivered personally, sent by a nationally recognized reputable overnight delivery service, or sent by U.S. First Class certified mail, postage prepaid, return receipt requested, addressed to the following addresses. Notices shall be deemed effective on the earlier of the date of receipt or three business days after the date of mailing. Any party may change its address for the service of notice to the other parties as provided herein.

Developer as follows:

[Name]
[Address]
[Address]

with a copy to:

Arciero McMillan & Burgess, P.C.
299 Windsor Highway
New Windsor, New York 12553

Seller as follows:

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

With a copy to

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

SECTION 12.10 No Broker. The parties warrant and represent to each other that no broker brought about, or participated in, this Agreement or transaction. Seller and Developer shall

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indemnify and hold one another harmless against all liabilities and expenses (including, without limitation, reasonable attorneys' fees) arising from any claims for brokerage on this transaction.

SECTION 12.11 Project Mortgage. Not applicable.

SECTION 12.12 No Partnership or Joint Venture. This Agreement does not create any obligation or relationship such as a partnership, joint venture or other similar legal relationship under the laws of any state or the federal government. Any correspondence or other references to "partners" or other similar terms will not be deemed to alter, amend or change the relationship between the parties hereto unless there is a formal written agreement specifically detailing the rights, liabilities and obligations of the parties as a to new, specifically defined legal relationship.

SECTION 12.13 Obligations of Governmental Agencies. Notwithstanding any statement or representation to the contrary contained herein or in any of the other implementing agreements, the obligations and agreements of the Seller contained herein and in the other implementing agreements and in any other instrument or document executed in connection therewith and any instrument or document supplemental thereto shall be deemed the obligations and agreements of the Seller, and not of any member, officer, agent or employee of the Seller in its individual capacity, and the members, officers, agents and employees of the Seller shall not be liable personally hereon or thereon or be subject to any personal liability or accountability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

SECTION 12.14 Withdrawal of Offer. This Agreement shall be deemed withdrawn unless accepted by Seller and a fully executed counterpart of this Agreement returned to Developer on or before _____ (30 days from City Council approval).

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

Seller: CITY OF NEWBURGH

By: _____
Todd Venning, City Manager
Per Resolution No.: _____-2022

Developer: NEW 120 GRAND STREET, LLC

By: _____
(Name)

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

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

_____
Notary Public

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

On the _____ day of _____ in the year 2022 before me, the undersigned, a Notary Public in and for said State, personally appeared _____, 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 her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

_____
Notary Public

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SCHEDULE "A"
DESCRIPTION OF THE PROPERTY

ALL THAT TRACT OR PARCEL OF LAND, with buildings and improvements thereon erected, situate, lying and being in the City of Newburgh, County of Orange and State of New York, known as 120 Grand Street, being more accurately described as Section 24, Block 2, Lot 17 on the Official Tax Map of The City of Newburgh, further described as follows:

Being the same premises conveyed in a deed from John J. Aber, in his capacity as Director of Finance and Enforcing Officer of the City of Newburgh, to the City of Newburgh, dated March 14, 2016 and recorded March 15, 2016 in the Orange County Clerk's Office in Book 14023, Page 757.

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SCHEDULE "B"
PERMITTED ENCUMBRANCES

1. Any and all easements for utilities, both public and private, sewers, water lines, streets, and rights-of-way are of record;

2. Such easements, covenants, reservations, encumbrances or restrictions as are of record;

3. All provisions of any zoning and subdivision laws and regulations, and landmark, historic or wetlands designation, and any and all other provisions of municipal ordinances, regulations or public laws;

4. Real estate taxes and assessments that are a lien but not yet due and payable;

5. Any state of facts a survey or personal inspection of the premises would disclose;

6. The rights of reverter described in Section 11.04 of this Agreement.

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SCHEDULE "C"
PROJECT AND DEVELOPMENT DEADLINES

1. Within sixty (60) days of the execution of this Agreement, the Developer shall submit a Request for Informational application to the City of Newburgh for the Project that described the development proposal in accordance with this Agreement.

2. Closing Deadline: Fourteen (14) months from the date of this Agreement. By the Closing Deadline, Developer shall have applied for and received from the City of Newburgh all Approvals and Permits from the all Government Authorities with jurisdiction and power of approval over the Property required to construct the Project.

    a. Developer may make a written request to the City Manager for an extension of the fourteen (14) month Closing Deadline period. Such request shall be accompanied by a non-refundable fee of $250.00, payable to the "City of Newburgh." The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close up to, but not to exceed, four (4) months, as measured from the end of the original Closing Deadline.

3. Completion Deadline: Compliance with the City's Right of Reverter in accordance with Section 11.04 of this Agreement.

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SCHEDULE "D"
SAMPLE DEED WITH RIGHT OF REVERTER RESTRICTIONS

THIS INDENTURE, made the _____ day of _____, in the year two thousand nineteen

BETWEEN:

THE CITY OF NEWBURGH, a municipal corporation organized under the laws of the State of New York and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, party of the first part, and

_____, a domestic limited liability company having an address of _____, party of the second part.

WITNESSETH, that the party of the first part, in consideration of _____and 00/100 dollars ($XXXXXX.00) paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the State of New York, County of Orange and City of Newburgh, known as 120 Grand Street, in the City of Newburgh and being more accurately described as SBL 24-2-17 on the Official Tax Map of The City of Newburgh.

SUBJECT TO all easements, covenants and restrictions of record, except as hereinafter stated.

SUBJECT TO all easements, covenants and restrictions of record and not of record existing in favor of The City of Newburgh prior to the vesting of title to the described premises in The City of Newburgh.

BEING the same premises as indicated in a deed from _____, Director of Finance and Enforcing Officer of the City of Newburgh, to the City of Newburgh, dated _____, and recorded in the Orange County Clerk's Office on _____, in Liber _____ of Deeds at Page _____.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to such premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part forever.

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The party of the second part expressly covenants and agrees that:

(1) within twenty-four (24) months after the date of this deed, the party of the second part shall bring the property conveyed herein into complete compliance with all State, County and City building, housing, plumbing, electrical, fire prevention, life safety and health statutes, codes, rules and regulations and shall obtain, within such time period, a Certificate of Occupancy for all buildings and structures located on the property. If a Certificate of Occupancy has been issued for any building or structure on such property, prior to the date of this deed, the party of the second part shall, within eighteen months after the date of this deed, either make such building or structure fit for the use set forth in such Certificate of Occupancy or shall obtain a new Certificate of Occupancy for another use or shall demolish such building or structure;

(2) at or prior to the end of twenty-four (24) months after the date of delivery of this deed, the party of the second part shall schedule with the Building Inspector of the City of Newburgh an inspection of the property described in this deed to determine compliance with the covenant set forth in paragraph (1) above. If the property is found to be in compliance with such covenant, a Certificate of Occupancy or Compliance shall be issued by the Building Inspector;

(3) prior to the issuance of a Certificate of Occupancy or Compliance, as provided in the covenant set forth in paragraph (2) above, the party of the second part shall not sell, convey, assign or lease the property described in this deed or any part thereof, except to the party of the first part as provided in paragraph (4) below**;**

(4) at the end of twenty-four (24) months after the delivery of this deed, if it is determined that the covenants contained in paragraphs (1) and (2) above have not been complied with, the party of the second part shall, within ten (10) business days from the service of a notice pursuant to Section 612 of the Real Property Actions and Proceedings Law of the State of New York, reconvey good and marketable title to the property described in this deed to the party of the first part;

(5) if, at any time after delivery of this deed, it is determined that the covenant contained in paragraph (3) above has not been complied with, the party of the second part and his grantee, assign, or successor in interest shall, within ten (10) business days from the service of a notice pursuant to Section 612 of the Real Property Actions and Proceedings Law of the State of New York, reconvey good and marketable title to the property described in this deed to the party of the first part.

The covenants set forth in the preceding paragraphs shall constitute covenants running with the land and shall without regard to technical classification or designation, legal or otherwise, be to the fullest extent binding for the benefit of, in favor of and enforceable by the party of the first part, its successors and assigns against the party of the second part, his successors and assigns and every successor in interest to the property described in this deed or any part thereof or any interest therein, and any party in possession or occupancy of the property described in this deed or any part thereof.

In the event that subsequent to the conveyance of the property described in this deed the party of the second part shall default in or violate any of its obligations contained in the covenants

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set forth in this deed, the party of the first part shall have the right to re-enter and take possession of the property described in this deed and to terminate the estate conveyed by this deed to the party of the second part, it being the intent of this provision that the conveyance to the party of the second part shall be made upon a condition subsequent to the effect that in the event of any default, failure, violation or other action or inaction by the party of the second part contrary to the obligations specified in the covenants contained in this deed, the party of the first part, may at its option, declare a termination in favor of the party of the first part, of the title and of all rights and interests in and to the property conveyed by this deed to the party of the second part and any assigns or successors in interest to or in the property, shall revert to the party of the first part.

IN WITNESS WHEREOF, the parties have executed this deed the day and year first above written.

IN PRESENCE OF:

THE CITY OF NEWBURGH

BY: _____
Todd Venning, City Manager
Pursuant to Resolution No.: _____-2022

NAME OF ENTITY

BY: _____
[NAME]

RECORD & RETURN TO:

Name
Address
Address

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

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

_____

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

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

_____

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RESOLUTION NO.: 104 - 2022

OF

APRIL 25, 2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH URGING THE UNITED STATES CONGRESS TO ENACT THE NEW YORK-NEW JERSEY WATERSHED PROTECTION ACT H.R. 4677

WHEREAS, New York Congressman Paul Tonko has proposed the New York-New Jersey Watershed Protection Act (the "Act"), a unique federal investment program to authorize $50 million of federal funds to protect and restore all watersheds, including the Hudson River Watershed, that flow into New York-New Jersey Harbor and

WHEREAS, the Act has unanimous support among the Hudson Valley's Congressional delegation; and

WHEREAS, the Act would provide benefits to diverse stakeholders such as the protection of fisheries and wildlife, conservation of natural resources and public and private lands, critical urban greenspaces, ocean and coastal resources, and various opportunities to improve the quality of life for community members throughout the region; and

WHEREAS, the City of Newburgh, New York is part of the most densely populated and economically important regions in the country, the proposed New York-New Jersey Watershed Act will provide enormous economic and environmental benefits locally, regionally and nationally; and

WHEREAS, watersheds provide drinking water, tourism and outdoor recreation, economic opportunities, as well as sustain fisheries, critical wildlife and provide vital infrastructure from flooding and rising sea levels; and

WHEREAS, the Act would provide matching funds to achieve the goals of New York State Department of Environmental Conservation's Hudson River Estuary Program, a state program that has greatly benefitted Hudson Valley communities; and,

WHEREAS, the Act would fund shoreline management and restoration within the watersheds; and

WHEREAS, as an elected body tasked with protection and safeguarding irreplaceable water-connected resources and nature-based flood hazard mitigation measures that are essential to protect human life and infrastructure; and

WHEREAS, this Act would direct the Secretary of the Interior to enhance collaboration and coordinate restoration activities at all levels of government to protect fish and wildlife habitats, endangered species, improve water quality, increase public access to the estuary, mitigate flood risks, and develop public outreach and educational activities; and

WHEREAS, many residents of the region of the New York-New Jersey Watershed live in communities lacking environmental justice, where access to and enjoyment of fish, wildlife, clean water, and other natural resources have been impaired or compromised, federal funding is necessary to mitigate these long overdue environmental and social issues; and

WHEREAS, the City of Newburgh would benefit from the Act because it would establish beneficial programs and award grants to help fund valuable restoration projects in our local community; and

WHEREAS, the Hudson River Watershed and the Hudson River Estuary is a cornerstone in which its residents depend on and the region relies on for its resources to provide prosperity throughout the State, and therefore, the City of Newburgh must uphold its duty to protect the community's access to drinking water and natural resources; and

WHEREAS, the City of Newburgh has an opportunity to be a social and environmental leader of the state and by supporting the New York-New Jersey Watershed Protection Act may lead by example and facilitate much needed change;

NOW THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh supports the passing of the New York-New Jersey Watershed Protection Act; and

BE IT FURTHER RESOLVED, that the City Clerk, no later than 30 days after passage of this Resolution, shall transmit copies of this resolution to President Joseph R. Biden, Jr. and Vice President Kamala Harris, to Representative Nancy Pelosi, Speaker of the House of Representatives, to Senator Charles E. Schumer, the Majority Leader of the Senate, to Senator Kirsten Gillibrand, and Representative Sean Patrick Maloney.

(MUNICIPALITY) COUNCIL
Resolution No. XXX of 2022
RESOLUTION REGARDING NY-NJ Watershed Protection Act: H.R. 4677

WHEREAS, New York Congressman Tonko has proposed the NY-NJ Watershed Protection Act, a unique federal investment program to authorize $50 million of federal funds to protect and restore all watersheds, including the Hudson River Watershed, that flow into New York-New Jersey Harbor and

WHEREAS, The Act has unanimous support among the Hudson Valley's Congressional delegation; and,

WHEREAS, the Act would provide benefits to diverse stakeholders such as the protection of fisheries and wildlife, conservation of natural resources and public and private lands, critical urban greenspaces, ocean and coastal resources, and various opportunities to improve the quality of life for community members throughout the region; and

WHEREAS, *County/City/Town/Village* is part of the most densely populated and economically important regions in the country, the proposed NY-NJ Watershed Act will provide enormous economic and environmental benefits locally, regionally and nationally; and

WHEREAS, watersheds provide drinking water, tourism and outdoor recreation, economic opportunities, as well as sustain fisheries, critical wildlife and provide vital infrastructure from flooding and rising sea levels; and

WHEREAS, the Act would provide matching funds to achieve the goals of New York State Department of Environmental Conservation's Hudson River Estuary Program, a state program that has greatly benefitted Hudson Valley communities; and,

WHEREAS, the Act would fund shoreline management and restoration within the watersheds,

WHEREAS, as an elected body tasked with protection and safeguarding irreplaceable water-connected resources and nature-based flood hazard mitigation measures that are essential to protect human life and infrastructure; and

WHEREAS, this Act would direct the Secretary of the Interior to enhance collaboration and coordinate restoration activities at all levels of government to protect fish and wildlife habitats, endangered species, improve water quality, increase public access to the estuary, mitigate flood risks, and develop public outreach and educational activities; and

WHEREAS, many residents of the region of the NY-NJ Watershed live in communities lacking environmental justice, where access to and enjoyment of fish, wildlife, clean water, and other natural resources have been impaired or compromised, federal funding is necessary to mitigate these long overdue environmental and social issues; and

WHEREAS, BLANK would benefit from the Act as it would establish beneficial programs and award grants to help fund valuable restoration projects in our local community; and

WHEREAS, BLANK is a cornerstone in which its residents depend on and the region relies on for its resources to provide prosperity throughout the state, therefore, BLANK must uphold its duty to protect the community's access to drinking water and natural resources; and

WHEREAS, BLANK has an opportunity to be a social and environmental leader of the state, by supporting the NY-NJ Watershed Protection Act, we may lead by example and facilitate much needed change; and

NOW THEREFORE, BE IT RESOLVED, that the City Council/Town Board of the Municipality, supports the passing of the NY-NJ Watershed Protection Act.

CONGRESS.GOV

H.R.4677 - New York-New Jersey Watershed Protection Act

117th Congress (2021-2022) | Get alerts

Sponsor: Rep. Tonko, Paul [D-NY-20] (Introduced 07/22/2021)
Committees: House - Natural Resources
Committee Meetings: 02/16/22 10:00AM
Latest Action: House - 02/16/2022 Ordered to be Reported (Amended) by the Yeas and Nays: 24 - 18. (All Actions)
Tracker: **Introduced** > Passed House > Passed Senate > To President > Became Law

Summary(1) Text(1) Actions(7) Titles(2) Amendments(0) Cosponsors(28) Committees(1) Related Bills(1)

There is one summary for H.R.4677. Bill summaries are authored by CRS.

Shown Here:
Introduced in House (07/22/2021)

New York-New Jersey Watershed Protection Act

This bill requires the U.S. Fish and Wildlife Service to establish the New York-New Jersey Watershed Restoration Program, a nonregulatory program, to coordinate restoration and protection activities among government entities and conservation partners throughout the watershed. The bill also establishes the New York-New Jersey Watershed Restoration Grant Program, a voluntary grant and technical assistance program, to provide competitive matching grants to certain entities to implement restoration and protection activities for the watershed.

RESOLUTION NO.: __105___ - 2022

OF

APRIL 25, 2022

A RESOLUTION REQUESTING THE STATE LEGISLATURE TO ENACT SENATE BILL S8390 AND ASSEMBLY BILL A9625 AUTHORIZING THE CITY OF NEWBURGH TO IMPOSE A HOTEL AND MOTEL TAX

BE IT RESOLVED, by the Council of the City of Newburgh, New York that this Council does hereby make a Home Rule Request pursuant to the Municipal Home Rule Law of the State of New York that the Senate and Assembly of New York enact Senate Bill S8390 and Assembly Bill A9625, a copy of which is annexed hereto, to amend the tax law by adding a new section 1202-hh to authorize the City of Newburgh to impose a hotel and motel tax; the same as being in the best interests of the City of Newburgh.

STATE OF NEW YORK

8390

IN SENATE

February 22, 2022

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to authorizing the city of Newburgh to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The tax law is amended by adding a new section 1202-hh to read as follows:

§ 1202-hh. Hotel or motel taxes in the city of Newburgh. (1) Notwithstanding any other provisions of law to the contrary, the city of Newburgh, in the county of Orange, is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax, in addition to any other tax authorized and imposed pursuant to this article such as the legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms in such city. For the purposes of this section, the term "hotel" or "motel" shall mean and include any facility consisting of rentable units and providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities. The rates of such tax shall not exceed five percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident of a hotel or motel. For the purposes of this section the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel for at least ninety consecutive days.

(2) Such tax may be collected and administered by the chief fiscal officer of the city of Newburgh by such means and in such manner as other taxes which are now collected and administered by such officer or as otherwise may be provided by such local law.

(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the city of Newburgh

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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imposing the tax and that such owner or person entitled to be paid the rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local law, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

(4) Such local laws may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time.

(5) This section shall not authorize the imposition of such tax upon any transaction, by or with any of the following in accordance with section twelve hundred thirty of this article:

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

c. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

(6) Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless:

a. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of financial services of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

b. At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall

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not be required to pay such taxes, interest or penalties as a condition precedent to the application.

(7) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(8) Except in the case of a wilfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(9) All revenues resulting from the imposition of the tax under the local laws shall be paid into the treasury of the city of Newburgh and shall be credited to and deposited in the general fund of the city. Such revenues may be used for any lawful purpose.

(10) If any provision of this section or the application thereof to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date.

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STATE OF NEW YORK

9625

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to authorizing the city of Newburgh to impose a hotel and motel tax; and providing for the repeal of such provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The tax law is amended by adding a new section 1202-hh to read as follows:

§ 1202-hh. Hotel or motel taxes in the city of Newburgh. (1) Notwithstanding any other provisions of law to the contrary, the city of Newburgh, in the county of Orange, is hereby authorized and empowered to adopt and amend local laws imposing in such city a tax, in addition to any other tax authorized and imposed pursuant to this article such as the legislature has or would have the power and authority to impose upon persons occupying hotel or motel rooms in such city. For the purposes of this section, the term "hotel" or "motel" shall mean and include any facility consisting of rentable units and providing lodging on an overnight basis and shall include those facilities designated and commonly known as "bed and breakfast" and "tourist" facilities. The rates of such tax shall not exceed five percent of the per diem rental rate for each room, provided however, that such tax shall not be applicable to a permanent resident of a hotel or motel. For the purposes of this section the term "permanent resident" shall mean a person occupying any room or rooms in a hotel or motel for at least ninety consecutive days.

(2) Such tax may be collected and administered by the chief fiscal officer of the city of Newburgh by such means and in such manner as other taxes which are now collected and administered by such officer or as otherwise may be provided by such local law.

(3) Such local laws may provide that any tax imposed shall be paid by the person liable therefor to the owner of the hotel or motel room occupied or to the person entitled to be paid the rent or charge for the hotel or motel room occupied for and on account of the city of Newburgh imposing the tax and that such owner or person entitled to be paid the

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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rent or charge shall be liable for the collection and payment of the tax; and that such owner or person entitled to be paid the rent or charge shall have the same right in respect to collecting the tax from the person occupying the hotel or motel room, or in respect to nonpayment of the tax by the person occupying the hotel or motel room, as if the tax were a part of the rent or charge and payable at the same time as the rent or charge; provided, however, that the chief fiscal officer of the city, specified in such local law, shall be joined as a party in any action or proceeding brought to collect the tax by the owner or by the person entitled to be paid the rent or charge.

(4) Such local laws may provide for the filing of returns and the payment of the tax on a monthly basis or on the basis of any longer or shorter period of time.

(5) This section shall not authorize the imposition of such tax upon any transaction, by or with any of the following in accordance with section twelve hundred thirty of this article:

a. The state of New York, or any public corporation (including a public corporation created pursuant to agreement or compact with another state or the Dominion of Canada), improvement district or other political subdivision of the state;

b. The United States of America, insofar as it is immune from taxation;

c. Any corporation or association, or trust, or community chest, fund or foundation organized and operated exclusively for religious, charitable or educational purposes, or for the prevention of cruelty to children or animals, and no part of the net earnings of which inures to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation; provided, however, that nothing in this paragraph shall include an organization operated for the primary purpose of carrying on a trade or business for profit, whether or not all of its profits are payable to one or more organizations described in this paragraph.

(6) Any final determination of the amount of any tax payable hereunder shall be reviewable for error, illegality or unconstitutionality or any other reason whatsoever by a proceeding under article seventy-eight of the civil practice law and rules if application therefor is made to the supreme court within thirty days after the giving of the notice of such final determination, provided, however, that any such proceeding under article seventy-eight of the civil practice law and rules shall not be instituted unless:

a. The amount of any tax sought to be reviewed, with such interest and penalties thereon as may be provided for by local law shall be first deposited and there is filed an undertaking, issued by a surety company authorized to transact business in this state and approved by the superintendent of financial services of this state as to solvency and responsibility, in such amount as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding; or

b. At the option of the petitioner such undertaking may be in a sum sufficient to cover the taxes, interests and penalties stated in such determination plus the costs and charges which may accrue against it in the prosecution of the proceeding, in which event the petitioner shall not be required to pay such taxes, interest or penalties as a condition precedent to the application.

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(7) Where any tax imposed hereunder shall have been erroneously, illegally or unconstitutionally collected and application for the refund thereof duly made to the proper fiscal officer or officers, and such officer or officers shall have made a determination denying such refund, such determination shall be reviewable by a proceeding under article seventy-eight of the civil practice law and rules, provided, however, that such proceeding is instituted within thirty days after the giving of the notice of such denial, that a final determination of tax due was not previously made, and that an undertaking is filed with the proper fiscal officer or officers in such amount and with such sureties as a justice of the supreme court shall approve to the effect that if such proceeding be dismissed or the tax confirmed, the petitioner will pay all costs and charges which may accrue in the prosecution of such proceeding.

(8) Except in the case of a wilfully false or fraudulent return with intent to evade the tax, no assessment of additional tax shall be made after the expiration of more than three years from the date of the filing of a return, provided, however, that where no return has been filed as provided by law the tax may be assessed at any time.

(9) All revenues resulting from the imposition of the tax under the local laws shall be paid into the treasury of the city of Newburgh and shall be credited to and deposited in the general fund of the city. Such revenues may be used for any lawful purpose.

(10) If any provision of this section or the application thereof to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision to other persons or circumstances shall not be affected thereby.

§ 2. This act shall take effect immediately and shall expire and be deemed repealed 3 years after such date.

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RESOLUTION NO.: __106____ - 2022

OF

APRIL 25, 2022

A RESOLUTION REQUESTING THE STATE LEGISLATURE TO ENACT SENATE BILL S8587 AND ASSEMBLY BILL A9650A AUTHORIZING THE CITY OF NEWBURGH TO ESTABLISH AN ADMINISTRATIVE ADJUDICATION PROCEDURE FOR CODE AND ORDINANCE VIOLATIONS

BE IT RESOLVED, by the Council of the City of Newburgh, New York that this Council does hereby make a Home Rule Request pursuant to the Municipal Home Rule Law of the State of New York that the Senate and Assembly of New York enact Senate Bill S8587 and Assembly Bill A9650A, a copy of which is annexed hereto, to amend the section 380 of the general municipal law by adding new subdivision 6 to authorize the establishment of an administrative adjudication hearing procedure for code and ordinance violations for the City of Newburgh; the same as being in the best interests of the City of Newburgh.

STATE OF NEW YORK

8587

IN SENATE

March 17, 2022

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the general municipal law, in relation to establishing an administrative adjudication hearing procedure for code and ordinance violations for the city of Newburgh

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 380 of the general municipal law is amended by adding a new subdivision 6 to read as follows:

6. The city of Newburgh may adopt a local law establishing an administrative adjudication hearing procedure under the provisions of this article for all code and ordinance violations relating to conditions which constitute a threat or danger to the public health, safety or welfare, provided, however, that such administrative adjudication hearing procedure shall not apply to violations of the building code of the city of Newburgh.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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STATE OF NEW YORK

9650--A

IN ASSEMBLY

March 28, 2022

Introduced by M. of A. JACOBSON -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general municipal law, in relation to establishing an administrative adjudication hearing procedure for code and ordinance violations for the city of Newburgh

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 380 of the general municipal law is amended by adding a new subdivision 6 to read as follows:

6. The city of Newburgh may adopt a local law establishing an administrative adjudication hearing procedure under the provisions of this article for all code and ordinance violations relating to conditions which constitute a threat or danger to the public health, safety or welfare, provided, however, that such administrative adjudication hearing procedure shall not apply to violations of the building code of the city of Newburgh.

§ 2. This act shall take effect immediately.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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