



CITY OF NEWBURGH  
COUNCIL MEETING AGENDA  
*SESION GENERAL DEL CONSEJAL*  
September 9, 2024  
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/Comunicaciones

4. Approval of the Minutes of the Special City Council Meeting on August 8, 2024 and the Regular Council Meeting on August 12, 2024 / Aprobación de las Actas de la Reunión Especial del Consejo del 8 de agosto de 2024 y de la Reunión Regular del 12 de agosto de 2024
5. City Manager Update / Gerente de la Ciudad Pone al Dia a la Audiencia de los Planes de Cada Departamento

Presentations/Presentaciones

6. Public Hearing - Local Law Amending Chapter 93 - Repurchase of In Rem Properties

There will be a public hearing on Monday, September 9, 2024 to receive comments from the public concerning a proposed Local Law amending Chapter 93 entitled "Repurchase of In Rem Properties"

*Habr  una audiencia p blica el lunes 9 de septiembre de 2024 para recibir comentarios del p blico sobre una propuesta de ley local que modifica el cap tulo 93 titulado, "Recompra de propiedades in rem"*

Comments from the public regarding agenda and general matters of City Business/Comentarios del p blico 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

7. Resolution No. 184 - 2024 - Contract with July 4 Ever Fireworks Inc & Rocco

Polifrone- International Festival

Resolution authorizing the City Manager to accept a proposal and execute a contract with July 4 Ever Fireworks, Inc. & Rocco Polifrone to provide a fireworks display at the City of Newburgh Annual International Festival for the amount of \$20,000.00

*Resolución que autoriza al Gerente de la Ciudad a aceptar una propuesta y ejecutar un contrato con July 4 Ever Fireworks, Inc. & Rocco Polifrone para proporcionar un espectáculo de fuegos artificiales en el Festival Internacional Anual de la Ciudad de Newburgh por el monto de \$20,000.00*

8. Resolution No. 185 - 2024 - 115 Johnston Street - Release of Restrictive Covenants

Resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-Entry from a deed issued to 115 Johnston LLC to the premises known as 115 Johnston Street (Section 18, Block 11, Lot 15)

*Resolución que autoriza la ejecución de una Liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a 115 Johnston LLC a las instalaciones conocidas como 115 Johnston Street (Sección 18, Bloque 11, Lote 15)*

9. Resolution No. 186 - 2024 - 285 Grand Street, 285 Grand Street Rear, and 283 Grand Street Rear - Release of Restrictive Covenants

Resolution authorizing the execution of a Release of Restrictive Covenants and Right of Re-entry from a deed issued to Dwellstead Inc. to the premises known as 285 Grand Street, 285 Grand Street Rear, and 283 Grand Street Rear (Section 10, Block 1, Lots 10, 11, and 13)

*Resolución que autoriza la ejecución de una Liberación de cláusulas restrictivas y derecho de reingreso de una escritura emitida a Dwellstead Inc. a las instalaciones conocidas como 285 Grand Street, 285 Grand Street Rear y 283 Grand Street Rear (Sección 10, Bloque 1, Lotes 10, 11 y 13)*

10. Resolution No. 187 - 2024 - Purchase of 375 Carpenter Avenue

Resolution to authorize the conveyance of real property known as 375 Carpenter Avenue (Section 3, Block 9, Lot 18) at private sale to Mohammad Shafiq Majeed for the amount of \$150,000.00

*Resolución que autoriza la transmisión de bienes raíces conocidos como 375 Carpenter Avenue (Sección 3, Bloque 9, Lote 18) en venta privada a Mohammad Shafiq Majeed por el monto de \$150,000.00*

11. Resolution No. 188 - 2024 - 2024-2025 Youth Employment & Training Program

Resolution authorizing the City Manager to enter into an agreement with the County of Orange for the 2024-2025 Youth Employment and Training Program to provide young people to work for the City of Newburgh

*Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo con el Condado de Orange para el Programa de Empleo y Entrenamiento Juvenil 2024-2025 para proporcionar a los jóvenes empleo en la Ciudad de Newburgh*

12. Resolution No. 189 - 2024 - Restore NY Communities Initiative Grant, Round 6, Award - Subrecipient Agreement with Newburgh Community Land Bank

Resolution authorizing the City Manager to enter into a Subrecipient Agreement with Newburgh Community Land Bank, Inc. in connection with the City of Newburgh's Restore NY Communities Initiative grant, Round 6, award for the rehabilitation of 72, 76, and 78 Lander Street

*Resolución que autoriza al Gerente de la Ciudad a entrar en un Acuerdo de Subreceptor con Newburgh Community Land Bank, Inc. en relación con la subvención de la Iniciativa Restore NY Communities de la Ciudad de Newburgh, Ronda 6, para la rehabilitación de los números 72, 76 y 78 Lander Street*

13. Resolution No. 190 - 2024 - Restore NY Communities Initiative Grant, Round 6, Award - Site Development Agreement with Newburgh Community Land Bank

Resolution authorizing the City Manager to enter into a Site Development Agreement with Newburgh Community Land Bank, Inc. in connection with the City of Newburgh's Restore NY Communities Initiative grant, Round 6, award for the rehabilitation of 72, 76, and 78 Lander Street

*Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo de desarrollo de área con Newburgh Community Land Bank, Inc. en relación con la subvención Restore NY Communities Initiative de la Ciudad de Newburgh, Ronda 6, para la rehabilitación de los números 72, 76 y 78 de Lander Street*

14. Resolution No. 191 - 2024 - Schedule 2nd Public Hearing for the Community Development Block Grant (CDBG) FY2025 - FY2029 Consolidated Plan and FY2025 Annual Action Plan (AAP)

Resolution opening a 30-day public comment period and scheduling a second public hearing for September 23, 2024 to hear public comment regarding the housing and community development needs of the City of Newburgh and to hear public comment on the City of Newburgh's proposed actions concerning the Community Development Block Grant Program for the 2025-2029 Five Year Consolidated Plan and Fiscal Year 2025 Annual Action Plan

*Resolución que abre un período de comentarios públicos de 30 días y programa una segunda audiencia pública para el 23 de septiembre de*

*2024 para escuchar comentarios públicos sobre las necesidades de vivienda y desarrollo comunitario de la Ciudad de Newburgh y para escuchar comentarios públicos sobre las acciones propuestas por la Ciudad de Newburgh en relación con el Programa de Subvenciones en Bloque de los Bloques de Desarrollo Comunitario para el Plan Consolidado Quinquenal 2025-2029 y el Plan de Acción Anual para el Año Fiscal 2025*

15. Resolution No. 192 - 2024 - PILOT Agreement - 69 William Street

Resolution authorizing the City Manager to execute an agreement for the payment in lieu of taxes by and among the City of Newburgh, [Safe William Street] Limited Partnership, and [Safe William Street] Housing Development Fund Company, Inc.

*Resolución que autoriza al Gerente de la Ciudad a ejecutar un acuerdo para el pago en lugar de impuestos por y entre la Ciudad de Newburgh, [Safe William Street] Limited Partnership, y [Safe William Street] Housing Development Fund Company, Inc.*

16. Resolution No. 193 - 2024 - New DEC PFOS Expense Reimbursement Contract

Resolution authorizing the City Manager to enter into Contract No. C013229 with the New York State Department of Environmental Conservation for reimbursement of additional costs incurred by the City of Newburgh as a of providing an alternate source of drinking water

*Resolución que autoriza al Gerente de la Ciudad a entrar en el Contrato No. C013229 con el Departamento de Conservación Ambiental del Estado de Nueva York para el reembolso de los gastos adicionales incurridos por la Ciudad de Newburgh como consecuencia del suministro de una fuente alternativa de agua potable*

17. Resolution No. 194 - 2024 - NYS DEC Temporary Use & Access Agreement

Resolution authorizing the City Manager to enter into an agreement with the New York State Department of Environmental Conservation for temporary use of City property and rights-of-ways to facilitate replacement of granular activated carbon at the Water Filtration Plant

*Resolución que autoriza al Gerente de la Ciudad a entrar en un acuerdo con el Departamento de Conservación Ambiental del Estado de Nueva York para el uso temporal de la propiedad de la Ciudad y los derechos de paso para facilitar la sustitución del carbón activado granular en la Planta de Filtración de Agua*

18. Resolution No. 195 - 2024 - Amendment to the City Take Home Vehicle Policy



Resolution adopting the City of Newburgh Vehicle Usage Policy and Procedure for Commuting with a City-Owned Take-Home Vehicle

*Resolución adoptando la póliza de uso de vehículos de la Ciudad de Newburgh y el procedimiento para el viaje al trabajo con un vehículo municipal que se lleva a casa*

19. Resolution No. 196 - 2024 - Resolution Authorizing City Manager to Enter Agreements for ArtBiz Series 2024

Resolution Authorizing the City Manager to enter into agreements with various parties to provide creative arts classes and related services in connection with the City of Newburgh's ArtBiz Series for 2024

*Resolución que autoriza al Gerente de la Ciudad a entrar en acuerdos con varias entidades para proporcionar clases de artes creativas y servicios relacionados en conexión con la Serie ArtBiz de la Ciudad de Newburgh para 2024*

20. Resolution No. 197 - 2024 - Chapter 240, Article III - Repealing and Replacing Prohibition of Eviction without Good Cause

Local Law repealing and replacing Chapter 240 "Rental Properties", Article III entitled "Prohibition of Eviction without Good Cause" of the Code of Ordinances of the City of Newburgh

*Ley local que deroga y sustituye el Capítulo 240 "Propiedades de alquiler", Artículo III titulado "Prohibición de desalojo sin causa justificada" del Código de Ordenanzas de la Ciudad de Newburgh*

21. Resolution No. 198 - 2024 - Authorizing Continued Participation in BASF Class Settlement

A resolution authorizing continued participation in settlement class in the in re: Aqueous Film-Forming Foams Products liability litigation, MDL No. 2:18-mn-02873 relating to City of Camden, et al. v. BASF Corporation, No. 2:24-cv-03147-RMG in connection with the contamination of Washington Lake and the City of Newburgh water supply

*Una resolución que autoriza a seguir participando en la clase de conciliación en referencia: litigios por responsabilidad de Aqueous Film-Forming Foams Products, MDL No. 2:18-mn-02873 relativo a la Ciudad de Camden, et al. v. BASF Corporation, No. 2:24-cv-03147-RMG en relación con la contaminación del lago Washington y el suministro de agua de la ciudad de Newburgh*

22. Resolution No. 199 - 2024 - Authorizing Exclusion from the TYCO Class Settlement

A resolution authorizing exclusion from the settlement class in the in re: Aqueous Film-Forming Foams Products liability litigation, MDL No. 2:18-mn-02873 relating to City of Camden, et al. v. TYCO Fire Products, LP, et al., No.

2:23-cv-02321-RMG in connection with the contamination of Washington Lake and the City of Newburgh water supply

*Una resolución que autoriza la exclusion de la clase de conciliación en referencia: litigios por responsabilidad de Aqueous Film-Forming Foams Products, MDL No. 2:18-mn-02873 relativo a la Ciudad de Camden, et al. v. TYCO Fire Products, LP, et al., No. 2:23-cv-02321-RMG en relación con la contaminación del lago Washington y el suministro de agua de la ciudad de Newburgh*

23. Resolution No. 200 - 2024 - Authorizing Settlement of In Rem property for 5 Grand Street

A resolution authorizing the settlement of litigation regarding the foreclosure of tax liens in rem for the year 2018 related to property known as 5 Grand Street (Section 37, Block 8, Lot 10)

*Resolución que autoriza el acuerdo de litigación relativo a la ejecución de embargos fiscales reales para el año 2018 en relación con la propiedad conocida como 5 Grand Street (Sección 37, Bloque 8, Lote 10)*

24. Resolution No. 201 - 2024 - Authorizing Settlement of In Rem property for 14 Grand Avenue and 18 Grand Avenue

A resolution authorizing the settlement of litigation regarding the foreclosure of tax liens in rem for the year 2021 related to properties known as 14 Grand Avenue (Section 4, Block 6, Lot 2) and 18 Grand Avenue (Section 4, Block 6, Lot 1)

*Una resolución que autoriza el acuerdo de litigación relativo a la ejecución de embargos fiscales reales para el año 2021 en relación con las propiedades conocidas como 14 Grand Avenue (Sección 4, Bloque 6, Lote 2) y 18 Grand Avenue (Sección 4, Bloque 6, Lote 1)*

25. Resolution No. 202 - 2024 - Appointing Sharonda Powell as Deputy City Clerk

A resolution appointing Sharonda Powell as Deputy City Clerk of the City of Newburgh

*Una resolución nombrando a Sharonda Powell como Secretaria Suplente de la Ciudad*

Old Business: / Asuntos Pendientes

New Business: / Nuevos Negocios

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

Adjournment/ Aplazamiento:

RESOLUTION NO.: 179 - 2024

OF

AUGUST 12, 2024

RESOLUTION SCHEDULING A PUBLIC HEARING FOR SEPTEMBER 9, 2024  
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING  
CHAPTER 93 ENTITLED "REPURCHASE OF IN REM PROPERTIES" OF THE  
CODE OF ORDINANCES OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Amending Chapter 93 entitled 'Repurchase of In Rem Properties' of the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the regular meeting of the Council to be held at 7:00 p.m. on the 9<sup>th</sup> day of September, 2024, in the 3<sup>rd</sup> Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

I, Katrina Cotton, City Clerk of the City of Newburgh  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held 8/12/24  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 13<sup>th</sup> day of Aug 20 24

Katrina Cotton  
City Clerk

LOCAL LAW NO.: \_\_\_\_\_ - 2024

OF

\_\_\_\_\_, 2024

**A LOCAL LAW AMENDING CHAPTER 93 ENTITLED “REPURCHASE OF IN REM PROPERTIES” OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH**

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

**SECTION 1 - TITLE**

This Local Law shall be referred to as “A Local Law Amending Chapter 93 entitled ‘Repurchase of In Rem Properties’ of the Code of Ordinances of the City of Newburgh”.

**SECTION 2 - PURPOSE AND INTENT**

Chapter 55 of the 2024 Session Laws of New York (A. 8805-C), signed into law on April 20, 2024, amended the Real Property Tax Law (“RPTL”) related to the prosecution and administration of delinquent tax liens.

This local law amends Chapter 93 entitled ‘Repurchase of In Rem Properties’ of the Code of Ordinances of the City of Newburgh to incorporate the RPTL amendments and to provide notice provisions for former owners or lienors seeking to repurchase an *in rem* property,

**SECTION 3 - AMENDMENT**

**Chapter 93 of the Code of Ordinances of the City of Newburgh is hereby amended as follows:**

**§ 93-1 Findings and legislative intent.**

The Council of the City of Newburgh finds that the City annually acquires title to several properties by foreclosure for unpaid taxes or other charges, pursuant to Article 11, Title 3, of the Real Property Tax Law of the State of New York. Immediately after acquiring title, the City usually receives several requests to repurchase these properties by former owners or other interested parties to pay the taxes or charges owed. The Council generally grants these requests, but, although § 1166 of the Real Property Tax Law permits the City to sell such properties at private sale, a special resolution is required to approve each sale. It is the intent of this chapter to specifically supersede Real Property Tax Law § 1166, Subdivision 1, in part, so as to permit the private sale of real property acquired by in rem foreclosure to former owners thereof without the necessity of Council approval.

Underlining denotes additions  
~~Strikethrough~~ denotes deletions

## **§ 93-2 Definitions.**

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

### **FORMER OWNER**

An individual or corporation in title to a piece of real property immediately prior to the City taking title thereto.

### **IN REM PROPERTY**

A piece of real property acquired by the City of Newburgh through a foreclosure of taxes in rem, pursuant to Article 11, Title 3, of the Real Property Tax Law of the State of New York.

### **LIENOR**

The holder of a mortgage, judgment or other lien on a piece of real property immediately prior to the City taking title thereto.

## **§ 93-3 (Reserved)**

## **§ 93-4 Time for requests to repurchase.**

Any former owner or lienor may request the repurchase of an in rem property. Such request must be in writing, addressed to the City Manager, plus the deposit provided for in § 93-5, and must be received no later than ~~60~~ 30 days after the date of filing the deed conveying title to said in rem property to the City. The City shall provide notice of the filing of the deed to the public by publication to the City's website and by posting such notice in a conspicuous location at City Hall. The City shall not be obligated to provide individual notice to former owners, lienors, or other persons with an interest in a tax foreclosed property other than in the manner stated herein. A former owner or owners shall be given first priority over a lienor where an owner and a lienor both make a request to repurchase the same property. Requests of lienors to repurchase should be honored on the basis of the first received by the City Manager.

## **§ 93-5 Deposit to accompany request.**

Each request to repurchase must be accompanied by a deposit equal to 10% of the taxes shown as owing on the list of delinquent taxes for the in rem proceeding for each of the in rem properties which it is requesting to repurchase. Said deposit must be in cash, good certified or bank check payable to the City of Newburgh.

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### **§ 93-6 Amount to repurchase.**

The amount required to repurchase a property shall be the “charges” as that term is defined in Section 1102 of the Real Property Tax Law ~~total amount of taxes, water and sewer charges, sanitation charges, interest and penalties due and owing or that would have been owing~~ had the City not taken title to the property as of the time of repurchase of the in rem property, whether or not set forth on the list of delinquent taxes, plus an additional penalty equal to 30% of said total, figured to the date of payment.

### **§ 93-7 Approval of repurchase request.**

All repurchase requests timely received, as provided in § 93-4, together with the deposit required by § 93-5, timely received, are approved and the City Manager is authorized to execute a deed conveying title of the City of Newburgh, as acquired in any in rem proceeding, to the former owner or lienor of that in rem property in accordance with the conditions and procedures set forth in this chapter. The deed shall be in quit claim form and shall contain a property description by Tax Map section, block and lot only.

### **§ 93-8 Time for payment.**

Payment in full of the amount due on any in rem property as calculated pursuant to § 93-6 must be made in cash, good certified or bank check, payable to the City of Newburgh no later than 120 60 days after the date of the filing of the deed conveying title to the in rem property to the City.

### **§ 93-9 Effect of failure to timely request repurchase or make payment.**

- A. No request to repurchase shall be considered after the expiration of the time limit in § 93-4.
- B. No payment shall be accepted after the expiration of the time limit in § 93-8. Upon such expiration, the request to repurchase such in rem property shall be deemed to be in default and the City shall retain the deposit tendered with such request as liquidated damages.
- C. No extensions of time to either request repurchase or make payment shall be granted under any circumstances.
- D. Upon the expiration of said time limitations, the in rem property shall be sold in accordance with applicable law and the City's Surplus Real Property Disposition Policy or retained for public purposes. ~~at public auction to the highest bidder or retained for public purposes or otherwise disposed of, pursuant to § 1166 of the Real Property Tax Law.~~

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### **§ 93-10 Exceptions.**

A. The provisions herein authorizing the repurchase of in rem properties shall not apply to any in rem property which the Council determines, in its sole discretion, should be retained for public purposes. Excepted properties may also include properties that are vacant, boarded up, or buildings that are required to be boarded up pursuant to law. The Council shall approve a resolution with a list of all properties to be retained by the City.

B. The provisions herein authorizing the repurchase of in rem properties shall not apply to any in rem property on which an answer was filed in the in rem proceeding.

### **§ 93-11 Deed.**

After the timely receipt of the payment in full, as required by § 93-6, the City Manager shall execute and deliver a quit claim deed conveying such interest to an in rem property as the City acquired by its in rem foreclosure proceeding to the former owner or lienor without any further or confirming resolution of the Council, and in accordance with Real Property Tax Law Section 1136(4).

### **§ 93-12 When effective.**

This chapter shall take effect immediately.

## **SECTION 4 - SEVERABILITY**

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

## **SECTION 5 - CODIFICATION**

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

Underlining denotes additions

~~Strikethrough~~ denotes deletions

## SECTION 6 - VALIDITY

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

## SECTION 7 - EFFECTIVE DATE

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

Underlining denotes additions  
~~Strikethrough~~ denotes deletions



§ 4. Subdivision 1 of section 1102 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1102 >>

1. “Charges” or “legal charges” means:

(a) the cost of the mailing or service of notices required or authorized by this article;

(b) the cost of publication of notices required or authorized by this title;

(c) the amount of any interest and penalties imposed by law;

(d) the cost of recording or filing legal documents required or authorized by this article; ~~and~~

**(e) the cost of appraising a parcel for the purpose of determining the existence and amount of any surplus pursuant to section eleven hundred ninety-six of this article;**

**(f) the reasonable and necessary cost of any search of the public record required or authorized to satisfy the notice requirements of this article, and ~~the other~~ reasonable and necessary expenses ~~for legal services of~~ incurred by a tax district in connection with a proceeding to foreclose a tax lien, including but not limited to administrative, auction and reasonable attorney fees and/or costs associated with the foreclosure process;** provided, that: (i) a charge of up to ~~one~~ **either two** hundred fifty dollars per parcel, **or two percent of the sum of the taxes, interest and penalties due on the parcel, whichever is greater,** shall be deemed reasonable and necessary to cover the combined costs of such searches and ~~legal expenses~~ **the other reasonable and necessary costs and expenses delineated in this paragraph,** and such an amount may be charged without substantiation, even if salaried employees of the tax district performed ~~the search or legal~~ **some or all of such** services; and (ii) a tax district may charge a greater amount with respect to one or more parcels upon demonstration to the satisfaction of the court having jurisdiction that such greater amount was reasonable and necessary; ~~and~~

**(~~f~~) (g) the amount owed to the tax district by virtue of a judgment lien, a mortgage lien, or any other lien held by the tax district that is not a delinquent tax lien.**

**(h) Charges shall be deemed a part of the delinquent tax for purposes of redemption ~~and determination of surplus.~~**

§ 5. Subdivision 1 of section 1123 of the real property tax law, as amended by chapter 579 of the laws of 1995, is amended to read as follows:

<< NY RP TAX § 1123 >>

1. ~~Twenty-one~~ **Eighteen** months after lien date, or as soon thereafter as is practicable, the enforcing officer shall execute a petition of foreclosure pertaining to those properties which remain subject to delinquent tax liens; provided, however, that in the case of property which is subject to a three or four year redemption period, such petition shall be executed ~~thirty-three or forty-five~~ **thirty or forty-two** months after lien date, respectively, or as soon thereafter as is practicable.

§ 6. The sixth undesignated paragraph of subdivision 3 of section 1124 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1124 >>

Last day for redemption: The last day for redemption is hereby fixed as the ..... day of ..... (here insert a date at least ~~three~~ **six** months after the date of the first publication of this notice).

§ 7. Section 1125 of the real property tax law is amended by adding a new subdivision 2-a to read as follows:

<< NY RP TAX § 1125 >>

**2-a. In the case of residential property as defined by section eleven hundred eleven of this article, such notice shall also either include or be accompanied by the homeowner warning notice described by section eleven hundred forty-four of this article.**

§ 8. The real property tax law is amended by adding a new section 1135 to read as follows:

<< NY RP TAX § 1135 >>

**§ 1135. Application for surplus**

**In lieu of filing an answer to the foreclosure proceeding, any person claiming surplus arising from a tax district's enforcement of delinquent property taxes shall have the right to file with the clerk in whose office the report of sale is filed at any time before the confirmation of the report of sale, a written notice of such claim, stating the nature and extent of their claim and the address of the claimant or the claimant's attorney.**

§ 9. Paragraph (d) of subdivision 2 of section 1136 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1136 >>

(d) In directing any conveyance pursuant to this subdivision, the judgment shall direct the enforcing officer of the tax district to prepare and execute a deed conveying title to the parcel or parcels of real property concerned. Such title shall be full and complete in the absence of an agreement between tax districts as herein provided that it shall be subject to the tax liens of one or more tax districts. Upon the execution of such deed, the grantee shall be seized of an estate in fee simple absolute in such parcel unless the conveyance is expressly made subject to tax liens of a tax district as herein provided, and all persons, including the state, infants, incompetents, absentees and non-residents, who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. **Nothing contained herein shall be construed to preclude any such person from filing a claim pursuant to section eleven hundred thirty-five or title six of this article for a share of any surplus that may be attributable to the sale of such parcel.**

§ 10. Subdivision 3 of section 1136 of the real property tax law, as amended by chapter 532 of the laws of 1994, is amended to read as follows:

<< NY RP TAX § 1136 >>

3. When no answer has been interposed. **(a)** The court shall make a final judgment awarding to such tax district the possession of any parcel of real property described in the petition of foreclosure not redeemed as provided in this title and as to which no answer is interposed as provided herein. In addition thereto such judgment shall contain a direction to the enforcing officer of the tax district to prepare, execute and cause to be recorded a deed conveying to such tax district full and complete title to such parcel.

**(b) Alternatively, at the request of the enforcing officer, the court may make a final judgment authorizing the enforcing officer to prepare, execute and cause to be recorded a deed conveying full and complete title to such parcel directly to a party other than the tax district, without the tax district taking title thereto.**

**(c) Upon the execution of such deed, the tax district, or the grantee as the case may be, shall be seized of an estate in fee simple absolute in such parcel and all persons, including the state, infants, incompetents, absentees and non-residents who may have had any right, title, interest, claim, lien or equity of redemption in or upon such parcel shall be barred and forever foreclosed of all such right, title, interest, claim, lien or equity of redemption. Nothing contained herein shall be construed to preclude any such person from filing a claim pursuant to section eleven hundred thirty-five or title six of this article for a share of any surplus that may be attributable to the sale of such parcel.**

§ 11. Section 1136 of the real property tax law is amended by adding a new subdivision 4 to read as follows:

<< NY RP TAX § 1136 >>

**4. (a) Notwithstanding any other provision of law to the contrary, when a parcel is subject to a judgment of foreclosure issued pursuant to this section but has not yet been conveyed to a third party, the tax district may, at its discretion, convey title to the parcel back to the former owner or owners, or to the successor or successors in interest if any, upon payment of the taxes, penalties, interest and other lawful charges owed to the tax district, subject to the provisions of paragraph (b) of this subdivision.**

**(b) If immediately prior to the issuance of the judgment of foreclosure, any other person had any right, title, interest, claim, lien or equity of redemption in or upon such parcel, the deed conveying the parcel back to the former owner or owners, or to their successor or successors in interest, shall state that the conveyance shall become subject to the right, title, interest, claim, lien or equity of redemption of any other person that had been extinguished by the judgment of foreclosure, once such right, title, interest, claim, lien or equity of redemption has been reinstated nunc pro tunc pursuant to the provisions of this paragraph. Upon the execution of such deed, the tax district shall cause a copy thereof to be filed with the court, which shall direct the reinstatement of any such right, title, interest, claim, lien or equity of redemption in such parcel nunc pro tunc.**

§ 12. Article 11 of the real property tax law is amended by adding a new title 3–A to read as follows:

Art. 11, Tit. 3–A, prec. 11–1142

### **TITLE 3–A**

#### **HOMEOWNER BILL OF RIGHTS AND RELATED PROVISIONS**

**Section 1142. Homeowner bill of rights.**

**1144. Homeowner warning notices.**

**1146. Repayment plans.**

**1148. Assistance to vulnerable populations.**

<< NY RP TAX § 1142 >>

**§ 1142. Homeowner bill of rights**

RESOLUTION NO.: 184 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A PROPOSAL  
AND EXECUTE A CONTRACT WITH JULY 4 EVER FIREWORKS, INC.  
& ROCCO POLIFRONE TO PROVIDE A FIREWORKS DISPLAY  
AT THE CITY OF NEWBURGH ANNUAL INTERNATIONAL FESTIVAL  
FOR THE AMOUNT OF \$20,000.00**

**WHEREAS**, the City of Newburgh has received a proposal from July 4 Ever Fireworks, Inc. & Rocco Polifrone to provide a fireworks display on September 1, 2024 with a rain date of September 2, 2024 for the 2024 International Festival at a cost of \$20,000.00; and

**WHEREAS**, funding for the International Festival fireworks display shall be derived from the 2024 Budget – A.7550.0400.0001 and A.7550.0400.0004.000; and

**WHEREAS**, this Council has determined that accepting the proposal of July 4 Ever Fireworks, Inc. & Rocco Polifrone is in the best interests of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he hereby is authorized to accept a proposal and execute a contract, in substantially the same form as annexed hereto with other provisions as Corporation Counsel may require, with July 4 Ever Fireworks, Inc. & Rocco Polifrone for a fireworks display for the 2024 City of Newburgh International Festival on September 1, 2024 with a rain date of September 2, 2024, at a cost of \$20,000.00.



**JULY 4 EVER**



**FIREWORKS**

**City of Newburgh**

**PROPOSAL**

## ***JULY 4 EVER FIREWORKS how we started...where we are now!***

***July 4 Ever Fireworks*** company has been in the fireworks industry for over 40 wonderful years. We have always been family owned and operated because of our love and passion we have for fireworks.

***Our journey*** started as wholesalers to the industry, we imported fireworks that were used in thousands of displays throughout the country and abroad. At one time we were the largest importers on the East coast with the most talked about facility with our Military bunkers used to house fireworks. We have loyal employees from our office staff to our dedicated trained Pyrotechnicians.

***Our company*** does displays all year long from the hottest days of summer to the coldest days of winter. Our year-round displays have allowed us to keep our steady clients happy and able to do their biggest Fourth of July displays to their New Years Eve display and every special event in between. Our displays have been seen on TV, from New York to Las Vegas, Barges, Lakes, Beaches, Ball stadiums, National Geographic, around the NYC area, Chinese New Year, Towns, Villages, Corporate events, Weddings and many more.

***Our number one priority*** has always been safety. We pride our company on safety and making sure our clients mind is at ease knowing our commitment and dedication is to assure every show is tailored designed for the location and audiences to have the best experience and a spectacular night to remember.

***All Permits***, licensing, insurance, workers compensation will be promptly done in our office in a timely manner from the initial signing of the contract. We will do all meetings for sight inspections, and Town Hall meetings (if required).

***Our commitment*** is to provide each client a choreographed show designed by a team dedicated to making sure each show is uniquely planned. We use the highest-grade quality pyrotechnics for ALL our displays and guarantee the best display for every budget.

***Our team*** is one of a few who proudly answers all calls anytime day or night, being able to speak to a representative if any questions should arise. Our customer service is exceptional, and we proudly give references should they be requested.

***Reputation Is everything:***

***What you can expect:*** High impact, rhythm like dancing fireworks especially if choreographed to music. There is a WOW opening, a body which will captivate and keep audiences engaged with special designs, variety of colors and multiple effects, our finale will consist of a barrage of fireworks that will leave audiences applauding for more!

***Thank you. We look forward to working with you!***

## **Synopsis of Services**

- ❖ SHOW DATE: September 1st, / Rain Date September 2nd
- ❖ PROGRAM BUDGET: \$20,000.00
- ❖ EFFECT LIST: See Attached
- ❖ PERSONNEL: NYS Licensed Tech & Assistants
- ❖ TRANSPORTATION: July 4 Ever Vehicle
- ❖ PERMITS: As Required by City
- ❖ INSURANCE As Required by Sponsor



## Fireworks Display Synopsis

**SHOW DATE:** September 1st, 2024

**RAIN DATE:** September 2nd, 2024

**BUDGET:** \$20,000.00

**CLIENT:** City of Newburgh

| ITEM DESCRIPTION        | QUANTITY | NUMBER OF SHOTS |
|-------------------------|----------|-----------------|
|                         |          |                 |
| <b>OPENING:</b>         |          |                 |
| 2"                      | 40       | 40              |
| 3"                      | 12       | 12              |
| 4"                      | 6        | 6               |
| 5"                      | 4        | 4               |
| 6"                      |          |                 |
| Repeaters               | 120      | 120             |
|                         |          |                 |
| <b>BODY OF DISPLAY:</b> |          |                 |
| 2"                      | 40       | 40              |
| 3"                      | 220      | 220             |
| 4"                      | 140      | 140             |
| 5"                      | 106      | 106             |
| 6"                      | 4        | 4               |
| Repeaters               | 300      | 300             |
|                         |          |                 |
|                         |          |                 |
|                         |          |                 |
| <b>FINALE:</b>          |          |                 |
| 2"                      | 220      | 220             |
| 3"                      | 100      | 100             |
| 4"                      | 85       | 85              |
| 5"                      | 30       | 30              |
| 6"                      |          |                 |
| Repeaters               | 300      | 300             |
|                         |          |                 |
|                         |          |                 |
|                         |          |                 |
| <b>TOTAL:</b>           |          | 1727            |
|                         |          |                 |

July 4 Ever reserves the right to make product substitutions equal to or greater in value to the original quoted product in the event inventory fluctuates between contract execution and show date.

### **July 4 Ever Effects**

X Shape Red/ Green Stars With White  
Strobe Mine

X Shape Blue & Gold Strobe Willow Tail

Straight Salute W/ Color Tails

Break (5 Inch)

Double Break (6 Inch)

Mixed Effects

Z Shape Whistling Tail To Brocade With  
White Strobe

Straight Whistling To Thunder (Instant)

Straight Whistling To Thunder (Instant)

Straight Brocade Mine To Brocade Crown

Straight Blue Tail To Flower Crown With  
Red/ Blue

Z Shape Brocade Tail Spit Brocade  
Waterfall With Red/ Green Strobe Pistil

Z Shape Blue Tail To Nishiki Willow W/  
Color Pearls

Fan Shape Nishiki Willow W/ Color  
Falling Leaves

Z Shape Brocade Crown W/ Color Falling  
Leaves

### **July 4 Ever Effects**

Z Shape Gold Horse Tail W/ Blue Pearls

Straight Brocade Break Alternate White  
Strobe Color Falling Leaves With B/ R  
Tails

Straight Red/ Green/ Blue Tail To Ti-  
Gold Palm With Red/ Green/ Blue Dahlia

Straight Brocade Tail To Gold Pine With  
Red/Green/Blue

Straight Gold To Brocade W/  
Teal/Purple/Orange/Blue Dahlia

Half Red Half Blue With White Strobe  
Pistil

Z Shape Brocade Crown W/ Color Falling  
Leaves

X Shape Red/Green/Blue Tail To White  
Strobe With Green/Purple/Orange Dahlias

X Shape Red/Green/Blue Tail To White  
Strobe With Green/Purple/Orange Dahlias

Blue Tail Salute W/ Red Strobe Mine

Fan Shape Brocade Mine To Brocade

Z Shape Brocade Horse Tail W/ White  
Strobes

### **July 4 Ever Effects**

Brocade Crown W/ Color Falling Leaves

Multiple Reports

Blue Star Mine & Neon Glittering Tail To  
Special White Brocade Crown

Blue Star Mine And Neon Glittering Tail  
To Gold Ti Willow

Blue Star Mine And Neon Glittering Tail  
to Red, Green Falling Leaves And Blue  
Star

Blue Star Mine And Neon Glittering Tail  
To Red, Sea Blue Stars W. White Strobe  
Blue Tail To Gold Ti Willow & Blue Star  
Blue Tail To Silver Nishiki Willow, Blue  
Star & Red Strobe

Red Coconut Tail To Silver Plum & Red  
Dahlia

Special White Brocade Crown To Red,  
Orange Dahlia

Blue Tail To Gold Nishiki Willow

Red Tail To Thunder(Instant)

Red Tail To Brocade Crown(Instant)

Straight Whistling To Thunder

Straight Whistling To Thunder( Instant)

Assorted Nishiki Willow Effect

Assorted Tiger Tails To Huge Break

### **July 4 Ever Effects**

Red/ Green/ Orange Dahlia Special White  
Strobe

Pigeon Blood Blue Dahlia

Green/ Blue Dahlia Red Lace

Purple/ Green/ Blue Dahlia Gold Lace

White Strobe Pigeon Blood Dahlia

Red Peony Time Rain Pistil

Time Rain Chrys.

Silver Crackling Willow Green Strobe

Brocade Crown

Special Red/ Green/ Blue Brocade

Red/ Green/ Gold Strobe Brocade To

Laser Willow

Silver Palm White Strobe

Gold Willow To Red

Green Willow White Strobe Pistil

Gold Willow Brocade

Red Strobe Willow Blue Stars

Gold Strobe Willow Color Dahlia

Color Palm

Gold Willow To Color With White Strobe

Red/ Green/ Orange/ Yellow To Silver

Palm

Blue Palm

### July 4 Ever Effects

Red Lace Ring

Brocade To Blue Ring

Blue Ring

Gold Splash Ring

Delay Time Rain Ring

Quick Crackle Ring

White Strobe Red Moving Mine To

Purple/ Green/ Blue With White Lace

Color Dahlia White Strobe Mine To

Brocade Green Strobe

Gold Blue Mine To Red/ Green/ Blue

With Quick Crackle

Gold Willow To Color With Silver Strobe

Mine To Gold Willow White Strobe Gold

Willow To Red/ Green Strobe Mine To

White Lace Green Tail

Brocade To Red Mine To Color Palm

With Crackle

Blue To Green Mine To Timerain With

Red/Green/Blue Dahlias

Special White Strobe Blue Mine To Red/

Blue Dahlia White Strobe

Crackling Silver Fish Mine To White

Strobe Red Tail

Silver Crackling Wave With Green Mine

To Red/ Green/ Blue Wave White Strobe

### July 4 Ever Effects

Green Palm To Timerain Mine To Red/

Green/ Blue Dahlia White Strobe Red

Palm Crackling+Blue Palm Crackle

Pigeon Blood+Blue To Brocade

Brocade Red Strobe+Green Palm Red

Lace

Brocade+Pigeon Blood

Blue/ Green Dahlia With White Strobe

+Pigeon Blood With White Strobe



## JULY 4 EVER FIREWORKS INC

THIS CONTRACT AND AGREEMENT for the display of Fireworks made and concluded this \_\_\_\_\_ day of August, 2024, by and between **JULY 4 EVER FIREWORKS INC**, of Walden, NY (hereinafter referred to as "July 4 Ever"),

AND

City of Newburgh

(hereinafter referred to as "Client")

**WITNESSETH:** For and in consideration of the sum of One Dollar, each to the other in hand paid, receipt of which is hereby acknowledged, and of the terms and conditions hereinafter mentioned, July 4 Ever and Client do mutually and severally agree to perform their several and respective covenants and to comply with all terms, conditions and payments of this contract:

**July 4 Ever agrees:**

1. To furnish and deliver to Client, Fireworks to be exhibited on the following dates set forth and agreed upon at the time of signing this contract and Client agrees to pay July 4 Ever & Rocco Polifrone for the Fireworks as follows:

**Display Date:** September 1st, 2024

**Postponement Date:** September 2nd, 2024

**Contract amount:** \$ 20,000.00 ; 10% due upon signing the Contract and balance due at Noon three days prior to the scheduled display date; all payments shall be made by Draft, Certified Check or Wire Transfer. Checks shall be made payable to July 4 Ever, unless otherwise authorized in writing; NO CASH shall be paid to any agent or employee of July 4 Ever without written authority.

2. JULY 4 EVER further agrees to furnish, sufficient trained personnel to present a display.

**CLIENT further agrees:**

3. To procure and furnish a suitable place to display the said Fireworks; to furnish the necessary police and fire protection; to secure all, Police, Local, and State Permits, and to arrange for any security bonds or insurance as required by law in their community

Permit fee not included in pricing

Duration: 22-25 Minutes (22 Mins recommended for High Intensity)

No 10% signing cost. July 4 Ever will invoice the City after the event. The city will make full payment within 30 days after receipt and approval of the invoice.

There is no cancellation charge if cancellation is done prior to display date, the 15% only applies if we have left the shop and are setting up or set up.

The 50% cancellation charge only applies if the show is canceled in its entirety and not going to be re-booked.

**The PARTIES mutually agree:**

4. It is agreed and understood by the parties hereto that in the event Fireworks have been taken out and set up before inclement weather and with adequate weather prevailing, such exhibition of fireworks will be carried out in the best possible manner without any deductions from the before named compensations. Should inclement weather prevent firing of said display on the aforementioned Display Date, then it will be understood that program is postponed and will be fired on the aforementioned Postponement Date, and there will be a charge to cover the cost of Postponement of 15%. If there is no alternate date and the program is not fired on the aforementioned Display Date, then it will be understood the program is canceled and there will be a charge to cover the costs of cancellation of 50%.
5. July 4 Ever reserves the exclusive right to make modifications and substitutions provided that such changes are reasonable and necessary and do not adversely affect price, time of delivery, functional character or display performance. July 4 Ever reserves the right to use multiple subcontractors in the setup and licensing of the display
6. If the location of the firing site, spectator's location, parking areas of structures is deemed unsuitable or unsafe, in the discretion of July 4 Ever or its agents or personnel, July 4 Ever may refuse to fire the display until conditions are corrected. If such conditions are not corrected, July 4 Ever may cancel the display without further liability to the Client for such cancellation.





7. This contract shall be deemed made in the State of New York and shall be constructed in accordance with the laws of New York. The parties agree and consent to the jurisdiction of New York to determine conflicts regarding the language and payments to be made under this Contract.
8. If Client becomes bankrupt or insolvent, or if a petition in bankruptcy is filed by or against the Client or if a receiver is appointed for the Client, July 4 Ever may refuse to make further delivery and may terminate this contract without prejudice to the rights of July 4 Ever . If the Client's financial conditions become unsatisfactory to July 4 Ever , July 4 Ever , may require the balance of the purchase price to be deposited in escrow or the Client to provide sufficient proof of its ability to pay the balance of the contract price. Client is not entitled to recover incidental or consequential damages in connection with any breach of this Contract.
9. If Client fails to pay the monies due under this contract, July 4 Ever is entitled to recover the balance due plus interest at 1-1/2% per month on amounts past due 60 days or more. Further, on balance outstanding of 120 days or more, July 4 Ever is entitled to recover the balance due, plus accrued interest, plus attorneys fees of 10% of the amount past due, plus court costs.
10. This Contract shall not be construed to create a partnership between the parties or persons mentioned herein.
11. In the event of fire, accident, strikes, delay, flood, act of God or other causes beyond the control of July 4 Ever , which prevent delivery of said materials, the parties hereto release each other from any and all performance of the covenants herein contained and from damages resulting from the breach thereof.
12. Client agrees to hold harmless July 4 Ever for any and all actions, claims, and legal fees incurred outside the operations or control of July 4 Ever . July 4 Ever agrees to hold harmless client for any and all actions, claims, and legal fees incurred outside the operations of the client.

13. \_\_\_\_\_  
\_\_\_\_\_

IN WITNESS WHEREOF, we set our hands and seals to the agreement in duplicate the day and year first above-written.

**For CLIENT:**

**For: JULY 4 EVER FIREWORKS INC**

\_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

Please sign contract where indicated for Client and return all copies for final acceptance to:

**July 4 Ever  
382 Rock Cut Road  
Walden, NY 12586**

**845/564-0184 FAX 845/566-3715**

July 4 Ever  
382 Rock Cut Rd, Walden, NY 12586  
Tel: 845-564-0184 Fax:  
845-566-3715

## Communication Sheet

PLEASE COMPLETE THIS FORM AND RETURN IT WITH YOUR SIGNED CONTRACT

### CUSTOMER INFORMATION

NAME: CITY OF NEWBURGH, NY

ADDRESS: 83 BROADWAY  
NEWBURGH, NY 12550

### FIRING SITE INFORMATION

LOCATION: RECREATION PARK  
ADDRESS: 401 WASHINGTON ST.  
NEWBURGH, NY 12550

CONTACT: GEORGE GARRISON  
(ONE)

PHONE: 845-656-2967

### CONTACT PERSON

NAME: MARITZA WILSON

ADDRESS: RECREATION DEPT.

PHONE: 845-569-7373

FAX: \_\_\_\_\_

CELL: \_\_\_\_\_

MWILSON@CITYOFNEWBURGH-NY.GOV  
E-MAIL: \_\_\_\_\_

### SHOW INFORMATION

DATE: SEPTEMBER 1, 2024

RAIN DATE: SEPTEMBER 2, 2024

TIME: 8:00 P.M.

### STORAGE SITE INFO

LOCATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

SECURITY YES OR NO (CIRCLE

### ALTERNATE CONTACT

NAME: MATT NORDT

ADDRESS: RECREATION DEPT.

PHONE: 845-569-7372

FAX: \_\_\_\_\_

CELL: \_\_\_\_\_

MNORDT@CITYOFNEWBURGH-NY.GOV  
E-MAIL: \_\_\_\_\_

# *JULY 4 EVER FIREWORKS INC.,*

*WALDEN, NY 12586  
PHONE (845) 564-0184  
FAX (845) 566-3715  
E-mail: [sales@july4ever.net](mailto:sales@july4ever.net)*

**NO LIMITS**



August 6th, 2024  
Robert Van Vlack  
[RVanVlack@cityofnewburgh-ny.gov](mailto:RVanVlack@cityofnewburgh-ny.gov)  
1-845-569-7395

Dear Robert ,

Thank you for giving us the opportunity to quote you a price on an exclusive Fireworks Display.

We are confident that the combination of quality, service, and price that we offer is unmatched anywhere. After you've finished your own research, we think you'll agree.

Enclosed is a copy of our proposal, product information, and a company letter. Should you accept our proposal, please sign the contract and send us via facsimile a copy so we may hold the date then you may forward the original by mail. We look forward to serving you.

If, at any time, you have a question, please call me at (845) 564-0184 Thank you once again for inquiring about a Display for your special occasion.

Sincerely,

*Anthony Esposito*

Anthony Esposito



RESOLUTION NO.: 185-2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF  
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO  
115 JOHNSTON LLC TO THE PREMISES KNOWN AS  
115 JOHNSTON STREET (SECTION 18, BLOCK 11, LOT 15)**

**WHEREAS**, on November 26, 2019, the City of Newburgh conveyed property located at 115 Johnston Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 18, Block 11, Lot 15, to 115 Johnston LLC; and

**WHEREAS**, 115 Johnston LLC (by Mark Epstein, managing member), has requested a release of the restrictive covenants contained in the deed from the City of Newburgh; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3, 4, and 5 of the aforementioned deed with respect to 115 Johnston Street.

**RELEASE OF COVENANTS AND  
RIGHT OF RE-ENTRY**

**KNOWN ALL PERSONS BY THESE PRESENTS**, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 115 Johnston Street, Section 18, Block 11, Lot 15 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated November 26, 2019, from THE CITY OF NEWBURGH to 115 JOHNSTON LLC, recorded in the Orange County Clerk's Office on December 12, 2019, in Liber 14670, Page 1821 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: \_\_\_\_\_, 2024

THE CITY OF NEWBURGH

By: \_\_\_\_\_  
Todd Venning, City Manager  
Pursuant to Res. No.: \_\_\_\_\_-2024

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

On the \_\_\_\_ day of September in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_  
Notary Public



# CITY OF NEWBURGH

## Department of Code Compliance

123 Grand Street, Newburgh, New York 12550

Phone: (845) 569-7400 / Fax: (845) 569-0096

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TO: Todd Venning, City Manager

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

FROM: Francis J. Spinelli, Fire Chief

DATE: August 26, 2024

SUBJECT: 115 Johnston Street, Release of Restrictive Covenants Inspection

---

I conducted an inspection of 115 Johnston Street (18-11-15.2) on June 7, 2024. I also reviewed the property file kept at the Department of Code Compliance. Below are my findings:

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

I observed no violations on the property during my most current inspection of the property.

There are no open permits or open permit applications.

The property is vacant land, the site of two former structures that were demolished in 2021.

There is a valid Certificate of Compliance in the property file dated March 25, 2021, for the demolition of a three-story building and a two-story building.

Thank you,

Francis J. Spinelli  
Fire Chief



RESOLUTION NO.: 186-2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE EXECUTION OF A RELEASE OF  
RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY FROM A DEED ISSUED TO  
DWELLSTEAD, INC. TO THE PREMISES KNOWN AS  
285 GRAND STREET (SECTION 10, BLOCK 1, LOT 10),  
285 GRAND STREET REAR (SECTION 10, BLOCK 1, LOT 11), AND  
283 GRAND STREET REAR (SECTION 10, BLOCK 1, LOT 13)**

**WHEREAS**, on July 18, 2016, the City of Newburgh conveyed properties located at 285 Grand Street, 285 Grand Street Rear, and 283 Grand Street Rear, all being more accurately described on the official Tax Map of the City of Newburgh as Section 10, Block 1, Lots 10, 11, and 13, respectively, to Dwellstead, Inc.; and

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

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

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

**RELEASE OF COVENANTS AND  
RIGHT OF RE-ENTRY**

**KNOWN ALL PERSONS BY THESE PRESENTS**, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 285 Grand Street, 285 Grand Street Rear, and 283 Grand Street Rear, all being more accurately described at the time on the official Tax Map of the City of Newburgh as Section 10, Block 1, Lots 10, 11, and 13, respectively, from restrictive covenant number 1 in a deed dated July 18, 2016, from THE CITY OF NEWBURGH to DWELLSTEAD, INC., recorded in the Orange County Clerk's Office on September 14, 2016, in Book 14108, Page 380 and does further release said premises from the right of re-entry reserved in favor of the City of Newburgh as set forth in said deed.

Dated: \_\_\_\_\_, 2024

THE CITY OF NEWBURGH

By: \_\_\_\_\_  
Todd Venning, City Manager  
Pursuant to Res. No.: \_\_\_\_\_-2024

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

On the \_\_\_\_ day of September in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_  
Notary Public

**From:** [Majewski, Joanne](#)  
**To:** [Kaufman, Jeremy](#)  
**Subject:** RE: Lot Merger Confirmation :: 285 Grand Street, 285 Grand Street Rear, 283 Grand Street Rear  
**Date:** Tuesday, August 13, 2024 12:23:32 PM  
**Attachments:** [2024081312155531.pdf](#)

---

Jeremy:

See attached merge that was requested 2/25/2017 and completed 3/9/2017. The new SBL is 10-1-10.2.

Let me know if you need anything else.

-Joanne

---

**From:** Kaufman, Jeremy <jkaufman@cityofnewburgh-ny.gov>  
**Sent:** Tuesday, August 13, 2024 12:05 PM  
**To:** Majewski, Joanne <JMajewski@cityofnewburgh-ny.gov>  
**Subject:** Lot Merger Confirmation :: 285 Grand Street, 285 Grand Street Rear, 283 Grand Street Rear

Joanne,

Today, this office received a request for release of restrictive covenant in a deed where the property owner needed to merge 3 parcels within a year of acquisition. The parcel addresses at the time of acquisition were 285 Grand Street (SBL 10-1-10), 285 Grand Street Rear (SBL 10-1-11), and 283 Grand Street Rear (SBL 10-1-13). See the attached deed conveying the properties out of the City for reference.

Can you check Assessor records and confirm (a) whether these 3 parcels have been combined; and (b) date of merger?

If you have any questions, please let me know.

Thanks,

Jeremy Kaufman  
Assistant Corporation Counsel  
City of Newburgh  
83 Broadway  
Newburgh, New York 12550  
Phone: (845) 569-7335  
Fax: (845) 569-7338  
[jkaufman@cityofnewburgh-ny.gov](mailto:jkaufman@cityofnewburgh-ny.gov)

# ORANGE COUNTY TAX MAP DEPARTMENT

124 MAIN STREET, GOSHEN, NEW YORK 10924

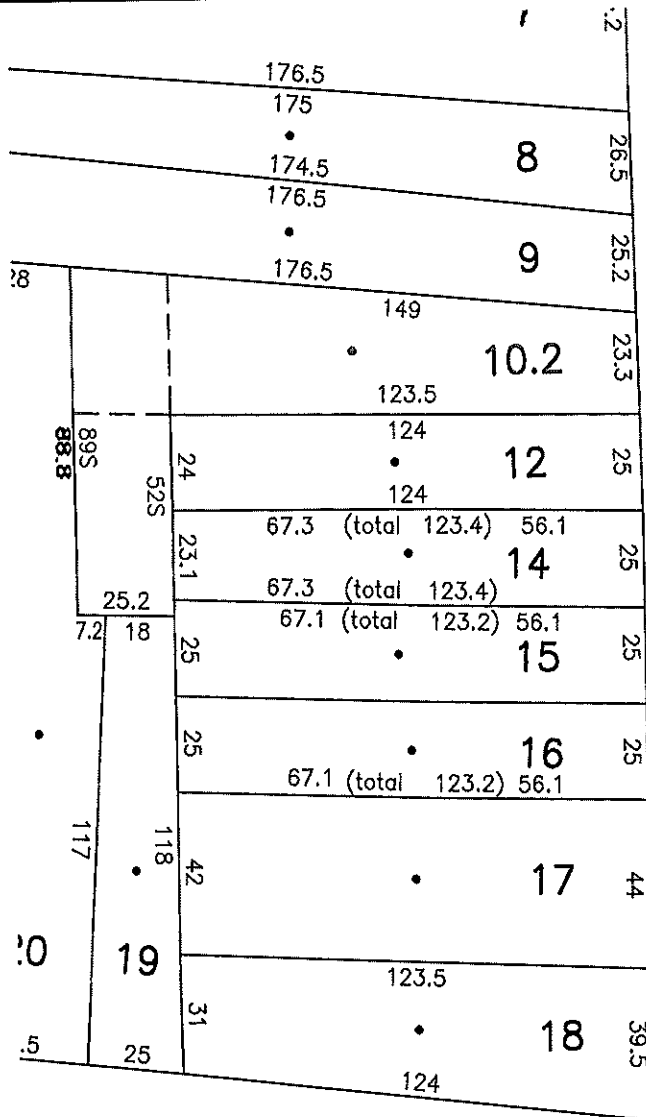
## NOTICE OF TAX MAP REVISION

CITY OF: Newburgh TOWN OF: \_\_\_\_\_ VILLAGE OF: \_\_\_\_\_

SUB MAP: Request for combination dated 2/25/2017

|                            |                |                       |  | <u>CHANGE</u> |                                     |
|----------------------------|----------------|-----------------------|--|---------------|-------------------------------------|
| RE: DEED/LIBER _____       | PAGE _____     | RECORDED _____        |  | SAME AS       | <input type="checkbox"/>            |
| PRESENT TAX MAP: <u>10</u> | BLOCK <u>1</u> | LOT <u>10, 11, 13</u> |  | COMBO         | <input checked="" type="checkbox"/> |
| CHANGE TAX MAP: <u>10</u>  | BLOCK <u>1</u> | LOT <u>10.2</u>       |  | CORRECTION    | <input type="checkbox"/>            |
| Delete TAX MAP: <u>10</u>  | BLOCK <u>1</u> | LOT <u>11, 13</u>     |  | OTHER         | <input type="checkbox"/>            |
|                            |                |                       |  | SUBDIVISION   | <input type="checkbox"/>            |

EXPLANATION: See attached spreadsheet for instructions.



IN \_\_\_\_\_

1" = 50'

MAKE CHANGES AS SHOWN IN DEED

3/9/2017 MJK/TG

DATE:



RESOLUTION NO.: 187 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF REAL PROPERTY  
KNOWN AS 375 CARPENTER AVENUE (SECTION 3, BLOCK 9, LOT 18)  
AT PRIVATE SALE TO MOHAMMAD SHAFIQ MAJEED  
FOR THE AMOUNT OF \$150,000.00**

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

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

**WHEREAS**, the City of Newburgh desires to sell a parcel of real property identified as 375 Carpenter Avenue, being more accurately described as Section 3, Block 9, Lot 18, respectively, on the official tax map of the City of Newburgh; and

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the sale of the following property to the indicated purchaser be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchaser upon receipt of the indicated purchase price in money order, good certified or bank check, made payable to **THE CITY OF NEWBURGH**, such sums are to be paid on or before Monday, December 9, 2024, being approximately ninety (90) days from the date of this resolution; and

| <u>Property address</u> | <u>Section, Block, Lot</u> | <u>Purchaser</u>      | <u>Purchase Price</u> |
|-------------------------|----------------------------|-----------------------|-----------------------|
| 375 Carpenter Avenue    | 3 - 9 - 18                 | Mohammad Shafiq Majid | \$150,000.00          |

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

# Terms and Conditions of Sale

## 375 Carpenter Avenue, City of Newburgh (SBL: 3-9-18)

### STANDARD TERMS:

1. City of Newburgh acquired title to this property in accordance with Article 11 of the Real Property Tax Law of the State of New York, and all known rights of redemption under said provisions of law have been extinguished by the tax sale proceedings and/or as a result of forfeiture.
2. For purposes of these Terms and Conditions, parcel shall be defined as a section, block and lot number on the City of Newburgh Tax Map.
3. All real property, including any buildings thereon, is sold "AS IS" and without any representation or warranty whatsoever as to the condition or title, and subject to: (a) any state of facts an accurate survey or personal inspection of the premises would disclose; (b) applicable zoning/land use/building regulations; (c) water and sewer assessments are the responsibility of the purchaser, whether they are received or not; (d) easements, covenants, conditions and rights-of-way of record existing at the time of the levy of the tax, the non-payment of which resulted in the tax sale in which City of Newburgh acquired title; and (e) for purposes of taxation, the purchaser shall be deemed to be the owner prior to the next applicable taxable status date after the date of sale.
4. The properties are sold subject to unpaid City/County taxes for the year 2024, and school taxes for the tax years of 2023-2024, 2024-2025, and also subject to all school taxes levied subsequent to the date of the City Council resolution authorizing the sale. The purchaser shall reimburse the City for any City/County taxes for the year 2024, and school taxes paid by the City for the tax year 2023-2024, 2024-2025, and subsequent levies up to the date of the closing. Upon closing of title, the properties shall become subject to taxation. Water and sewer charges and sanitation fees will be paid by the City to the date of closing.
5. **WARNING: FAILURE TO COMPLY WITH THE TERMS OF THIS PARAGRAPH MAY RESULT IN YOUR LOSS OF THE PROPERTY AFTER PURCHASE.** The deed will contain provisions stating that the purchaser is required to rehabilitate any building on the property and bring it into compliance with all State, County and Local standards for occupancy within (18) months of the date of the deed. Within such eighteen (18) month time period the purchaser must either: (i) obtain a Certificate of Occupancy for all buildings on the property; (ii) make all buildings granted a Certificate of Occupancy before the date of purchase fit for the use stated in such Certificate of Occupancy; or (iii) demolish any buildings deemed structurally unsound by a New York State-licensed engineer and by the Building Inspector. The deed shall require the purchaser to schedule an inspection by City officials at or before the end of the eighteen (18) month period. If the purchaser has not complied with the deed provisions regarding rehabilitation of the property and obtained a Certificate of Occupancy or Certificate of Compliance by that time, then the title to the property shall revert to the City of Newburgh. The deed shall also provide that the property shall not be conveyed to any other person before a Certificate of Occupancy or Certificate of Compliance is issued. A written request made to the City Manager for an extension of the eighteen (18) month rehabilitation period shall be accompanied by a non-refundable fee of \$250.00 per parcel for which a request is submitted. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to rehabilitate of up to, but not to exceed, three (3) months. Any additional request thereafter shall be made in writing and placed before the City Council for its consideration.
6. The City makes no representation as to whether the property is vacant and/or unoccupied. Evictions, if necessary, are solely the responsibility of the purchaser after closing and recording of the deed. The parcel is being sold subject to the City's Vacant Property Ordinance (Chapter 121) and all provisions of law applicable thereto. Within 30 days of closing, the purchaser must register the property and pay any applicable fees or submit an acceptable rehabilitation plan to the Building Department.
7. All purchasers are advised to personally inspect the premises and to examine title to the premises prior to the date upon which the sale is scheduled to take place. Upon delivery of the quitclaim deed by the

City of Newburgh to the successful purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.

8. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
9. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Property may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. The property also may contain other environmental hazards. Purchaser shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchaser shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family from Lead in Your Home." Purchaser also acknowledges that he/she has had the opportunity to conduct a risk assessment or inspection of the premises for the presence of lead-based paint, lead-based paint hazards or mold.
10. The entire purchase price and all closing costs/fees must be paid by money order or guaranteed funds to the City of Newburgh by the date listed in the approved City Council Resolution, notwithstanding any extensions of time granted pursuant to terms contained herein ("Closing Deadline"). Such closing costs/fees may include, but are not limited to: recording fees, tax adjustments as of the day of closing, fuel oil adjustments, and applicable condominium charges (e.g. monthly maintenance charges, assessment charges, transfer buy-in fees, and/or closing package ordering fees). *The City of Newburgh does not accept cash or credit card payments for the purchase price and closing costs/fees.* **The City is not required to send notice of acceptance or any other notice to a purchaser.**
11. The City Manager may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days from the Closing Deadline. No request shall be entertained unless in writing, stating the reasons therefor, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. Any additional request made thereafter shall be made in writing and placed before the City Council for its consideration.
12. In the event that a sale is cancelled by court order, judgment, the Comptroller or the Newburgh City Council, the purchaser shall be entitled only to a refund of the purchase money paid. Purchaser agrees that they shall not be entitled to special or consequential damages, attorneys fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale.
13. Sale shall be final, absolute and without recourse once title is conveyed on the actual day of closing. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, his heirs, successors or assigns, against City of Newburgh arising from this sale.
14. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price, tax reimbursements, buyer's premium (if applicable), and closing fees/costs. Possession of property is forbidden until the deed is recorded conveying title to the purchaser. **Title vests upon conveyance of deed.**
15. Upon closing, the City shall deliver a quitclaim deed conveying all of its right, title and interest in the subject property, which deed shall be drawn by the City Corporation Counsel. The City shall not convey its interest in any street, water, sewer or drainage easement, or any other interest the City may have in the property. The City shall only convey that interest obtained by the City pursuant to the judgment rendered in an *in rem* tax foreclosure action filed in the Orange County Clerk's Office.
16. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh. Any survey description shall be provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City Engineer.

17. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he/she is not representing the former owner(s) of the property against whom City of Newburgh foreclosed and has no intent to defraud City of Newburgh of the unpaid taxes, assessment, penalties and charges which have been levied against the property. The purchaser agrees that neither he/she nor his/her assigns shall convey the property to the former owner(s) against whom City of Newburgh foreclosed within 24 months subsequent to the Closing Deadline date. If such conveyance occurs, purchaser understands that he/she may be found to have committed fraud, and/or intent to defraud, and will be liable for any deficiency between the purchase price and such sums as may be owed to City of Newburgh as related to the foreclosure on the property and consents to immediate judgment by City of Newburgh for said amounts. This provision shall survive closing.
18. The property is sold subject to an owner-occupancy restriction. Purchaser has agreed to purchase the property subject to a ten (10) year owner occupancy restriction. Purchaser shall, within 18 months of the delivery of the deed, establish domicile and principal residence at said premises and maintain domicile and principal residence at said premises for a period of at least ten (10) years thereafter, provided that within said ten (10) year period, the purchaser may convey said premises to another who shall also maintain their domicile and principal residence at said premises for said period. This shall be set forth as a restrictive covenant in the deed, subject upon its breach, to a right of re-entry in favor of the City of Newburgh. This shall be in addition to all other provisions, covenants and conditions set forth in the Terms and Conditions of Sale.
19. In the event that Seller engaged the services of a New York State Licensed Real Estate Broker in connection with this sale, Seller shall pay said Broker any commission earned pursuant to a separate agreement between Seller and Broker.

ACKNOWLEDGED AND AGREED

Date: \_\_\_\_\_

\_\_\_\_\_  
Mohammad Shafiq Majeed

RESOLUTION NO.: 188 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AN AGREEMENT WITH THE COUNTY OF ORANGE  
FOR THE 2024-2025 YOUTH EMPLOYMENT AND TRAINING PROGRAM  
TO PROVIDE YOUNG PEOPLE TO WORK FOR THE CITY OF NEWBURGH**

**WHEREAS**, the County of Orange is once again offering a Youth Employment and Training Program for the purpose of providing meaningful work experience for participants; and

**WHEREAS**, the City of Newburgh wishes to apply for 16 youth participants to work in the Recreation Department, Code Compliance Bureau, Water Department, and Department of Public Works; and

**WHEREAS**, this Council finds that entering into the attached agreement with Orange County for this purpose is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute an agreement and other necessary documents with the County of Orange in order to participate in the 2024-2025 Youth Employment and Training Program which provides young people to work in the City of Newburgh.

RESOLUTION NO.: 189 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
SUBRECIPIENT AGREEMENT WITH NEWBURGH COMMUNITY LAND BANK, INC.  
IN CONNECTION WITH THE CITY OF NEWBURGH'S  
RESTORE NY COMMUNITIES INITIATIVE GRANT, ROUND 6, AWARD FOR  
THE REHABILITATION OF 72, 76, AND 78 LANDER STREET**

**WHEREAS**, the 2022-23 State Budget provided new funding for the Restore New York's Communities Initiative to be implemented by the Empire State Development Corporation ("ESDC") purpose of revitalizing urban and rural areas, disadvantaged communities, and stabilizing neighborhoods; and

**WHEREAS**, by Resolution No. 243-2022, the City of Newburgh authorized the application and acceptance, if awarded, of a grant known as the Restore NY Communities Initiative, Round 6, grant ("Grant"); and

**WHEREAS**, the City of Newburgh received the Grant award in a not-to-exceed sum of \$1,450,000.00 for the rehabilitation of three (3) parcels of real property known as 72, 76, and 78 Lander Street; and

**WHEREAS**, the City of Newburgh, as the grantee, has been duly designated to administer activities authorized by the terms of the Grant for the creation of 12 units of affordable housing across all three (3) properties; and

**WHEREAS**, Newburgh Community Land Bank, Inc. has agreed to work with the City in an effort to effectuate the specific goals and objectives of the Grant; and

**WHEREAS**, the City Council of the City of Newburgh has determined that entering into a subrecipient agreement with Newburgh Community Land Bank, Inc. is in the best interests of the City and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute a subrecipient agreement with Newburgh Community Land Bank, Inc. for the rehabilitation of three (3) parcels of real property known as 72, 76, and 78 Lander Street and the creation of 12 units of affordable housing across all three (3) properties.

**SUBRECIPIENT AGREEMENT**  
**RESTORE NY, ROUND VI – LANDER STREET PROPERTIES PROJECT NO. 135,616**  
**CITY OF NEWBURGH, WITH NEWBURGH COMMUNITY LAND BANK, INC.**

This subrecipient agreement (“Agreement”), by and among the **CITY OF NEWBURGH, NEW YORK**, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the “City”) and **NEWBURGH COMMUNITY LAND BANK, INC.**, a not-for-profit corporation, having its principal place of business at 15 Chambers Street, Newburgh, New York 12550 (“Subrecipient”), is made this dated as of \_\_\_\_\_, 2024, as follows:

**RECITALS**

- A. The City was awarded funds under the Restore NY, Round VI – Lander Street Properties Project No. 135,616 program (“Grant”) from the Empire State Development Corporation (referred to herein as “Grantor”).
- B. The City has been duly designated to carry out activities authorized by the terms of the Grant, specifically the rehabilitation of three (3) abandoned and vacant buildings located at properties known as 72 Lander Street (Section 23, Block 7, Lot 6), 76 Lander Street (Section 23, Block 2, Lot 12), and 78 Lander Street (Section 23, Block 2, Lot 11), Newburgh, New York for the creation of 12 units of affordable housing across all three (3) properties.
- C. Subrecipient has applied to work with the City in an effort to administer the Grant and effectuate its specific goals and objectives in a manner more specifically set forth in **Exhibit A**, attached hereto and made a part of this Agreement.
- D. Subrecipient has also submitted a reasonable budget to administer the Grant and effectuate its specific goals and objectives more specifically set forth in **Exhibit B**, attached hereto and made a part of this Agreement.
- E. In addition to the terms and conditions in this Agreement, Subrecipient has agreed to additional terms and conditions as required by the Grantor, more specifically set forth in **Exhibit C**, attached hereto and made a part of this Agreement.
- F. The City has identified Subrecipient as competent, willing, and able to perform the services contained in its proposal, and now wishes to engage the Subrecipient to carry out the objectives of the program as stated in the Grant and in this Agreement.

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

**ARTICLE I                      AWARD**

- 1. The City hereby awards a cost reimbursable subaward, as described above, to Subrecipient. The statement of work and budget for this subaward are as shown in **Exhibit A**. In its performance of subaward work, Subrecipient shall be an independent entity and not an employee or agent of the City.

2. Subrecipient shall be solely responsible for securing goods, services, and any other accommodations necessary to provide the work product contemplated herein.
3. As consideration for the work product provided, and after the work product has been provided to the City, the City shall pay Subrecipient a not-to-exceed sum of **one million four hundred fifty thousand and 00/100 dollars (\$1,450,000.00)**, said sum being the grant award to the City by Grantor.

## ARTICLE II                      PAYMENT

1. Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this Agreement that the Agreement of the City to fund the subaward, shall be deemed executory to the extent that grant monies are available to it for the purpose of carrying out the terms of this subaward and that no liability shall be incurred by the City should the grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this Agreement.
2. Total payment under this Agreement shall not exceed **one million four hundred fifty thousand and 00/100 dollars (\$1,450,000.00)** as payment for all eligible services incurred by Subrecipient.
3. The City may withhold any payment whenever the Subrecipient fails to achieve its program goals for the vouchered expenditure period.

## ARTICLE III                      METHOD OF PAYMENT

1. Within thirty (30) days of the execution of this Agreement, on a quarterly basis thereafter for the term of this Agreement, and to the extent that such grant funding is made available by Grantor for disbursement, the City shall pay Subrecipient eligible reimbursable costs.
2. Payment for services shall cease upon termination of the Agreement or upon the payment of the amount stated in Article II(2), whichever occurs first. All payments for services are to be made from grant funds.
3. The City shall reimburse Subrecipient not more often than quarterly for allowable costs. All invoices and questions concerning invoices, receipts, or payments should be directed to the City of Newburgh Comptroller, 83 Broadway, 4<sup>th</sup> Floor, Newburgh, New York 12550.
4. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL," must be submitted to the City's Comptroller NOT LATER THAN sixty (60) days after the subaward end date of the completion of the project, or sooner as Grantor may require. The final statement of costs shall constitute Subrecipient's final financial report.
5. All payments shall be considered provisional and subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of error, an audit finding, or other matter against the Subrecipient.



#### ARTICLE IV                      TERMINATION

1. Either party may terminate this agreement with thirty days written notice to the parties listed below. Upon receipt of notice of termination, the Subrecipient agrees to cancel, prior to the effective date of termination, as many outstanding obligations as possible, and agrees not to incur any new obligations after receipt of the notice without approval.

If to City:

City of Newburgh  
Office of the Corporation Counsel  
83 Broadway, 2<sup>nd</sup> Floor  
Newburgh, New York 12550

If to Subrecipient

Newburgh Community Land Bank, Inc.  
attn: Executive Director  
15 Chambers Street  
Newburgh, New York 12550

2. In the event of termination as herein provided, any completed reports prepared by Subrecipient under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City, and such records shall be submitted to it.
3. In the event of termination, Subrecipient shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Subrecipient, the City may withhold from any payments due the Subrecipient for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by Subrecipient.

#### ARTICLE V                      NO ASSIGNMENT

1. Subrecipient represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the City. This provision shall not prohibit Grantee from engaging other subrecipients and/or co-developers to assist with the completion of the project.

#### ARTICLE VI                      BOOKS AND RECORDS; REPORTS

1. Subrecipient shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The City or the Grantor shall have access to the Records during normal business hours at an office within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying.

2. Subrecipient shall submit a report to the City identifying prescribed activities funded under this Agreement at the termination of this Agreement. Subrecipient shall also submit reports identifying prescribed activities funded under this Agreement upon request by the City while this Agreement is in effect.

## ARTICLE VII            CONFIDENTIAL INFORMATION

1. In the event that Subrecipient, in the course of performance hereunder, obtains access to information, data or records deemed confidential by the City, Subrecipient shall hold all such Confidential Information in confidence and not disclose or make it available to third parties without the City's written permission. Subrecipient agrees for a period of six (6) years to hold in confidence all such information and not disclose or make it available to third parties without the City's written permission. This obligation will apply only to information the City has designated in writing as Confidential and will not apply to information which:
  - a. was known to Subrecipient prior to receipt from the City, as evidenced through written documentation;
  - b. was or becomes a matter of public information or publicly available through no fault on the part of Subrecipient;
  - c. is acquired from a third party entitled to disclose the information to Subrecipient;
  - d. is developed independently by Subrecipient;
  - e. is required to be disclosed pursuant to law, regulation or court order. However, in the event of a demand for disclosure under law or court order, Subrecipient shall not make such disclosure without prior written notice to the City and an adequate opportunity for the City to oppose such disclosure.

## ARTICLE VIII            INTEREST OF SUBRECIPIENT, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS

1. Subrecipient agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the project which would conflict in any manner or degree with the performance of its obligations under this Agreement.
2. Subrecipient further agrees that it shall fully disclose, in writing to the City, upon execution of this Agreement and as such becomes known to it, any conflicting interest held by any of its directors or officers, or any of its paid employees, agents or sub-contractors or by any close relative of such persons.
3. The City shall have the right to publicly disclose any disclosures made to it under this Agreement.

## ARTICLE IX            INTEREST OF MEMBERS, OFFICERS OR EMPLOYEE THE CITY; MEMBERS OF THE COMMON COUNCIL, OR OTHER PUBLIC OFFICIALS

1. No member, officer or employee of the City or its designees or agents, no member of the Common Council of the City of Newburgh, New York and no other public official of the City,

its Departments or of any other public agencies which exercise any functions or responsibilities with respect to the program, during his/her tenure in office or for one year thereafter, shall have any prohibited financial interest in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.

2. Subrecipient shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

#### ARTICLE X INTEREST OF CERTAIN STATE OFFICIALS

1. No member of the New York State Assembly or Senate, or any other member of New York State government, shall be permitted to any share or part of this Agreement or to any benefit to arise from the same.

#### ARTICLE XI SOLICITATION OR PROCUREMENT OF AGREEMENT

1. Subrecipient represents that it has not employed any person to solicit or procure this Agreement and has not made, and will not make, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee, bonus or any other compensation in connection with the procurement of the Agreement.

#### ARTICLE XII REPRESENTATIONS OF SUBGRANTEE

1. Subrecipient acknowledges and agrees that services performed pursuant to this Agreement are secular in nature and shall be performed in a manner that does not discriminate on the basis of religious belief, or promote or discourage adherence to religion in general or particular religious beliefs.
2. Subrecipient will not use funds under this Agreement to: (1) engage in activities that are other than for the purposes stated in the RFP; (2) attempt to influence legislation, by propaganda or otherwise; or (3) directly or indirectly participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office.
3. Subrecipient certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency, or any state department or agency. Subrecipient agrees to comply with all applicable State and Federal regulations including, but not limited to, non-discrimination, rights of the handicapped and equal opportunity, during the performance of activities within this Agreement, including Title VI of the Civil Rights Act of 1964, and with Executive Order 11246, as amended by E.O. 11375 and 41 CFR, Part 60.

#### ARTICLE XIII EQUAL EMPLOYMENT OPPORTUNITY

1. In carrying out the obligation of this Agreement, Subrecipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. Subrecipient shall take affirmative action to ensure that applicants for employment and employees of Subrecipient are treated without regard to their race, color, religion, sex, national origin or handicap. Such actions shall include, but are not limited to the

following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

2. Subrecipient shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Subrecipient shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or handicap.
3. No person employed on the work covered by this Agreement shall be discharged or in any way discriminated against because s/he has filed any complaint or instituted, or caused to be instituted, any proceeding; or has testified, or is about to testify, in any proceeding under or relating to the labor standards applicable hereunder.

#### ARTICLE XIV FACILITIES AND PERSONNEL

1. Subrecipient represents that it has and shall continue to have proper facilities and personnel to perform the work and services agreed to be performed hereunder.
2. Subrecipient further represents that it will terminate and dismiss from further performance of work and services under this Agreement any officer, employee, agent, sub-contractor or other person upon a finding, based upon procedures which provide the process to the individual and to Subrecipient by the City that such officer, employee, agent sub-contractor or other personnel of the contractor is incompetent to perform such services under this Agreement and that it will replace such officer, employee, agent, sub-contractor or other such personnel as the City reasonably finds necessary for Subrecipient to replace to meet its obligations under this Agreement. It is expressly understood that nothing in the Article shall relieve Subrecipient from meeting its obligations under the terms and conditions of this Agreement.

#### ARTICLE XV INDEMNIFICATION

1. Subrecipient hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of Subrecipient or its agents, sub-contractors, servants or employees.
2. If any person shall make a claim for any damage or injury (including death resulting therefrom) as described above, Subrecipient hereby agrees to hold harmless the City from and against any and all loss, expense, damage or injury whatsoever and indemnify the City from the same.
3. Subrecipient shall procure and maintain at its own expense until final completion of this Agreement, insurance which must name the City of Newburgh, named insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, in an accredited insurance company as may be approved by the City Manager.

- a. Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.
  - b. Subrecipient shall carry Liability and Property Damage Insurance with limits of not less than:
    - i. Property Damage Liability \$1,000,000 for each occurrence
    - ii. Personal Injury Liability \$1,000,000 for each person  
\$2,000,000 for each occurrence
4. The Agency, as Subrecipient shall provide Worker's Compensation Insurance, if it has employees, in accordance with the statutes of the State of New York.

## SECTION XVI NOTICES

1. Notices of any nature referred to in this agreement shall be in writing by certified mail, hand delivery. Notices shall be effective on the date of receipt.

If to City:

City of Newburgh  
Office of the Corporation Counsel  
83 Broadway, 2<sup>nd</sup> Floor  
Newburgh, New York 12550

If to Subrecipient

Newburgh Community Land Bank  
attn: Executive Director  
15 Chambers Street  
Newburgh, New York 12550

## SECTION XVII MISCELLANEOUS

1. No changes may be made to this Agreement without written consent/amendment by the City.
2. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, directors or agents, to the extent allowed by law.
3. This Subaward shall be governed by the laws of the State of New York without regard to its choice of law provisions.

4. Subrecipient has read, acknowledged, and agreed to the terms in this Agreement, and any exhibits annexed hereto, which are all incorporated by reference. Should any term(s) in the main body of this Agreement be inconsistent with any term(s) required by Grantor, the term(s) required by Grantor shall control and prevail.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

[Signature page to follow]

DRAFT

Signature Page

Restore NY, Round VI – Lander Street Properties Project No. 135,616

City of Newburgh / Newburgh Community Land Bank, Inc.

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IN WITNESS WHEREOF, Subrecipient and the City have executed this Agreement the day and year herein mentioned.

DATED: \_\_\_\_\_, 2024      CITY OF NEWBURGH

By: \_\_\_\_\_  
Name: Todd Venning  
Title: City Manager  
Per Resolution No.: \_\_\_\_\_ - 2024

DATED: \_\_\_\_\_, 2024      NEWBURGH COMMUNITY LAND BANK, INC.

By: \_\_\_\_\_  
Name: Jennifer Welles  
Title: Executive Director

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

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me personally appeared Todd Venning, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

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

On this \_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me personally appeared Jennifer Welles, 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 she executed the same in her capacity, and that by her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
NOTARY PUBLIC

### **EXHIBIT A – SCOPE OF WORK**

Scope of Work outlined in a Site Development Agreement, made by and between the parties, for execution simultaneously herewith.

### **EXHIBIT B – BUDGET**

The Grant anticipates a project renovation cost of \$5.5 million. Grant funding will provide up to 25% (\$1.45 million) of actual renovation costs. Subrecipient shall provide remainder of project renovation costs, either directly or through development partnerships.

Subrecipient to provide additional funding (“Initiative Funds”) of about \$400K for use for stabilization costs.

### **EXHIBIT C – GRANTOR ADDITIONAL TERMS**

OCSD-1 Policy Statement  
30% MWBE Requirement



RESOLUTION NO.: 243 - 2022

OF

SEPTEMBER 26, 2022

A RESOLUTION TO APPLY AND ACCEPT IF AWARDED  
ROUND 6 NY RESTORE COMMUNITIES INITIATIVE GRANTS FOR  
REHABILITATING THREE PROPERTIES LOCATED ON LANDER STREET AND  
REHABILITATING THE DUTCH REFORMED CHURCH

WHEREAS, the 2022-23 State Budget provided new funding for the Restore New York's Communities Initiative to be implemented by the Empire State Development Corporation ("ESDC") purpose of revitalizing urban and rural areas, disadvantaged communities, and stabilizing neighborhoods; and

WHEREAS, the City of Newburgh intends to submit a Round 6 NY Restore Communities Initiative grant application in an amount not to exceed \$2,000,000.00 with a minimum 10% City match anticipated to be funded by New York State Department of Homes and Community Renewal's Small Building Loan Participation Program and administered by the Newburgh Community Land Bank for a "normal" project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street to include 12 affordable rental units defined as permanent housing that is affordable to low- and moderate-income households, such that the new housing achieves income averaging at or below fifty percent of the area median income, with residents' eligibility capped at a maximum of eighty percent of the area median income at the start of their lease; and

WHEREAS, the City of Newburgh intends to submit a Round 6 NY Restore Communities Initiative grant application in an amount not to exceed \$10,000,000.00 with a minimum 10% City match anticipated to be funded by community development partners and existing grants for a "special" project to rehabilitate the Dutch Reformed Church which is defined as a project that results from a severe economic injury to the community, leaving a highly visible and blighted property or properties in the central business district of a distressed community which has a depressing effect on the overall economic development potential of the community; and

WHEREAS, the City of Newburgh duly convened and completed a public hearing to receive comment on its Restore NY applications and Property Assessment List on September 26, 2022; and

WHEREAS, the required \$1,000.00 in application fees (\$500/each) shall be paid from A.8684.0462 and the City Council finds that applying for and accepting such grants if awarded is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that that the City Manager be and he is hereby authorized to apply for and accept if awarded Round 6 NY Restore Communities Initiative Grants in an amount not to exceed \$2,000,000.00 with a 10% City match for a normal project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street and in an amount not to exceed \$10,000,000.00 with a 10% City match for a special project to rehabilitate the Dutch Reformed Church; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and participate in and administer the programs funded thereby.

I, Lorens Vitek, City Clerk of the City of Newburgh,  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held Sept 26, 2011  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 27 day of Sept - 20 11

Lorens Vitek  
City Clerk

RESOLUTION NO.: 190 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO A SITE DEVELOPMENT AGREEMENT WITH  
NEWBURGH COMMUNITY LAND BANK, INC. IN CONNECTION WITH  
THE CITY OF NEWBURGH'S RESTORE NY COMMUNITIES INITIATIVE GRANT,  
ROUND 6, AWARD FOR THE REHABILITATION OF 72, 76, AND 78 LANDER STREET**

**WHEREAS**, the 2022-23 State Budget provided new funding for the Restore New York's Communities Initiative to be implemented by the Empire State Development Corporation ("ESDC") purpose of revitalizing urban and rural areas, disadvantaged communities, and stabilizing neighborhoods; and

**WHEREAS**, by Resolution No. 243-2022, the City of Newburgh authorized the application and acceptance, if awarded, of a grant known as the Restore NY Communities Initiative, Round 6, grant ("Grant"); and

**WHEREAS**, the City of Newburgh received the Grant award in a not-to-exceed sum of \$1,450,000.00 for the rehabilitation of three (3) parcels of real property known as 72, 76, and 78 Lander Street; and

**WHEREAS**, the City of Newburgh, as the grantee, has been duly designated to administer activities authorized by the terms of the Grant for the creation of 12 units of affordable housing across all three (3) properties; and

**WHEREAS**, Newburgh Community Land Bank, Inc. has agreed to work with the City in an effort to effectuate the specific goals and objectives of the Grant; and

**WHEREAS**, the City Council of the City of Newburgh has determined that entering into a site development agreement with Newburgh Community Land Bank, Inc. is in the best interests of the City and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to execute a site development agreement with Newburgh Community Land Bank, Inc. for the rehabilitation of three (3) parcels of real property known as 72, 76, and 78 Lander Street and the creation of 12 units of affordable housing across all three (3) properties.

SITE DEVELOPMENT AGREEMENT

BETWEEN

THE CITY OF NEWBURGH

AND

NEWBURGH COMMUNITY LAND BANK, INC.

DATED AS OF \_\_\_\_\_, 2024

Regarding:

72 Lander Street (Section 23, Block 7, Lot 6)  
76 Lander Street (Section 23, Block 2, Lot 12)  
78 Lander Street (Section 23, Block 2, Lot 11)  
City of Newburgh, Orange County, New York

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## SITE DEVELOPMENT AGREEMENT

THIS SITE DEVELOPMENT AGREEMENT (“Agreement”) dated \_\_\_\_\_, 2024 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 Newburgh Community Land Bank, a not-for-profit corporation, having its principal place of business at 15 Chambers Street, Newburgh, New York 12550 (“Developer”).

### WITNESSETH:

WHEREAS, the City is the owner of three (3) parcels of property located in the City of Newburgh, more accurately referred to as 72 Lander Street (Section 23, Block 7, Lot 6), 76 Lander Street (Section 23, Block 2, Lot 12), and 78 Lander Street (Section 23, Block 2, Lot 11) on the official tax map of the City of Newburgh, (collectively referred to herein as the “Property”); and

WHEREAS, the City desires to provide for the redevelopment of the Property for residential use in accordance with a grant award under the Restore NY, Round VI – Lander Street Properties Project No. 135,616 program (“Grant”); 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; and

NOW THEREFORE, in consideration of mutual covenants herein contained and other good and valuable consideration, 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 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.

“Awards” shall mean grants, loans, or any other funding from a Governmental Authority, as Governmental Authority is further defined herein.

“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 Newburgh Community Land Bank, Inc., 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, pandemics, 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

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.

“Grant” shall mean the Restore NY, Round VI – Lander Street Properties Project No. 135,616 program.

“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 fees 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 State 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.

“Project” shall mean the development project, which shall include the stabilization of the three (3) buildings currently on the Premises; renovation of the buildings to create 12 units (1, 2, and 3 bedroom units) of affordable housing (3 units at 72 Lander Street, 4 units at 76 Lander Street, and 5 units at 78 Lander Street) where 4 of the units shall be 50% AMI, 4 of the units shall be 60% AMI, and 4 of the units shall be at 80% AMI; landscaping and sidewalk improvements at the Premises; and restoration in accordance with New York State Historic Preservation Office and City of Newburgh Architectural Review Commission standards. No change of footprint of any of the buildings on the Premises 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.

## 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 domestic not-for-profit corporation 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's financial capacity to complete the project relies, in whole or in part, on Award(s) from a Governmental Authority(ies). For any additional Award(s) other than the Grant and the Initiative Funds (as referenced in Schedule E of this Agreement), Developer shall (i) provide notice to the City of Developer's intent to apply for an Award within 14 days of application submission; and (ii) provide notice to the City of an actual Award grant within 7 days of receipt of notice of same by the Developer. Upon request by the City, Developer shall promptly apply for said Award(s) and provide the City with updates on application deadlines, expected Award determination dates, and actual Award funding dates.
- (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.
- (f) Additional Developer representations unique to this Project are annexed hereto as "Schedule E" and are fully incorporated into this Agreement and made part hereof.

**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");
- (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) ; 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 36 months of 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 \$1.00, payable at Closing, plus the County portion of any City/County tax bills generated for the property, and any school taxes paid by the City for the tax year 2023-2024 and subsequent years until closing:

SECTION 4.02      Acceptable Monies.      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 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 obtained all required Approvals and Permits for the Project.
- (c) 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).

## 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 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 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 City harmless from and against and all Claims, including reasonable attorneys' fees, which may be imposed upon, incurred by or asserted against the City, 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. This Section 6.03 shall not apply in cases caused by the negligence, willful disregard, 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, in accordance with this Section 6.03.

## **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 ninety (90) 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.

**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. With respect to Developer’s application, the City shall act in the same manner as it would handle any other application(s) of similar type and nature.

SECTION 9.05      Environmental and Soil Investigation and Testing.

- (a) Upon execution of this Agreement, City grants to Developer the right to enter upon the property and 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 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) 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.
- (c) 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.
- (d) Developer shall pay all costs and expenses of such investigation and testing. Developer shall indemnify and hold City harmless from and against all costs and liabilities relating to Developer's activities. Developer shall not bear any liability for existing environmental conditions or contamination. To the extent practicable, Developer shall further repair and restore any damage to the Property caused by or occurring during Developer's investigation and testing. Developer and Consultants shall provide evidence of insurance satisfactory to City prior to having access to the site.

#### SECTION 9.06      Structural Stability Investigation and Work.

- (a) City grants to Developer the right to enter upon the property and conduct an examination to obtain a report(s) by a qualified consultant or consultants (the "Consultants") concerning the structural integrity and structural systems of the buildings on the Property. Developer shall provide any and all such reports to the City's Fire Chief, City Engineer, and Code Compliance Supervisor.
- (b) In accordance with any recommendations made in any reports as set forth in Section 9.06(a), above, Developer may conduct work that affects the structural systems of the building(s) on the Property. However, prior to commencing such work, Developer shall coordinate a meeting with the Fire Chief, City Engineer, and Code Compliance Supervisor to review the scope of any proposed work. No work shall be commenced or performed except under permit granted by the City of Newburgh Bureau of Code Compliance. The City reserves the right to deny issuance of a permit for any reason whatsoever.

- (c) Developer shall pay all costs and expenses of such structural work. Developer shall indemnify and hold City harmless from and against all costs and liabilities directly relating to Developer's activities. Developer shall not bear any liability for existing environmental conditions or contamination. 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 commencing such work.

## 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 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.
- (c) 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.
- (d) A designation agreement designating the "reporting person" for purposes of completing IRS Form 1099-S
- (e) Subject to Permitted Exceptions, possession of the property in the condition required by this Agreement.
- (f) 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) Deliver to City the Purchase Price? payable at Closing.
- (b) 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) Deliver a designation agreement designated the "reporting person" for purposes of completing IRS Form 1099-S.

SECTION 10.03     Apportionments.     All real estate taxes and school taxes, and utilities with respect to the Property will be apportioned as of the date of 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.
- (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 not be less than fifteen (15) days after the date of such notice. Upon the date specified in the notice, this Agreement shall terminate. 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.

SECTION 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 24 months of the date of the deed. Within such 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 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 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 may enter into separate agreements with third-party sub-developer(s) who, in Developer's determination, have the requisite skill and expertise to assist in completing the Project. Developer may enter into separate agreement(s) with such sub-developers from time-to-time that require Seller's consent. In this instance, Seller's consent shall not be unreasonably withheld.

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 of any 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.

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:

Newburgh Community Land Bank, Inc.  
attn: Executive Director  
15 Chambers Street  
Newburgh, New York 12550

with a copy to:

Law Offices of Daniel Weisz P.C.  
attn: Daniel Weisz, Esq.  
110 Deerhurst Road  
Scarsdale, New York 10583

Seller as follows:

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

With a copy to

City of Newburgh  
Office of the Corporation Counsel  
83 Broadway, 2nd Floor  
Newburgh, New York 12550

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 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.     All Terms Material.     All of the terms contained in this Agreement are individually and collectively material to this transaction, with the City and Developer having relied on each and every term in entering into this Agreement. Any terms not contained in this Contract have been deliberately excluded and are not material to this transaction.

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

Seller: City of Newburgh

Developer: Newburgh Community  
Land Bank, Inc.

By: \_\_\_\_\_  
Todd Venning, City Manager  
Per Resolution No.: \_\_\_\_\_-2024

By: \_\_\_\_\_  
Jennifer Welles, Executive Director

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_  
Notary Public

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

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2024 before me, the undersigned, a Notary Public in and for said State, personally appeared JENNIFER WELLES, 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 she 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

SCHEDULE A  
DESCRIPTION OF THE PROPERTY

ALL THOSE TRACTS OR PARCELS 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:

1. 72 Lander Street, known as Section 23, Block 7, Lot 3 on the Official Tax Map of the City of Newburgh.
2. 76 Lander Street, known as Section 23, Block 2, Lot 12 on the Official Tax Map of the City of Newburgh.
3. 78 Lander Street, known as Section 23, Block 2, Lot 11 on the Official Tax Map of the City of Newburgh.



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, provided said facts do not render title unmarketable or uninsurable;
6. The rights of reverter described in Section 11.04 of this Agreement.

SCHEDULE C  
PROJECT AND DEVELOPMENT DEADLINES

1. Within 15 months 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: 36 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 all Government Authorities with jurisdiction and power of approval over the Property required to construct the Project.
3. Completion Deadline: Compliance with the City's Right of Reverter in accordance with Section 11.04 of this Agreement.

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

Newburgh Community Land Bank, a not-for-profit corporation, having its principal place of business at 15 Chambers Street, Newburgh, New York 12550, party of the second part.

WITNESSETH, that the party of the first part, in consideration of \$1.00 and other good and valuable consideration paid by the party of the second part, does hereby remise, release and quitclaim unto the party of the second part, the successors and assigns of the party of the second part forever,

ALL those certain plots, pieces or parcels 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: (a) 72 Lander Street (Section 23, Block 7, Lot 6); (b) 76 Lander Street (Section 23, Block 2, Lot 12); and (c) 78 Lander Street (Section 23, Block 2, Lot 11) 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.

As to 72 Lander Street, BEING the same premises as indicated in a deed from 72 Lander Street LLC, to the City of Newburgh, dated November 12, 2021, and recorded in the Orange County Clerk's Office on May 3, 2022, in Book 15220, Page 1246; and

As to 76 Lander Street, BEING the same premises as indicated in a deed from 76 Lander Street LLC, to the City of Newburgh, dated November 12, 2021, and recorded in the Orange County Clerk's Office on May 3, 2022, in Book 15220, Page 1249; and

As to 78 Lander Street, BEING the same premises as indicated in a deed from 78 Lander Street LLC, to the City of Newburgh, dated November 12, 2021, and recorded in the Orange County Clerk's Office on May 3, 2022, in Book 15220, Page 1252; and

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.

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 construct structures on the parcels and bring such structures 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 any buildings and structures located on the property;

(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 shall be issued by the Building Inspector;

(3) prior to the issuance of a Certificate of Occupancy, 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, re-convey 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, re-convey 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 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. Provided, that such conditions subsequent and any reverting of title as a result thereof in the party of the first part shall always be subject to and limited by and shall not defeat, render invalid or limit in any way, the lien of any mortgage obtained by the party of the second part for the purpose of financing the work necessary to bring the property into compliance with all statutes, codes, rules and regulations as is required by the covenants contained in this deed. The words, "the party of the second part", as used in this paragraph, shall be construed to mean the party of the second part or his successors or assigns.

Provided, that such conditions subsequent and any reverting of title as a result thereof in the party of the first part pursuant to Paragraphs of (4) and (5) of this Indenture or as otherwise specified herein shall always be subject and subordinate to and limited by and shall not defeat, render invalid or limit in any way, the lien of any mortgage obtained by the party of the second part for the purpose of financing the work necessary to bring the property into compliance with all statutes, codes, rules and regulations as is required by the covenants contained in this deed, as same may be assigned, amended, restated, modified, extended and/or refinanced with permanent financing (collectively, the "Mortgage"). The words, "the party of the second part", as used in this paragraph, shall be construed to mean the party of the second part or his successors or assigns. As long as the Mortgage remains outstanding, the party of the first part shall not exercise its right of reversion unless and until the party of the first part has provided the holder of the Mortgage with thirty (30) days prior written notice of its intention to commence an action for reconveyance and has afforded the holder of the Mortgage with a reasonable amount of time within which to cure the non-compliance by the party of the second part that gave rise to the party of the first part's exercise of its right of reconveyance; provided, however, that any such cure periods do not conflict with any applicable Statute of Limitations rules or laws.

*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.: \_\_\_\_\_-2024

NEWBURGH COMMUNITY LAND BANK, INC.

BY: \_\_\_\_\_  
Jennifer Welles, Executive Director

**RECORD & RETURN TO:**

[NAME]  
[ADDRESS]  
[ADDRESS]

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared TODD VENNING, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

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

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2024, before me, the undersigned, a Notary Public in and for said State, personally appeared JENNIFER WELLES, 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 she 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.

SCHEDULE E  
ADDITIONAL DEVELOPER REPRESENTATIONS

1. Developer's is fully familiar with the City's zoning laws and requirements. Developer's plan does not contemplate requests for use variances.
2. Developer's plan shall comply with all terms and conditions of the Grant (Restore NY, Round VI - Lander Street Properties Project No. 135,616), including but not limited to participation in Grantor's M/WBE programming (OCSD-1 Policy Statement).
3. Developer shall comply with all terms and conditions contained in a certain Subrecipient Agreement with the City, executed the same date as this Agreement.
4. Per the Grant, Developer's plan must result in creation of apartment rental (i.e. non-owner occupied) residential dwelling units as set forth below.
5. Developer's plan shall create 12 units of affordable housing (4 units at 50% AMI, 4 units at 60% AMI, and 4 units at 80% AMI), with a variety of 1, 2, and 3-bedroom units, as follows:
  - a) 3 units at 72 Lander Street
  - b) 4 units at 76 Lander Street
  - c) 5 units at 78 Lander Street
6. Developer shall develop and administer an application process that gives priority rental preference to prospective tenants who: currently reside within two (2) square miles of the project area.
7. Developer shall utilize additional grant funding (known as "Initiative Funds") in an amount of approximately \$400,000 for use for stabilization costs at the Property.
8. Developer may generate Requests for Proposal and enter into sub-site development agreements or sub-management agreements for assistance with completion of the project. Any sub-agreements:
  - a) Are subject to review by the City
  - b) Must expressly require compliance with any terms and conditions of this Agreement
  - c) Must expressly require compliance with any terms and conditions of the Grant and the Subrecipient Agreement as referenced in Schedule E, Paragraph 3, above.
9. Developer's final plan shall include a certification from Developer and Developer's Architect that its plan complies with both the New York State Energy Code and New York State Energy Research and Development Authority ("NYSERDA") certification minimum requirements.
10. Developer shall neither require, nor request, a Payment In Lieu of Taxes ("PILOT") agreement from the City of Newburgh or the City of Newburgh Industrial Development Agency in connection with its plan.
11. Developer shall comply with the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u ("Section 3"), as follows:



- a) Developer agrees to comply with federal regulations in 24 CFR part 75, which implements Section 3. Developer certifies that it is under no contractual or other impediment that would prevent it from complying with the Part 75 regulations.
- b) Developer agrees to agree to notify potential contractors and subcontractors that are associated with Section 3 covered projects and activities about the requirements of Section 3, to include this Section 3 clause in every contract and subcontract subject to compliance with regulations in 24 CFR Part 75, and to ensure that any subcontractors also include this Section 3 clause in their subcontracts for work performed on the project.
- c) Developer will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.
- d) Developer agrees to maintain hiring and contracting practices to the greatest extent feasible so that 30 percent of the total labor hours expended on the project are by Section 3 Workers, of which 5 percent are by Targeted Section 3 Workers as defined in 24 CFR part 75. As part of these practices, Developer agrees to provide priority consideration to eligible residents and businesses in accordance with 24 CFR Part 75, and eligible residents who reside within one (1) square mile of the Project Premises. If Developer is not able to meet this benchmark goal, it must provide a narrative of efforts taken and supporting documentation explaining why it was unable to meet that goal, despite greatest extent feasible efforts taken.
- e) Developer shall offer opportunities to Section 3 Workers to attend social and networking events related to the Project, opportunities to attend project management meetings, and opportunities to meet and interact with Developer's senior management team throughout the course of the Project. Said efforts shall be documented in accordance with this paragraph (8).
- f) Developer agrees to comply with all monitoring, reporting, recordkeeping, and other procedures specified by the City. Developer is responsible for providing Section 3 performance metrics and supporting documentation for all its subrecipients, contractors, and subcontractors, as applicable. At a minimum, Developer shall complete and submit to City a "New York State Homes and Community Renewal Section 3 Sub Reporting Form & Greatest Extent Feasible Efforts Checklist" within the first six (6) months of the Project start and every six (6) months thereafter until Project completion. Developer shall also submit a final report at the completion of the Project.
- g) Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, penalties, and/or termination of this contract for default.

RESOLUTION NO.: 243 - 2022

OF

SEPTEMBER 26, 2022

A RESOLUTION TO APPLY AND ACCEPT IF AWARDED  
ROUND 6 NY RESTORE COMMUNITIES INITIATIVE GRANTS FOR  
REHABILITATING THREE PROPERTIES LOCATED ON LANDER STREET AND  
REHABILITATING THE DUTCH REFORMED CHURCH

WHEREAS, the 2022-23 State Budget provided new funding for the Restore New York's Communities Initiative to be implemented by the Empire State Development Corporation ("ESDC") purpose of revitalizing urban and rural areas, disadvantaged communities, and stabilizing neighborhoods; and

WHEREAS, the City of Newburgh intends to submit a Round 6 NY Restore Communities Initiative grant application in an amount not to exceed \$2,000,000.00 with a minimum 10% City match anticipated to be funded by New York State Department of Homes and Community Renewal's Small Building Loan Participation Program and administered by the Newburgh Community Land Bank for a "normal" project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street to include 12 affordable rental units defined as permanent housing that is affordable to low- and moderate-income households, such that the new housing achieves income averaging at or below fifty percent of the area median income, with residents' eligibility capped at a maximum of eighty percent of the area median income at the start of their lease; and

WHEREAS, the City of Newburgh intends to submit a Round 6 NY Restore Communities Initiative grant application in an amount not to exceed \$10,000,000.00 with a minimum 10% City match anticipated to be funded by community development partners and existing grants for a "special" project to rehabilitate the Dutch Reformed Church which is defined as a project that results from a severe economic injury to the community, leaving a highly visible and blighted property or properties in the central business district of a distressed community which has a depressing effect on the overall economic development potential of the community; and

WHEREAS, the City of Newburgh duly convened and completed a public hearing to receive comment on its Restore NY applications and Property Assessment List on September 26, 2022; and

WHEREAS, the required \$1,000.00 in application fees (\$500/each) shall be paid from A.8684.0462 and the City Council finds that applying for and accepting such grants if awarded is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that that the City Manager be and he is hereby authorized to apply for and accept if awarded Round 6 NY Restore Communities Initiative Grants in an amount not to exceed \$2,000,000.00 with a 10% City match for a normal project to rehabilitate 72 Lander Street, 76 Lander Street and 78 Lander Street and in an amount not to exceed \$10,000,000.00 with a 10% City match for a special project to rehabilitate the Dutch Reformed Church; and to execute all such further contracts and documentation and take such further actions as may be appropriate and necessary to accept such grant and participate in and administer the programs funded thereby.

I, Lorens Vitek, City Clerk of the City of Newburgh,  
hereby certify that I have compared the foregoing with the  
original resolution adopted by the Council of the City of  
Newburgh at a regular meeting held Sept 26, 2011  
and that it is a true and correct copy of such original.

Witness my hand and seal of the City of  
Newburgh this 27 day of Sept - 20 11

Lorens Vitek  
City Clerk

RESOLUTION NO: 191-2024

OF

SEPTEMBER 9, 2024

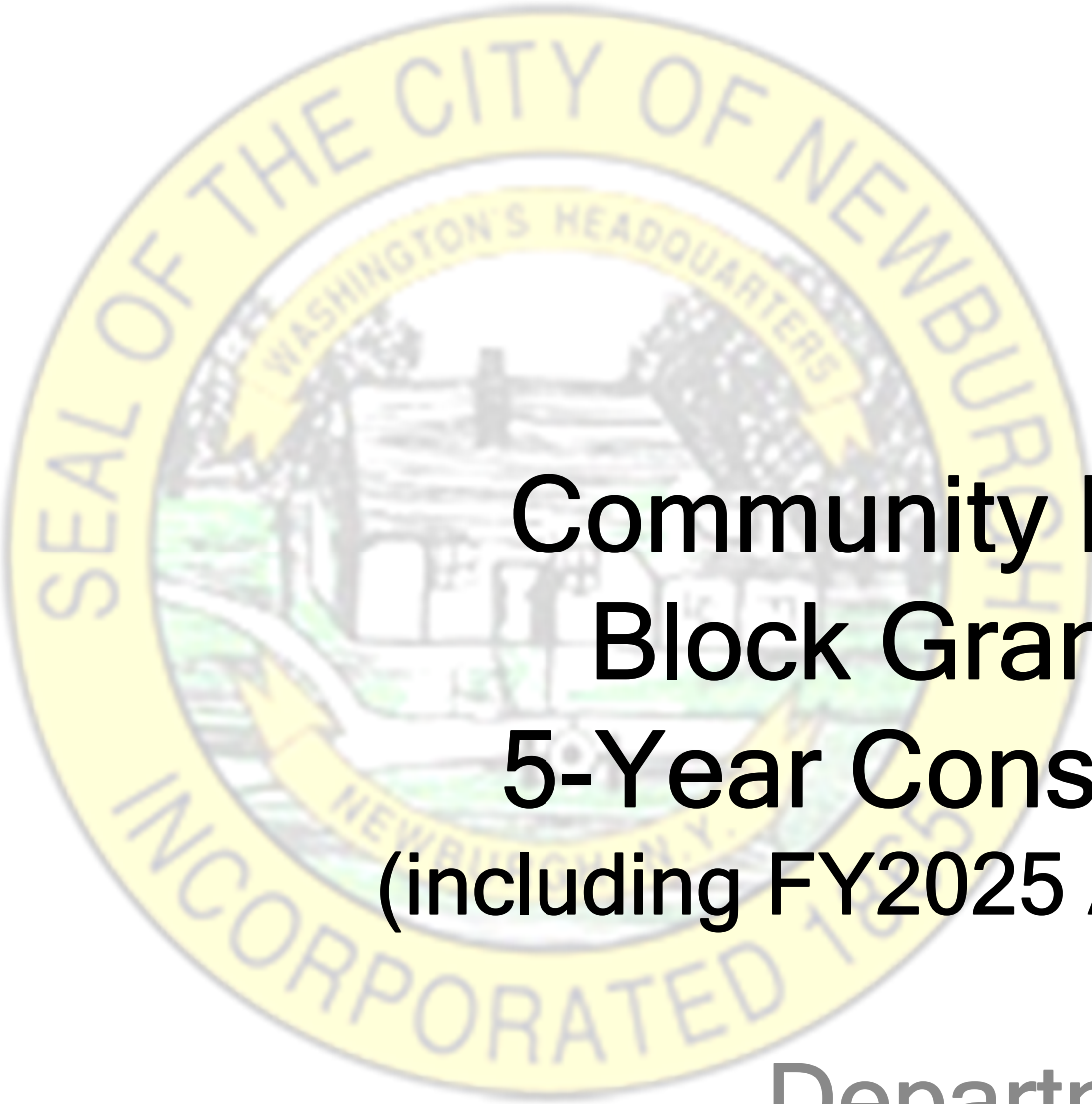
**RESOLUTION OPENING A 30-DAY PUBLIC COMMENT PERIOD  
AND SCHEDULING A SECOND PUBLIC HEARING FOR SEPTEMBER 23, 2024  
TO HEAR PUBLIC COMMENT REGARDING THE HOUSING AND COMMUNITY  
DEVELOPMENT NEEDS OF THE CITY OF NEWBURGH AND TO HEAR  
PUBLIC COMMENT ON THE CITY OF NEWBURGH'S PROPOSED ACTIONS  
CONCERNING THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM  
FOR THE 2025-2029 FIVE YEAR CONSOLIDATED PLAN  
AND FISCAL YEAR 2025 ANNUAL ACTION PLAN**

**WHEREAS**, the City of Newburgh is preparing a new five-year Consolidated Housing and Community Development Strategy and Plan for the 2025-2029 five-year period in accordance with the planning requirements of the Housing and Community Development Act of 1974 and applicable regulations; and

**WHEREAS**, the City also is preparing a one-year Annual Action Plan for FY 2025 in order to implement various elements of the strategies that will be identified in its new 2025-2029 Five Year Consolidated Plan and must satisfy all statutory requirements, including those related to citizen participation; and

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the time for citizen participation is commenced by opening a second 30-day period beginning on September 24, 2024 and closing on October 24, 2024 to receive public comment on the City of Newburgh's proposed Community Development Block Grant Program 2025-2029 Five Year Consolidated Plan and proposed actions with respect to the FY 2025 Annual Action Plan;

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York that there is scheduled a public hearing to receive public comment on the City of Newburgh's proposed actions with respect to the Community Development Block Grant Program 2025-2029 Five Year Consolidated Plan and proposed actions with respect to the FY 2025 Annual Action Plan; and that such second public hearing be and hereby is duly set to be held at 7:00 p.m. on the 23rd day of September, 2024 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York.

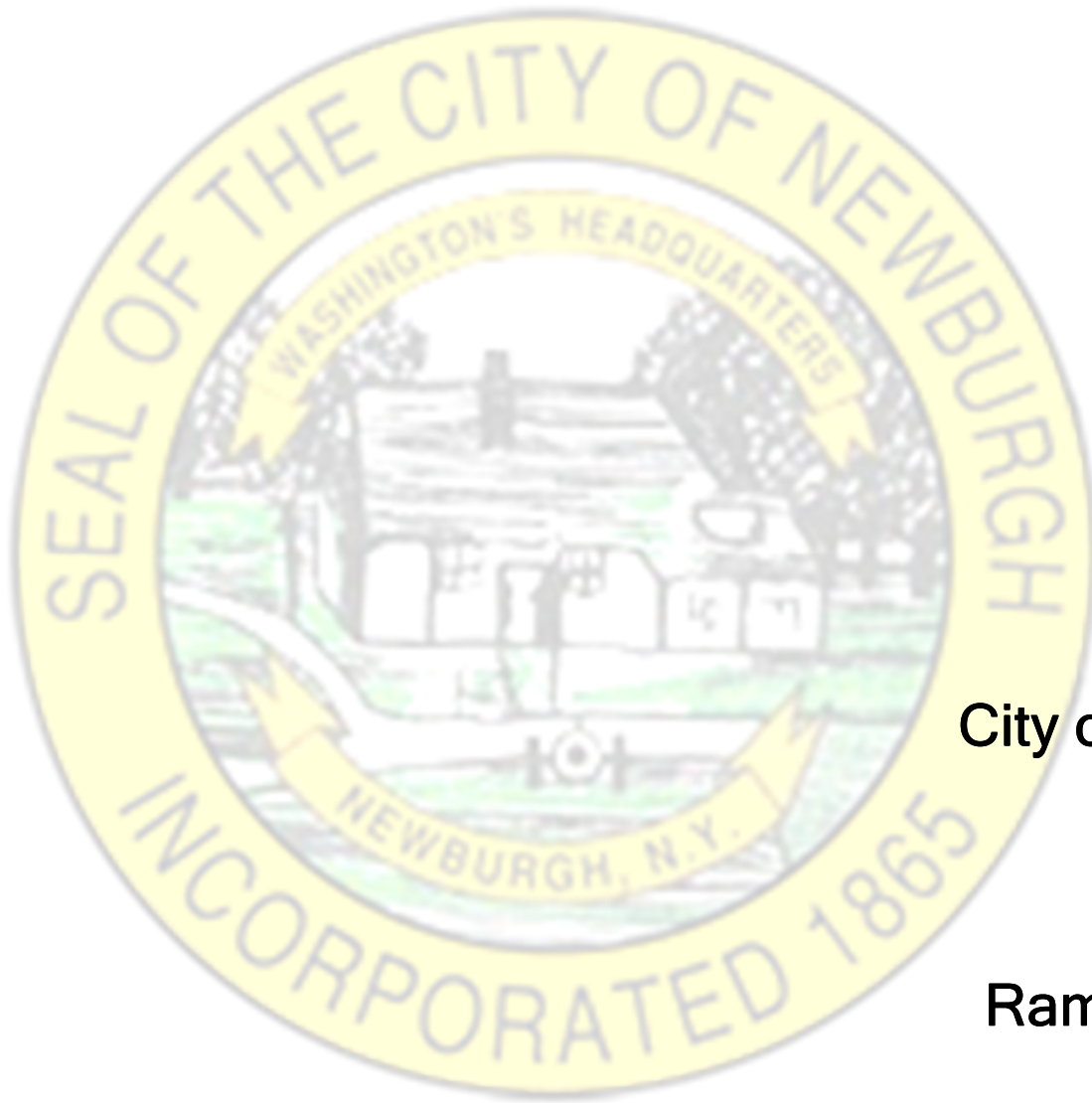
The seal of the City of Newburgh is a circular emblem. The outer ring is yellow with the text "SEAL OF THE CITY OF NEWBURGH" in blue. Inside this is a smaller yellow ring with "WASHINGTON'S HEADQUARTERS" in blue. The center features a black and white illustration of a cityscape with a river, a bridge, and a building. The text "NEWBURGH N.Y." is written in a semi-circle at the bottom of the inner circle.

# **Community Development Block Grant ("CDBG") 5-Year Consolidated Plan (including FY2025 Annual Action Plan)**

**Department of Planning &  
Development  
September 2024**







**City of Newburgh City Council:**

**Torrance Harvey, Mayor**

**Giselle Martinez, Ward 1**

**Ramona Monteverde, Ward 2**

**Robert Sklarz, Ward 3**

**Patty Sofokles, Ward 4**

**Robert McLymore, Sr, At-Large**

**Omari Shakur, At-Large**



## Review: What do we mean when we talk about Community Development?



“Community development can be understood as a planned effort to build assets that increase the capacity of residents to improve their quality of life.”

- Green, G. and Haines, A. (2008). Asset Building and Community Development. Thousand Oaks: Sage Publications, Inc.



# City of Newburgh Community Development Goals - Refresher

- Economic Development without Displacement.
- Enhance outreach and communications with the community.
- Support a climate that values diversity, rewards independence, nourishes creativity, and brings all of us together.

*Successful community building requires reestablishing trust, which takes time, patience, outreach and communication.*





# “CDBG” - Brief Primer



- Community Development Block Grant (CDBG) - Administered by the U.S. Department of Housing and Urban Development (HUD)
- Allocated to local and state governments on a formula basis.
- The City of Newburgh is under the Orange County Consortium (Orange County, City of Newburgh, City of Middletown).
- The City of Newburgh is required to prepare and submit a **Consolidated Plan** that establishes goals for the use of CDBG funds. The new City of Newburgh Consolidated Plan: **FY2025 - 2029**
- Projects **MUST** be consistent with national priorities for CDBG:
  - Activities that benefit low- and moderate-income people;
  - The prevention or elimination of slums or blight; or
  - Community development activities to address an urgent threat to health or safety.



# City of Newburgh CDBG FY2025 - 2029 Consolidated Plan

The Consolidated Plan, or the “Con Plan” or “Five-Year Plan,” is designed to help states and local jurisdictions assess their affordable housing and community development needs and market conditions, and to make data-driven, place-based investment decisions.



# City of Newburgh CDBG FY2025 - 2029 Consolidated Plan

The Consolidated Plan  
Goals are Identified  
from the Priority Needs  
in the City of Newburgh.



## Priority Needs Identified through (examples):

- 20 Community Outreach Meetings
- Two (2) Public Hearings
- Two (2) 30-Day Public Comment Periods



# City of Newburgh CDBG FY2025 - 2029 Consolidated Plan

## Some of the comments from the 2024 Community Outreach Meetings

02/24/2024  
Priority Needs in the City of Newburgh

What do we need?  
Better street upkeep in Liberty St. area. Many new businesses + customers cannot navigate deteriorating sidewalks!  
Paving upper BROADWAY Roadway.  
AFFORDABLE HOUSING.  
Johnston St. Lot  
Restructure, multi-purpose field, Basketball, Tennis, Court etc  
Rec. Dept. redo TRACK  
add on Bicycle lane, walking

02/27/2024  
Priority Needs!  
What do we need?  
Què Necesitamos?

FACADE IMPROVEMENT  
SIDEWALK IMPROVEMENT ON COMM. CORRIDORS  
→ CROSS-WALK ON BROADWAY (MID-BLOCK)  
FIX SHELTER HOUSE (PARKS FACILITY)  
Pocket Parks  
A better way to combat garbage, dumping, debris etc  
IMPLEMENTATION OF A BIKE/RED PLAN

02/23/2024  
Priority Needs in the City of Newburgh!  
What do we need!

Roads  
trees

Parks + Recreation  
Swim Club + Double Dutch  
new update equipment (see - saws/sensory gardens)  
Learning/Story Time programs  
environmental conscience  
People's park, play ground  
Indoor park  
Wish for a standing Ferris Wheel  
Connecting historical markers throughout the city  
Lifeguard Training for Certifications  
Renovated Activity Center  
Teen Cafe/Open table/creative Expression  
Multi-floor multi-purpose

# City of Newburgh CDBG FY2025 - 2029 Consolidated Plan

*The FY2025 - 2029 Consolidated Plan will provide the City of Newburgh with **five years** of funding to support priority needs projects.*



# City of Newburgh FY2025 - 2029 Consolidated Plan Priority Needs:

- Infrastructure Improvements
- Economic Development
- Quality of Life
- Housing





# City of Newburgh FY2025 - 2029 Consolidated Plan:

Priority Need: Infrastructure Improvements

Project Examples:

- “Complete Streets” Safe Access Upgrades (ex. Bikes, Pedestrians, Motorists)
- Drinking Water Protections
- Sewer Upgrades





# City of Newburgh FY2025 - 2029 Consolidated Plan:

Priority Need: Economic Development

Project Examples:

- Business Sign/Façade Program
- Workforce Development Assistance



# City of Newburgh FY2025 - 2029 Consolidated Plan:

Priority Need: Quality of Life Improvements

Project Examples:

- Park Improvements
- Summer Children's Film Festival



# City of Newburgh FY2025 - 2029 Consolidated Plan Goals:

Priority Need: Housing

Project Example:

- In Rem Property Program
- Homeowner Assistance Program, Coordinated through a City of Newburgh Housing Partner



# City of Newburgh FY2025 - 2029 Consolidated Plan Timeline



**FY2025 - 2029 Consolidated Plan Timeline**



# **Community Development Block Grant (“CDBG”) Proposed FY2025 Annual Action Plan\***

**Department of Planning &  
Development  
September 2024**



**\*Pending federal budget approval**

# City of Newburgh FY2025 Annual Action Plan (AAP)

The Consolidated Plan is carried out through Annual Action Plans, which provide a concise summary of the actions, activities, and the specific federal and non-federal resources that will be used each year to address the priority needs and specific goals identified by the Consolidated Plan.



# Proposed FY2025 CDBG Projects/Funding

|   | Priority Need Addressed      | Project Name                 | Proposed Activities (Examples)   | Project Funding |
|---|------------------------------|------------------------------|--|-----------------|
| Projects Funded through Entitlement Grant | Housing                      | Housing                      | In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.                                | \$240,000.00    |
|   | Housing                      | Housing                      | Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient. (Funding to be increased as needed)  | \$15,000.00     |
|   | Infrastructure Improvements  | Infrastructure Improvements  | To continue funding Curb Ramp & Sidewalk Improvements project.   | \$220,000.00    |
|   | Infrastructure Improvements  | Public Facility Improvements | Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.   | \$110,000.00    |
|   | Economic Development         | Economic Development         | Economic Development Activities. Examples of activities include a business sign pilot project.   | \$25,000.00     |
|   | Quality of Life Improvements | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).   | \$15,000.00     |
|   |                              | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: City of Newburgh Community Outreach Activities (Police/Fire Cadet Youth Program)  | \$15,000.00     |
|   |                              | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Workforce On-the-Job-Training (Activities Subject to City of Newburgh operational approval).  | \$25,000.00     |
|   | Administration               | Administration               | <b>Administration Subject to 20% Annual Allocation Cap.</b><br>Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference. | \$165,000.00    |
| Proposed Total FY2025 Allocation          |                              |                              |  | \$830,000.00    |





# Contingency Funding

If the actual annual allocation amount exceeds the proposed estimate, the project budgets will increase by:

|   |                              |                              |  |                 | % Project increase, if HUD allocation greater than proposed (approx.) |
|---|------------------------------|------------------------------|--|-----------------|---|
| Projects Funded through Entitlement Grant | Priority Need Addressed      | Project Name                 | Proposed Activities (Examples)   | Project Funding |   |
|   | Housing                      | Housing                      | In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.                                | \$240,000.00    | No Change   |
|   | Housing                      | Housing                      | Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient. (Funding to be increased as needed)  | \$15,000.00     | 30%   |
|   | Infrastructure Improvements  | Infrastructure Improvements  | To continue funding Curb Ramp & Sidewalk Improvements project.   | \$220,000.00    | 30%   |
|   | Infrastructure Improvements  | Public Facility Improvements | Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.   | \$110,000.00    | 20%   |
|   | Economic Development         | Economic Development         | Economic Development Activities. Examples of activities include a business sign pilot project.   | \$25,000.00     | No Change   |
|   | Quality of Life Improvements | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).   | \$15,000.00     | 5%  |
|   |                              | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: City of Newburgh Community Outreach Activities (Police/Fire Cadet Youth Program)  | \$15,000.00     | 5%  |
|   |                              | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Workforce On-the-Job-Training (Activities Subject to City of Newburgh operational approval).  | \$25,000.00     | 10%   |
|   | Administration               | Administration               | <b>Administration Subject to 20% Annual Allocation Cap.</b><br>Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference. | \$165,000.00    | No Change   |
|   |                              |                              | <b>Proposed Total FY2025 Allocation</b>  | \$830,000.00    |   |





# Contingency Funding

If the actual annual allocation amount is less than the proposed estimate, the project budgets will decrease by:

|   | Priority Need Addressed          | Project Name                 | Proposed Activities (Examples)   | Project Funding | % Project decrease, if HUD allocation less than proposed (approx.) |
|---|----------------------------------|------------------------------|--|-----------------|--|
| Projects Funded through Entitlement Grant | Housing                          | Housing                      | In Rem Property Program: To continue funding the salaries/benefits of 3 City of Newburgh Employees. Also fund materials needed to maintain foreclosed properties, such as snow shovels, weed wackers, locks/keys.                                | \$240,000.00    | 10%  |
|   | Housing                          | Housing                      | Homeowner Assistance Repair Program Managed by City of Newburgh Subrecipient. (Funding to be increased as needed)  | \$15,000.00     | 10%  |
|   | Infrastructure Improvements      | Infrastructure Improvements  | To continue funding Curb Ramp & Sidewalk Improvements project.   | \$220,000.00    | 20%  |
|   | Infrastructure Improvements      | Public Facility Improvements | Public Accessibility Improvements to City of Newburgh Buildings, Parks, Other Public Spaces.   | \$110,000.00    | 10%  |
|   | Economic Development             | Economic Development         | Economic Development Activities. Examples of activities include a business sign pilot project.   | \$25,000.00     | 10%  |
|   | Quality of Life Improvements     | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Summer Film Festival (Activities Subject to City of Newburgh operational approval).   | \$15,000.00     | 10%  |
|   |                                  | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: City of Newburgh Community Outreach Activities (Police/Fire Cadet Youth Program)  | \$15,000.00     | 10%  |
|   |                                  | Neighborhood Services        | <b>Public Service Activity, Subject to 15% Annual Allocation Cap.</b><br>Examples of Activities: Workforce On-the-Job-Training (Activities Subject to City of Newburgh operational approval).  | \$25,000.00     | 10%  |
|   | Administration                   | Administration               | <b>Administration Subject to 20% Annual Allocation Cap.</b><br>Activities include: Program Administration, Staff Salary and Benefits, language translation services, program operating costs (including mailings), program trainings/conference. | \$165,000.00    | 10%  |
|   | Proposed Total FY2025 Allocation |                              |  | \$830,000.00    |  |



|             |                         |              |
|-------------|-------------------------|--------------|
| Project:    | Housing                 |              |
| Activities: | In Rem Property Project | \$240,000.00 |
|             | Homeowner Assistance    | \$15,000.00  |

## Summary

- Continued funding for the In Rem program, including the salaries for 3 fulltime employees (2 DPW employees and the Economic Development Specialist), In Rem property program supplies, such as paint, plywood, In Rem Training.
- Funding to support City of Newburgh Housing Partner Homeowner Assistance Program.



# In Rem Property Program Highlights

- Staffed by 2 full-time Department of Public Works employees and 1 employee of the Planning & Development Department dedicated to the in rem program.
- Provides maintenance and security of vacant properties. Keeps properties habitable, neighborhoods looking good, maintains/increases property values.

*The Housing and Community Development Act of 1992 authorizes activities necessary to make essential repairs and payment of operating expenses needed to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods.*



Project: Infrastructure Improvements  
Budget: \$220,000.00

## Summary

Examples of projects may include:

- “Complete Streets” Safe Access Upgrades
- Sidewalk improvements



Project: Economic Development  
Budget: \$25,000.00

## Summary

Examples of projects may include:

- Business Signage



Project: Public Facility Improvements  
Budget: \$110,000.00

## Summary

Examples of projects may include:

- Playground equipment improvements/upgrades
- Fencing



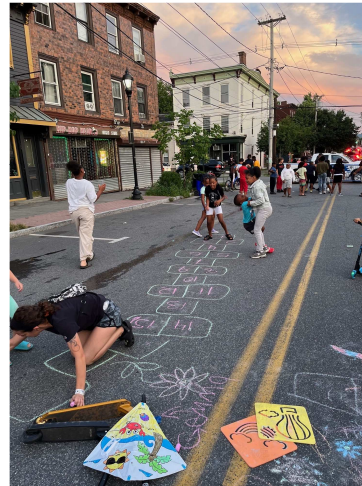


Project: Community Policing/Neighborhood Services  
Budget: \$55,000.00

### Summary

Examples of Projects may include:

- 2025 Children's Summer Film Festival
- Community Outreach Activities
- Workforce On-the-Job Training



Project: Administration  
Project Funding: \$165,000.00



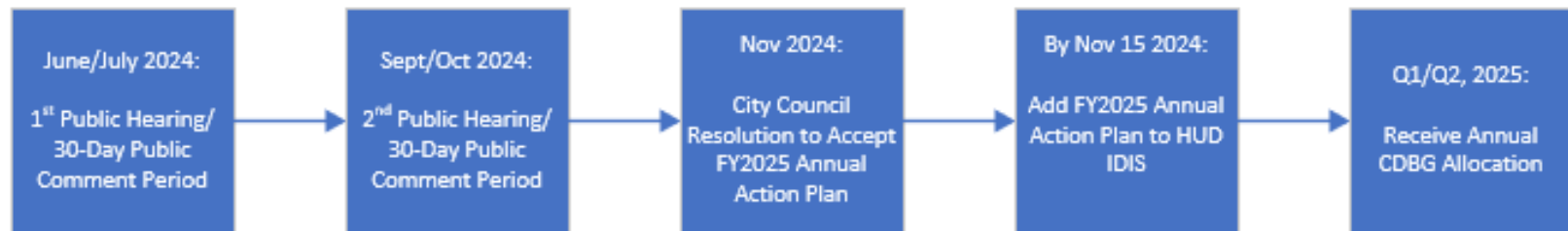
## Summary

Funding to include salary and benefits for Director of Community Development, Business Mailings, Supplies and Program Administration/Training/Conference.





# FY2025 CDBG AAP Timeline



**FY 2025 COMMUNITY DEVELOPMENT BLOCK GRANT  
(CDBG) PROJECTS TIMELINE**

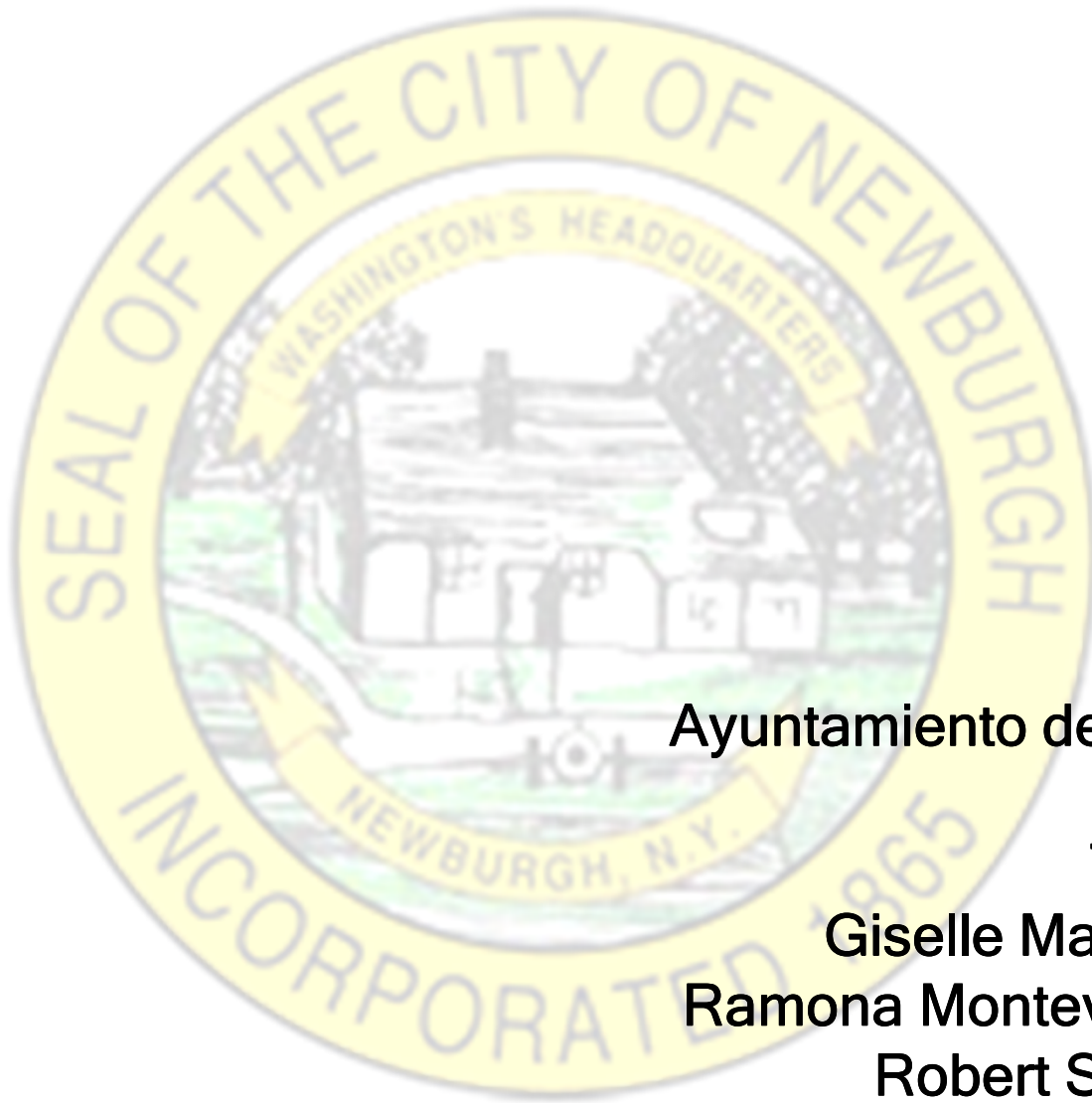


# **Subvención en Bloque para el Desarrollo Comunitario (“CDBG”) Plan Consolidado de 5 Años**

**(Incluido el Plan de Acción Anual del Año Fiscal 2025)**

Departamento de Planificación  
y Desarrollo  
Septiembre 2024





## **Ayuntamiento de la Ciudad de Newburgh:**

**Torrance Harvey, Alcalde**

**Giselle Martinez, Distrito Electoral 1**

**Ramona Monteverde, Distrito Electoral 2**

**Robert Sklarz, Distrito Electoral 3**

**Patty Sofokles, Distrito Electoral 4**

**Robert McLymore, Sr, En-General**

**Omari Shakur, En-General**



Análisis: ¿Qué queremos decir cuando hablamos de Desarrollo Comunitario?

**COMMUNITY  
DEVELOPMENT  
BLOCK GRANT  
PROGRAM**

"El desarrollo comunitario puede entenderse como un esfuerzo planificado para construir activos que aumenten la capacidad de los residentes para mejorar su calidad de vida".

- Green, G. and Haines, A. (2008). Construcción de Activos y Desarrollo Comunitario. Thousand Oaks: Sage Publications, Inc.



# Objetivos de Desarrollo Comunitario de la Ciudad de Newburgh - Actualización

- Desarrollo Económico sin Desplazamiento.
- Mejorar la divulgación y las comunicaciones con la comunidad.
- Apoyar un clima que valora la diversidad, premia la independencia, nutre la creatividad y nos une a todos.

*La construcción comunitaria exitosa requiere restablecer la confianza, lo que requiere tiempo, paciencia, alcance y comunicación.*



# “CDBG” - Breve Introducción



- Subvención en Bloque para el Desarrollo Comunitario (CDBG, por sus siglas en inglés) - Administrada por el Departamento de Vivienda y Desarrollo Urbano de los Estados Unidos (HUD, por sus siglas en inglés)
- Asignados a los gobiernos locales y estatales sobre la base de una fórmula.
- La Ciudad de Newburgh está bajo el Consorcio del Condado de Orange (Condado de Orange, Ciudad de Newburgh, Ciudad de Middletown).
- La ciudad de Newburgh está obligada a preparar y presentar un **Plan Consolidado** que establece metas para el uso de los fondos CDBG. El nuevo Plan Consolidado de la Ciudad de Newburgh: **FY2025 - 2029**
- Los proyectos deben ser coherentes con las prioridades nacionales para CDBG:
  - Actividades que benefician a personas de ingresos bajos y moderados;
  - La prevención o eliminación de los barrios marginales o el deterioro; o
  - Actividades de desarrollo comunitario para hacer frente a una amenaza urgente para la salud o la seguridad.



# Plan consolidado CDBG AF2025 - 2029 de la Ciudad de Newburgh

el Plan Consolidado, o el "Plan Con" o "Plan Quinquenal", está diseñado para ayudar a los estados y jurisdicciones locales a evaluar sus necesidades de vivienda asequible y desarrollo comunitario y las condiciones del mercado, y para tomar decisiones de inversión basadas en datos y basadas en el lugar.



# Ciudad de Newburgh CDBG AF2025 - 2029 Plan Consolidado

Los Objetivos del Plan Consolidado se identifican a partir de las Necesidades Prioritarias en la Ciudad de Newburgh.





# Ciudad de Newburgh CDBG AF2025 - 2029 Plan Consolidado

Necesidades prioritarias identificadas a través de (ejemplos):

- 20 Reuniones de Alcance Comunitario
- Dos (2) Audiencias Públicas
- Dos (2) Períodos de Comentarios Públicos



# Ciudad de Newburgh CDBG AF2025 - 2029 Plan Consolidado

## Algunos de los comentarios de las Reuniones de Alcance Comunitario 2024

02/24/2024  
Priority Needs in  
the City of Newburgh

What do we need?  
Better street upkeep in Liberty St.  
area. Many new businesses + customers  
cannot navigate deteriorating sidewalks!

Paving upper BROADWAY  
Roadway.

AFFORDABLE HOUSING.

Johnston St. Lot  
Restructure, multi-purpose field, Basketball  
Tennis, Court etc  
Rec. Dept. redo TRACK  
add on Bicycle lane, walking

02/27/2024  
Priority Needs!  
What do we need?  
Qué Necesitamos?

FACADE IMPROVEMENT

SIDEWALK IMPROVEMENT ON COMM. CORRIDORS

→ CROSS-WALK ON BROADWAY  
(MID-BLOCK)

FIX SHELTER HOUSE (PARKS FACILITY)

Pocket Parks

A better way to combat garbage, dumping, debris etc  
IMPLEMENTATION OF A BIKE/PEDESTALIAN PLAN

02/23/2024  
Priority Needs in the  
City of Newburgh!  
What do we need!

Roads  
trees

Parks + Recreation *Building Relationship*

Swim Club  
+ Double Dutch

new update equipment  
(See - Saus/ sensory gardens)  
Learning/Story Time programs  
environmental conscience

Indoor park, playground  
Wish for a standing Ferris Wheel  
Connecting historical markers throughout the city

Lifeguard Training for Certifications

Renovated Activity Center  
Teen Cafe/Open Hall/Creative Expression

Multi-floor  
multi-purpose

# Ciudad de Newburgh CDBG AF2025 - 2029 Plan Consolidado

*El Plan Consolidado para el año fiscal 2025 - 2029 proporcionará a la Ciudad de Newburgh **cinco años** de financiación para apoyar proyectos de necesidades prioritarias.*



# Ciudad de Newburgh FY2025 - 2029

## Necesidades Prioritarias del Plan Consolidado:

- Mejoras de Infraestructura
- Económico
- Calidad de Vida
- Vivienda



# Ciudad de Newburgh AF2025 - 2029 Plan Consolidado:

Necesidad prioritaria: Mejoras en la infraestructura

Ejemplos de Proyectos:

- "Calles completas" Mejoras de acceso seguro (por ejemplo, bicicletas, peatones, automovilistas)
- Protección de agua potable
- Mejoras en el alcantarillado

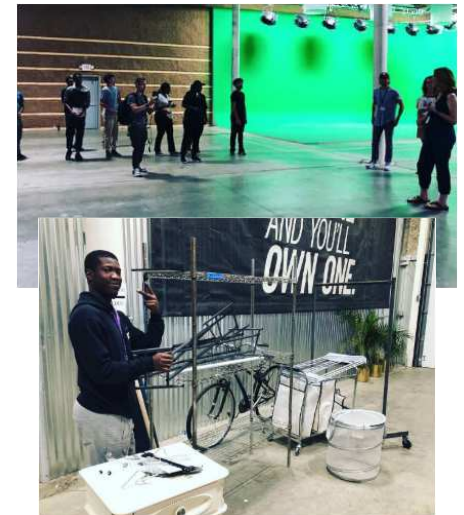


# Ciudad de Newburgh AF2025 - 2029 Plan Consolidado:

Necesidad prioritaria: Desarrollo Económico

Ejemplos de Proyectos:

- Programa de Letreros Comerciales/  
Fachada
- Asistencia para el Desarrollo de la  
Fuerza Laboral





# Ciudad de Newburgh AF2025 - 2029 Plan Consolidado:

Necesidad Prioritaria: Mejoras en la Calidad de Vida

Ejemplos de Proyectos:

- Mejoras en los Parques
- Festival de Cine Infantil de Verano



# Ciudad de Newburgh AF2025 - 2029

## Objetivos del Plan Consolidado:

Necesidad Prioritaria: Vivienda

Ejemplos de Proyecto:

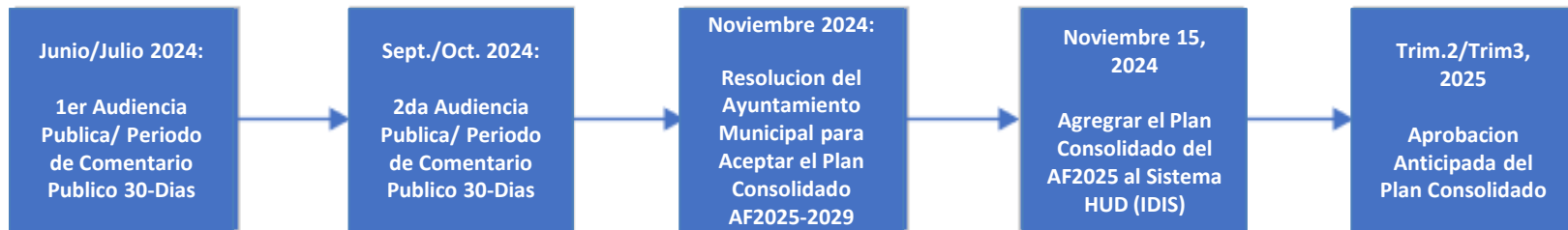
- Programa de Propiedades REM
- Programa de Asistencia para Propietarios de Viviendas, coordinado a través de un socio de vivienda de la Ciudad de Newburgh






# Ciudad de Newburgh AF2025 - 2029

## Cronología del Plan Consolidado



**AF2025 - 2029 Cronología del Plan Consolidado**

The seal of the City of Newburgh is a circular emblem. The outer ring is yellow with the text "SEAL OF THE CITY OF NEWBURGH" in black. Inside this is a green ring with "INCORPORATED 1866" in white. The center features a black and white illustration of a building, with a yellow banner above it reading "WASHINGTON'S HEADQUARTERS".

# **Subvención en Bloque para el Desarrollo Comunitario (“CDBG”) Plan de Acción Annual para AF2025\***

**Departamento de Planificación  
y Desarrollo  
Septiembre 2024**



**\*Pendiente de aprobación del presupuesto federal**

# Ciudad de Newburgh AF2025

## Plan de Acción Annual (AAP)

El Plan Consolidado se lleva a cabo a través de Planes de Acción Anuales, que proporcionan un resumen conciso de las acciones, actividades y los recursos federales y no federales específicos que se utilizarán cada año para abordar las necesidades prioritarias y metas específicas identificadas por el Plan Consolidado.



# Proyectos/Financiamiento CDBG propuestos para el año fiscal 2025

|   | Necesidad Prioritaria Atendida | Nombre del proyecto        | Actividades Propuestas (ejemplos)   | Financiación de proyectos |
|---|--------------------------------|----------------------------|---|---------------------------|
| <b>Proyectos Financiados Mediante Subsidio de Derecho</b> |                                |                            |   |                           |
|   | Vivienda                       | Vivienda                   | Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También financie los materiales necesarios para mantener las propiedades embargadas, como palas de nieve, gomas de maleza, cerraduras / llaves.                           | \$240,000.00              |
|   | Vivienda                       | Vivienda                   | Programa de reparación de asistencia para propietarios de viviendas administrado por el subreceptor de la ciudad de Newburgh. (Los fondos se incrementarán según sea necesario)   | \$15,000.00               |
|   | Mejoras de Infraestructura     | Mejoras de Infraestructura | Continuar financiando el proyecto Curb Ramp & Sidewalk Improvements.  | \$220,000.00              |
|   | Mejoras de Infraestructura     | Mejoras de Infraestructura | Mejoras de accesibilidad pública a edificios, parques y otros espacios públicos de la ciudad de Newburgh  | \$110,000.00              |
|   | Desarrollo Economico           | Desarrollo Economico       | Actividades de desarrollo económico. Ejemplos de actividades incluyen un proyecto piloto de firma de negocios   | \$25,000.00               |
|   | Mejoras de Calidad de Vida     | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Festival de Cine de Verano (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh)  | \$15,000.00               |
|   |                                | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Actividades de alcance comunitario de la ciudad de Newburgh (Programa Juvenil de Cadetes de Policía/Bomberos)  | \$15,000.00               |
|   |                                | Servicios Vecinales        | <b>Actividad de servicio público, sujeta al límite de asignación anual del 15%</b> Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).   | \$25,000.00               |
|   | Administracion                 | Administracion             | <b>Administración Sujeta al 20% del límite de asignación anual.</b> Las actividades incluyen: Administración del programa, Salario y beneficios del personal, servicios de traducción de idiomas, costos operativos del programa (incluidos los correos), capacitaciones / conferencias del programa. | \$165,000.00              |
|   |                                |                            | <b>Asignación total propuesta para el Año Fiscal 2025</b>   | <b>\$830,000.00</b>       |

# Financiación para Imprevistos

Si el monto real de la asignación anual excede la estimación propuesta, los presupuestos de los proyectos aumentarán en:

|  | Necesidad Prioritaria Atendida                     | Nombre del proyecto        | Actividades Propuestas (ejemplos)   | Financiación de proyectos | % De aumento del proyecto, si la asignación de HUD es mayor que la propuesta (aprox.) |
|--|--|----------------------------|---|---------------------------|---|
| Proyectos Financiados Mediante Subsidio de Derecho | Vivienda   | Vivienda                   | Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También financie los materiales necesarios para mantener las propiedades embargadas, como palas de nieve, gomas de maleza, cerraduras / llaves.                           | \$240,000.00              | No Change   |
|  | Vivienda   | Vivienda                   | Programa de reparación de asistencia para propietarios de viviendas administrado por el subreceptor de la ciudad de Newburgh. (Los fondos se incrementarán según sea necesario)   | \$15,000.00               | 30%   |
|  | Mejoras de Infraestructura                         | Mejoras de Infraestructura | Continuar financiando el proyecto Curb Ramp & Sidewalk Improvements.  | \$220,000.00              | 30%   |
|  | Mejoras de Infraestructura                         | Mejoras de Infraestructura | Mejoras de accesibilidad pública a edificios, parques y otros espacios públicos de la ciudad de Newburgh  | \$110,000.00              | 20%   |
|  | Desarrollo Economico                               | Desarrollo Economico       | Actividades de desarrollo económico. Ejemplos de actividades incluyen un proyecto piloto de firma de negocios   | \$25,000.00               | No Cambio   |
|  | Mejoras de Calidad de Vida                         | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Festival de Cine de Verano (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh)  | \$15,000.00               | 5%  |
|  |  | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Actividades de alcance comunitario de la ciudad de Newburgh (Programa Juvenil de Cadetes de Policía/Bomberos)  | \$15,000.00               | 5%  |
|  |  | Servicios Vecinales        | <b>Actividad de servicio público, sujeta al límite de asignación anual del 15%</b> Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).   | \$25,000.00               | 10%   |
|  | Administracion                                     | Administracion             | <b>Administración Sujeta al 20% del límite de asignación anual.</b> Las actividades incluyen: Administración del programa, Salario y beneficios del personal, servicios de traducción de idiomas, costos operativos del programa (incluidos los correos), capacitaciones / conferencias del programa. | \$165,000.00              | No Cambio   |
|  | Asignación total propuesta para el Año Fiscal 2025 |                            |   | \$830,000.00              |   |

# Financiación para Imprevistos

Si el monto real de la asignación anual es menor que la estimación propuesta, los presupuestos del proyecto disminuirán en:

|  | Necesidad Prioritaria Atendida                     | Nombre del proyecto        | Actividades Propuestas (ejemplos)   | Financiación de proyectos | % Disminución del proyecto, si la asignación de HUD es inferior a la propuesta (aprox.) |
|--|--|----------------------------|---|---------------------------|---|
| Proyectos Financiados Mediante Subsidio de Derecho | Vivienda   | Vivienda                   | Programa de Propiedad In Rem: Para continuar financiando los salarios / beneficios de 3 empleados de la Ciudad de Newburgh. También financie los materiales necesarios para mantener las propiedades embargadas, como palas de nieve, gomas de maleza, cerraduras / llaves.                           | \$240,000.00              | 10%   |
|  | Vivienda   | Vivienda                   | Programa de reparación de asistencia para propietarios de viviendas administrado por el subreceptor de la ciudad de Newburgh. (Los fondos se incrementarán según sea necesario)   | \$15,000.00               | 10%   |
|  | Mejoras de Infraestructura                         | Mejoras de Infraestructura | Continuar financiando el proyecto Curb Ramp & Sidewalk Improvements.  | \$220,000.00              | 20%   |
|  | Mejoras de Infraestructura                         | Mejoras de Infraestructura | Mejoras de accesibilidad pública a edificios, parques y otros espacios públicos de la ciudad de Newburgh  | \$110,000.00              | 10%   |
|  | Desarrollo Economico                               | Desarrollo Economico       | Actividades de desarrollo económico. Ejemplos de actividades incluyen un proyecto piloto de firma de negocios   | \$25,000.00               | 10%   |
|  | Mejoras de Calidad de Vida                         | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Festival de Cine de Verano (actividades sujetas a la aprobación operativa de la Ciudad de Newburgh)  | \$15,000.00               | 10%   |
|  |  | Servicios Vecinales        | <b>Actividad de servicio público, sujeta a un tope de asignación anual del 15%.</b> Ejemplos de actividades: Actividades de alcance comunitario de la ciudad de Newburgh (Programa Juvenil de Cadetes de Policía/Bomberos)  | \$15,000.00               | 10%   |
|  |  | Servicios Vecinales        | <b>Actividad de servicio público, sujeta al límite de asignación anual del 15%</b> Ejemplos de actividades: Capacitación de la fuerza laboral en el trabajo (actividades sujetas a la aprobación operativa de la ciudad de Newburgh).   | \$25,000.00               | 10%   |
|  | Administracion                                     | Administracion             | <b>Administración Sujeta al 20% del límite de asignación anual.</b> Las actividades incluyen: Administración del programa, Salario y beneficios del personal, servicios de traducción de idiomas, costos operativos del programa (incluidos los correos), capacitaciones / conferencias del programa. | \$165,000.00              | 10%   |
|  | Asignación total propuesta para el Año Fiscal 2025 |                            |   | \$830,000.00              |   |

|             |                                       |              |
|-------------|---------------------------------------|--------------|
| Proyecto:   | Vivienda                              |              |
| Activities: | Proyecto Propiedad REM                | \$240,000.00 |
|             | Asistencia al Propietario de Vivienda | \$15,000.00  |

## Resumen

- Financiación continua para el programa In Rem, incluyendo los salarios de 3 empleados a tiempo completo (2 empleados de DPW y el Especialista en Desarrollo Económico), suministros del programa de propiedades In Rem, tales como pintura, madera contrachapada, In Rem Training.
- Fondos para apoyar el Programa de Asistencia para Propietarios de Viviendas Asociadas de la Ciudad de Newburgh.



# Aspectos Destacados de Propiedades REM

- Atendido por 2 empleados de tiempo completo del Departamento de obras públicas y 1 empleado del Departamento de planificación y desarrollo dedicado al programa in rem.
- Proporciona mantenimiento y seguridad de propiedades vacantes. Mantiene las propiedades habitables, vecindarios que se encuentran bien, mantiene/aumenta los valores de propiedad.

*La Ley de Vivienda y Desarrollo Comunitario de 1992 autoriza las actividades necesarias para realizar reparaciones y pagos esenciales de los gastos de explotación necesarios para mantener la habitabilidad de las viviendas adquiridas mediante procedimientos de ejecución hipotecaria fiscal con el fin de abandono y deterioro de esas viviendas en barrios de ingresos bajos y moderados.*





Proyecto: Mejoras de Infraestructura  
Presupuesto: \$220,000.00

## Resumen

Ejemplos de Proyectos Pueden Incluir:

- “Calles Completas” Actualizaciones de acceso seguras
- Mejoras de las Aceras



Proyecto: Desarrollo Economico  
Presupuesto: \$25,000.00

## Resumen

Ejemplos de los proyectos pueden incluir:

- Señalización de Negocios



Proyecto: Mejoras a las Instalaciones Públicas  
Presupuesto: \$110,000.00

## Resumen

Ejemplos de los Proyectos pueden Incluir:

- Mejoras/actualizaciones de los equipos de los parques infantiles
- Cercas



Proyecto: Vigilancia Comunitaria/Servicios Vecinales  
Presupuesto: \$55,000.00

## Resumen

Ejemplos de los Proyectos pueden Incluir:

- Película infantil de verano 2025 Festival
- Actividades de extensión comunitaria
- Capacitación en el trabajo para la fuerza laboral



Proyecto: Administración  
Financiamiento del Proyecto: \$165,000.00

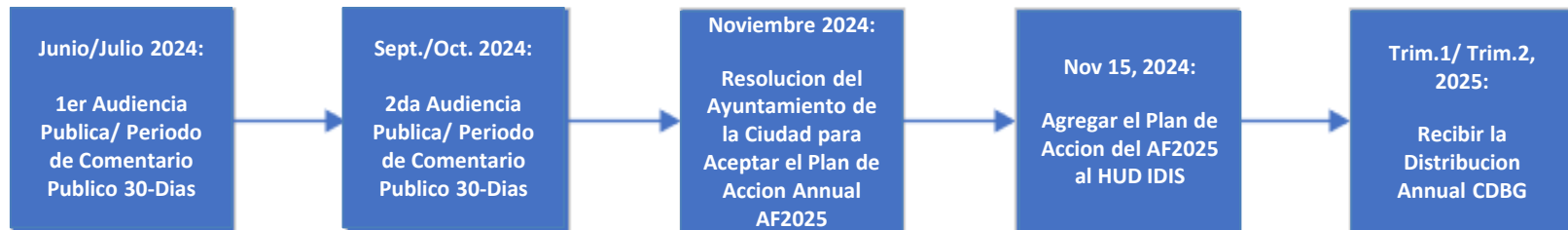


## Resumen

Financiamiento para incluir sueldo y beneficios para el director de desarrollo comunitario, mailing de negocios, suministros y administración de programas/capacitación/Conferencia.



# AF2025 CDBG AAP Cronologia



**CRONOGRAMA DE PROYECTOS DE SUBVENCIONES EN BLOQUE PARA EL DESARROLLO COMUNITARIO (CDBG) DEL AÑO FISCAL 2025**



RESOLUTION NO.: 192 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
AN AGREEMENT FOR THE PAYMENT IN LIEU OF TAXES BY AND AMONG  
THE CITY OF NEWBURGH, [SAFE WILLIAM STREET] LIMITED PARTNERSHIP, AND  
[SAFE WILLIAM STREET] HOUSING DEVELOPMENT FUND COMPANY, INC.**

**WHEREAS**, the City of Newburgh (the “City”) encourages a sufficient supply of adequate, safe and sanitary dwelling accommodations properly planned for individuals of low and very low income; and

**WHEREAS**, Safe William Street Partners, LLC intends to become a partner in a housing development fund corporation (“HDFC”), a New York not-for-profit corporation organized under Article XI of the New York Private Housing Finance Law (“PHFL”) and Section 402 of the New York State Not-for-Profit Corporation Law, though the HDFC has not yet been formed; and

**WHEREAS**, the HDFC will become the record owner of the Property, which shall be used for the purpose of providing approximately 55 residential units for occupants of very low to low income including 16 units of supportive housing (the “Project”); and

**WHEREAS**, the HDFC’s plan for the continued use of the Project constitutes a “housing project” as that term is defined in the PHFL; and

**WHEREAS**, the HDFC is a “housing development fund company” as the term is defined in Section 572 of the PHFL and Section 577 of the PHFL authorizes the City Council to exempt the Project from real property taxes; and

**WHEREAS**, Safe William Street Partners, LLC seeks a PILOT agreement (“Agreement”) whereby the HDFC will make annual payments in lieu of taxes to the City as set forth in the Agreement now presented to the City Council for approval;

**NOW THEREFORE, BE IT RESOLVED**, that the members of the City Council hereby exempt the Project from real property taxes to the extent authorized by Section 577 of the PHFL and approve the proposed PILOT Agreement by and among the City of Newburgh and the HDFC providing for annual payments as set forth in such agreement; and

**BE IT FURTHER RESOLVED**, that the City Manager is hereby authorized to execute and deliver the PILOT Agreement, in substantially the same form with other documents as Corporation Counsel may require, on behalf of the City.

**AGREEMENT FOR PAYMENT IN LIEU OF TAXES (“PILOT”) BY AND  
AMONG THE CITY OF NEWBURGH, SAFE WILLIAM STREET  
LIMITED PARTNERSHIP, AND SAFE WILLIAM STREET HOUSING  
DEVELOPMENT FUND COMPANY**

**THIS AGREEMENT FOR PAYMENT IN LIEU OF TAXES** (the “PILOT Agreement” or “Agreement”), dated as of \_\_\_\_\_, 2024, by and among the **CITY OF NEWBURGH, NEW YORK**, a New York municipal corporation, having its principal office located at 83 Broadway, Newburgh, New York 12550 (the “City”) and **SAFE WILLIAM STREET HOUSING DEVELOPMENT FUND COMPANY**, a New York not-for-profit corporation and entity organized pursuant to Article XI of the Private Housing Finance law, having its principal place of business at c/o Safe Harbors of the Hudson, Inc., 111 Broadway, New York 12550 (the “HDFC”), which HDFC will hold title to the Property (as hereinafter defined) for the benefit of **SAFE WILLIAM STREET LIMITED PARTNERSHIP**, a New York limited partnership having its principal office located at c/o Safe Harbors of the Hudson, Inc., 111 Broadway, New York 12550 (the “Partnership”).

**WHEREAS**, by the First Taxable Status Date as defined in Section 2, below, the HDFC will be the bare legal or record owner, and the Partnership will be the beneficial and equitable owner of **69 William Street**, and any parcels of property that may be subdivided and wholly created therefrom, located in the City of Newburgh, County of Orange, State of New York, as more specifically listed and described as Section 39, Block 2, Lot 25.2 on the Official Tax Map of the City of Newburgh (the “Property”); and

**WHEREAS**, the HDFC is a corporation established pursuant to Section 402 of the Not-For-Profit Corporation Law and Article XI of the Private Housing Finance Law (“PHFL”); and

**WHEREAS**, by the First Taxable Status Date as defined in Section 2, below, the HDFC will be the co-general partner of the Partnership; and

**WHEREAS**, the HDFC and the Partnership have each been formed for the purpose of providing residential rental and supportive housing accommodations for persons of low and very low-income; and

**WHEREAS**, the Partnership will develop, own, construct, maintain and operate a housing project for the purpose of providing residential rental and supportive housing accommodations for persons of low, and very low-income (the “Project”); and

**WHEREAS**, the HDFC’s and the Partnership’s plan for the use of the Property constitutes a “housing project” as that term is defined in the PHFL; and

**WHEREAS**, the HDFC is a “housing development fund company” as the term is defined in Section 572 of the PHFL; and

**WHEREAS**, pursuant to Section 577 of the PHFL, the local legislative body of a municipality may exempt the real property of a housing project of a housing development fund company from local and municipal taxes, including school taxes, other than assessments for local



improvements, to the extent of all or a part of the value of the property included in the completed project; and

**WHEREAS**, the Council Members of the City of Newburgh, New York, by Resolution No. \_\_\_\_\_ adopted \_\_\_\_\_, approved and authorized the execution of this Agreement;

**NOW, THEREFORE**, it is agreed as follows:

1. Pursuant to Section 577 of the PHFL, the City hereby exempts from local and municipal taxes, other than assessments for local improvements, one hundred percent (100%) of the value of the Property, including both land and improvements. "Local and Municipal Taxes" shall mean any and all real estate taxes levied by Orange County ("County"), the City, and the Newburgh Enlarged City School District ("School District") or other taxing jurisdiction (collectively the "Taxing Jurisdictions").
2. This tax exemption will operate for a period of **thirty (30) years**, measured from the City's first taxable status date following the date that a permanent certificate of occupancy ("Certificate of Occupancy") is issued by the City ("First Taxable Status Date"). This Agreement shall not limit or restrict the HDLC's or Partnership's right to apply for or obtain any other tax exemption to which it might be entitled upon the expiration of this Agreement. The parties understand that the exemption extended pursuant to Section 577 of the PHFL and this Agreement does not include exemption from assessments for local improvements, special assessments, or special ad valorem levies. During the period of this Agreement, the Partnership shall pay any service charges, special ad valorem levies, special assessments and improvement district charges or similar tax equivalents which are or would be levied upon or with respect to the Project by the Taxing Jurisdictions or any other taxing authority.
3. So long as the exemption hereunder continues, the Partnership shall make annual payments in lieu of taxes ("PILOT") in the amounts set forth in section 3(a) below, measured from the First Taxable Status Date, which payments shall cover all Local and Municipal Taxes owed in connection with the Property and the Project, and which payment shall be shared by Taxing Jurisdictions on the same basis as property taxes would be shared if the Property and the Project were fully taxed. So long as the tax exemption remains in effect, tenant rental charges shall not exceed the maximum established or allowed by law, rule or regulation, and the Property shall be operated in conformance with the provisions of Article XI of PHFL.
  - a. The PILOT for the Property shall be in the amount of **\$11,468.96** per year ("Minimum PILOT") for the first taxable year under the Agreement and shall not be reduced below this amount under any circumstances for the duration of this Agreement. The PILOT for the Property shall increase **three percent (3%) annually** beginning in the second taxable year of this Agreement.
  - b. The first payment pursuant to this Agreement shall be made on or before **February 28** of the calendar year following the first taxable year as contemplated in Section 2. Subsequent payments shall be due on or before **February 28** of the calendar year to which this Agreement applies. Payment shall be payable to the "City of Newburgh." Payments shall be mailed via first class mail through the United States Postal Service or personally

delivered to the City of Newburgh, attention Tax Collector, 83 Broadway, Newburgh, New York 12550, or such other address as the City may specify in writing.

- c. The HDFC and the Partnership agree that the PILOT under this Agreement will not be reduced on account of a depreciation factor or reduction in the Taxing Jurisdiction tax rate, nor will it seek to commence any actions to reduce the PILOT, and these factors have been considered in arriving at the payment amounts reflected in this Agreement.
  - d. The HDFC and the Partnership shall continue to pay all water, sewer, and sanitation charges in accordance with the assessments and rates established by the City.
4. The tax exemption provided by this Agreement will continue for the term described above provided that (a) the Property continues to be used as housing facilities for the purpose of providing residential rental and supportive housing accommodations for persons of low and very low-income in accordance with the income and rent limitations attached hereto as **Exhibit A**, and (b) any of the following occur (i) the HDFC and the Partnership operate the Property in conformance with Article XI of the PHFL; or (ii) the HDFC assumes sole legal and beneficial ownership of the Property and operates the Property in conformance with Article XI of the PHFL; or (iii) in the event an action is brought to foreclose a mortgage upon the HDFC, and the legal and beneficial interest in the Project shall be acquired at the foreclosure sale or from the mortgagee, or by a conveyance in lieu of such sale, by a housing development fund corporation organized pursuant to Article XI of the PHFL, or by the Federal government or an instrumentality thereof, or by a corporation which is, or by agreement has become subject to the supervision of the superintendent of banks or the superintendent of insurance, such successor in interest, such successor in interest shall operate the property in conformance with Article XI of the PHFL.
5. The failure to make the required payment will be treated as failure to make payment of taxes and will be governed by the same provisions of law as apply to the failure to make payment of taxes, including but not limited to enforcement and collection of taxes to the extent permitted by law. In addition to failure to pay any amount when due, HDFC and the Partnership shall be in default of this Agreement in the event of material failure to observe and perform any other covenant, condition of agreement on its part to be observed and performed hereunder, and continuance of such failure for a period of thirty (30) days after written notice specifying the nature of such failure and requesting that it be remedied; or any warranty, representation or other statement by or on behalf of HDFC or the Partnership contained in this Agreement shall prove to have been false or untrue in any material respect on the date when made or on the effective date of this Agreement. Any payment not received by its due date shall accrue interest and penalties at the rates provided for late payment of taxes to the Taxing Jurisdictions.
- a. Whenever any event of default under this Agreement shall have occurred and be continuing, the City shall have the following remedies: The City may terminate this Agreement and exercise all of the rights and remedies available for failure to pay property taxes as and when due had this Agreement not been in effect. The City may take whatever action at law or in equity as may appear necessary or desirable to collect the amount then in default or to enforce the performance and observance of the obligations, agreements and covenants of HDFC and the Partnership under this Agreement, and the Partnership shall further pay the reasonable fees and disbursements of such attorneys as the City shall engage

for the enforcement of performance or observance of any obligation, covenant or agreement on the part of HDFC and the Partnership and all other expenses, costs and disbursements so incurred.

- b. No remedy herein conferred reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute.
  - c. No delay or omission in exercising any remedy shall impair any such remedy or construed to be a waiver thereof. It shall not be necessary to give any notice other than as expressly required under this Agreement. In the event any provision contained in this Agreement should be breached and thereafter duly waived by the party or parties so empowered to act, such waiver shall be limited to the particular breach so waived and shall not be deemed to be a waiver of any other breach hereunder.
6. All notices and other communications hereunder shall be in writing and shall be sufficiently given when delivered to the applicable address stated above (or such other address as the party to whom notice is given shall have specified to the party giving notice) by registered or certified mail, return receipt requested or by such other means as shall provide the sender with documentary evidence of such delivery. This provision shall not apply in the event that the HDFC, its successors or assigns, become subject to the City's procedures with respect to the collection of delinquent taxes.
  7. This Agreement shall inure to the benefit of and shall be binding upon the City the Partnership and the HDFC and their respective successors and assigns, including the successors in interest of the Partnership and the HDFC. There shall be no assignment of this Agreement except with consent of the other party, which consent shall not be unreasonably withheld. In the event that the Partnership and the HDFC seeks to assign this agreement, the Partnership and the HDFC must demonstrate to the City, at a minimum, that the assignee or its general partner is a housing development fund company subject to Article XI of the PHFL, the assignee is willing to assume the obligations of this Agreement in writing, and the assignee shall have provided such financial and other information as shall be reasonably requested by the City in order to assure the proper completion and operation of the housing project and the compliance with the terms of this Agreement and all applicable laws, regulations and covenants.
  8. If any provision of this Agreement or its application is held invalid or unenforceable to any extent, the remainder of this Agreement and the application of that provision to other persons or circumstances shall be enforced to the greatest extent permitted by law.
  9. This Agreement may be executed in any number of counterparts with the same effect as if all the signing parties had signed the same document. All counterparts shall be construed together and shall constitute the same instrument.
  10. This Agreement constitutes the entire agreement of the parties relating to payments in lieu of taxes with respect to the Property and supersedes all prior contracts, or agreements, whether oral or written, with respect thereto.

11. Each of the parties individually represents and warrants that the execution, delivery and performance of this Agreement, (i) has been duly authorized by proper action of its governing body and does not require any other consent or approval for the execution thereof by such municipality, (ii) does not violate any law, rule, regulation, order, writ, judgment or decree by which it is bound, and (iii) will not result in or constitute a default under any agreement or instrument to which it is a party. Each such party represents that this Agreement shall constitute the legal, valid and binding agreement of such party enforceable in accordance with its terms.
12. The Partnership and HDFC jointly and severally make the following representations, warranties and covenants:
  - a. The HDFC is a “housing development fund company” under Article XI of the PHFL, and the Partnership is a limited partnership the co-general partner of which is HDFC, each of which is organized, validly existing and in good standing under the laws of the State and is authorized under the laws of the State to do business in the State, has the power to enter into this Agreement and to perform the transactions contemplated hereby and its obligations hereunder and by proper action has duly authorized the execution and delivery of this Agreement and the performance of its obligations hereunder, and the execution, delivery and performance of this Agreement does not require any other consent or approval. This Agreement shall constitute the legal, valid and binding agreement of HDFC and the Partnership enforceable in accordance with its terms.
  - b. Neither the Partnership nor HDFC is in default under, or in violation of, any indenture, mortgage, declaration, lien, lease, contract, note, order, judgment, decree or other instrument of any kind to which any of its assets are subject, and the execution, delivery and compliance by the Partnership or HDFC with the terms and conditions of this Agreement do not and will not conflict with or constitute or result in a default by the Partnership or HDFC in any material respect under or violation of, (1) the entity’s organizational documents, (2) any agreement or other instrument to which such entity is a party or by which, to such entity’s knowledge, it is bound, or (3) any constitutional or statutory provision or order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Partnership or HDFC or its property, and no event has occurred and is continuing which, with the lapse of time or the giving of notice, or both, would constitute or result in such a default or violation.
  - c. The Partnership has provided to the City true and complete financial information with respect to the Property, including without limitation project costs, financing sources, rents and income limitations.
  - d. The Partnership covenants and agrees to operate the Property in accordance with all applicable rules and regulations of Article XI of the PFHL.
  - e. The Partnership covenants and agrees to provide to the City any information or documents reasonably requested in writing by the City in order to provide any federal, state or local entity with information or reports required under any applicable law, rule or regulation.

13. The City shall file a copy of the fully-executed Agreement with the City Assessor. The Partnership shall be responsible for taking such actions as may be necessary to ensure that the Property shall be assessed as exempt upon the assessment rolls of the respective Taxing Jurisdictions, including without limitation ensuring that any required exemption form shall be filed with the appropriate officer or officers of each respective Taxing Jurisdiction. Such exemption shall be effective as of the first taxable status date of the applicable Taxing Jurisdiction following the date of this Agreement, provided that the Partnership shall timely file any requisite exemption forms.
14. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The Parties each consent to the jurisdiction of the New York courts in and for the County of Orange regarding any and all matters, including interpretation or enforcement of this Agreement or any of its provisions. Accordingly, any litigation arising hereunder shall be brought solely in such courts.
15. Entire Agreement. The Parties agree that this is the entire, fully integrated Agreement between them.
16. Amendments. This Agreement may not be amended, changed, modified, altered or terminated except by an instrument in writing executed by the Parties hereto.
17. No Third Party Beneficiaries. The Parties state that there are no third-party beneficiaries to this Agreement.
18. This Agreement shall be deemed withdrawn unless fully-executed by the Parties on or before **December 31, 2024.**

*Remainder of page intentionally left blank.*

IN WITNESS WHEREOF, the City, the HDFC and the Partnership have caused this Agreement to be executed in their respective names by their duly authorized representatives and their respective seals to be hereunder affixed, all as of the date above-written.

DATED: \_\_\_\_\_, 2024

CITY OF NEWBURGH

By: \_\_\_\_\_

Name: Todd Venning  
Title: City Manager  
Res. No.: \_\_\_\_\_-2024

DATED: \_\_\_\_\_, 2024

[SAFE WILLIAM STREET] HOUSING  
DEVELOPMENT FUND COMPANY, INC.

By: \_\_\_\_\_

Name:  
Title:

DATED: \_\_\_\_\_, 2024

[SAFE WILLIAM STREET] LIMITED  
PARTNERSHIP

By: \_\_\_\_\_

By: \_\_\_\_\_

Name:  
Title:

[illegible]

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me personally appeared **Todd Venning**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

[illegible]

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

STATE OF NEW YORK )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or person upon behalf of which the individual acted, executed the instrument.

NOTARY PUBLIC

## **Exhibit A**

### **Project**

**Project Name:** SAFE WILLIAM STREET PARTNERS

**Property:** 69 William Street, and any parcels of property that may be subdivided and wholly created therefrom, in the City of Newburgh, County of Orange, State of New York, currently identified as tax parcel Section 39, Block 2, Lot 25.2.

- Subdivision of the existing lot known as 69 William Street to its previous, three (3) lot configuration (f/k/a 69, 77, and 79 William Street), with street addresses and tax map numbers to be determined at a later date.
- Rehabilitation of the existing structure on the proposed 69 William Street location (a/k/a “Lot A”) to include approximately 3 units of very low or low income housing
- Construction of a new, infill building on the proposed 77 William Street location (a/k/a “Lot B”) to include approximately 40 units of very low or low income housing, including 16 supportive housing units
- Rehabilitation of the existing structure on the proposed 79 William Street location (a/k/a “Lot C”) to include approximately 6 units of very low or low income housing

The PILOT payment referenced in Section 3 of this Agreement shall cover 69 William Street, and any parcels of real property that are subdivided and wholly created from the current 69 William Street parcel.



**PROPOSED PILOT SCHEDULE  
69 WILLIAM STREET**

| <b>PILOT YEAR</b> | <b>PILOT PAYMENT</b> | <b>payment per unit</b> |
|-------------------|----------------------|-------------------------|
| <b>1</b>          | <b>\$11,468.96</b>   | <b>\$208.53</b>         |
| <b>2</b>          | <b>\$11,813.03</b>   | <b>\$214.78</b>         |
| <b>3</b>          | <b>\$12,167.42</b>   | <b>\$221.23</b>         |
| <b>4</b>          | <b>\$12,532.44</b>   | <b>\$227.86</b>         |
| <b>5</b>          | <b>\$12,908.42</b>   | <b>\$234.70</b>         |
| <b>6</b>          | <b>\$13,295.67</b>   | <b>\$241.74</b>         |
| <b>7</b>          | <b>\$13,694.54</b>   | <b>\$248.99</b>         |
| <b>8</b>          | <b>\$14,105.37</b>   | <b>\$256.46</b>         |
| <b>9</b>          | <b>\$14,528.54</b>   | <b>\$264.16</b>         |
| <b>10</b>         | <b>\$14,964.39</b>   | <b>\$272.08</b>         |
| <b>11</b>         | <b>\$15,413.32</b>   | <b>\$280.24</b>         |
| <b>12</b>         | <b>\$15,875.72</b>   | <b>\$288.65</b>         |
| <b>13</b>         | <b>\$16,351.99</b>   | <b>\$297.31</b>         |
| <b>14</b>         | <b>\$16,842.55</b>   | <b>\$306.23</b>         |
| <b>15</b>         | <b>\$17,347.83</b>   | <b>\$315.42</b>         |
| <b>16</b>         | <b>\$17,868.27</b>   | <b>\$324.88</b>         |
| <b>17</b>         | <b>\$18,404.31</b>   | <b>\$334.62</b>         |
| <b>18</b>         | <b>\$18,956.44</b>   | <b>\$344.66</b>         |
| <b>19</b>         | <b>\$19,525.14</b>   | <b>\$355.00</b>         |
| <b>20</b>         | <b>\$20,110.89</b>   | <b>\$365.65</b>         |
| <b>21</b>         | <b>\$20,714.22</b>   | <b>\$376.62</b>         |
| <b>22</b>         | <b>\$21,335.64</b>   | <b>\$387.92</b>         |
| <b>23</b>         | <b>\$21,975.71</b>   | <b>\$399.56</b>         |
| <b>24</b>         | <b>\$22,634.98</b>   | <b>\$411.55</b>         |
| <b>25</b>         | <b>\$23,314.03</b>   | <b>\$423.89</b>         |
| <b>26</b>         | <b>\$24,013.46</b>   | <b>\$436.61</b>         |
| <b>27</b>         | <b>\$24,733.86</b>   | <b>\$449.71</b>         |
| <b>28</b>         | <b>\$25,475.87</b>   | <b>\$463.20</b>         |
| <b>29</b>         | <b>\$26,240.15</b>   | <b>\$477.09</b>         |
| <b>30</b>         | <b>\$27,027.36</b>   | <b>\$491.41</b>         |

**PROPOSED PILOT SCHEDULE  
69 WILLIAM STREET**

| <b>PILOT YEAR</b> | <b>PILOT PAYMENT</b> | <b>payment per unit</b> |
|-------------------|----------------------|-------------------------|
| 1                 | \$11,468.96          | \$208.53                |
| 2                 | \$11,813.03          | \$214.78                |
| 3                 | \$12,167.42          | \$221.23                |
| 4                 | \$12,532.44          | \$227.86                |
| 5                 | \$12,908.42          | \$234.70                |
| 6                 | \$13,295.67          | \$241.74                |
| 7                 | \$13,694.54          | \$248.99                |
| 8                 | \$14,105.37          | \$256.46                |
| 9                 | \$14,528.54          | \$264.16                |
| 10                | \$14,964.39          | \$272.08                |
| 11                | \$15,413.32          | \$280.24                |
| 12                | \$15,875.72          | \$288.65                |
| 13                | \$16,351.99          | \$297.31                |
| 14                | \$16,842.55          | \$306.23                |
| 15                | \$17,347.83          | \$315.42                |
| 16                | \$17,868.27          | \$324.88                |
| 17                | \$18,404.31          | \$334.62                |
| 18                | \$18,956.44          | \$344.66                |
| 19                | \$19,525.14          | \$355.00                |
| 20                | \$20,110.89          | \$365.65                |

**69 WILLIAM STREET  
PROPOSED PROJECT**

**ESTIMATED ASSESSED VALUE  
UPON COMPLETION  
\$3,000,000**

|                               | <b>TAX RATE</b>  | <b>ESTIMATED TAX</b> | <b>TAX PER UNIT</b> |
|-------------------------------|------------------|----------------------|---------------------|
| <b>2024 CITY NON-HMSTD</b>    | <b>15.186885</b> | <b>\$45,560.66</b>   | <b>\$828.38</b>     |
| <b>2024 COUNTY</b>            | <b>2.300056</b>  | <b>\$6,900.17</b>    | <b>\$125.46</b>     |
| <b>2023-2024 SCHOOL / LIB</b> | <b>15.564809</b> | <b>\$46,694.43</b>   | <b>\$848.99</b>     |
| <b>TOTAL</b>                  | <b>33.05175</b>  | <b>\$99,155.25</b>   | <b>\$1,802.82</b>   |

**2024 TOTAL ASSESSED VALUE  
"as is"  
\$347,000**

|                               | <b>TAX RATE</b>  | <b>ESTIMATED TAX</b> |
|-------------------------------|------------------|----------------------|
| <b>2024 CITY NON-HMSTD</b>    | <b>15.186885</b> | <b>\$5,269.85</b>    |
| <b>2024 COUNTY</b>            | <b>2.300056</b>  | <b>\$798.12</b>      |
| <b>2023-2024 SCHOOL / LIB</b> | <b>15.564809</b> | <b>\$5,400.99</b>    |
| <b>TOTAL</b>                  | <b>33.05175</b>  | <b>\$11,468.96</b>   |

**2024 Land Value  
\$162,500**

|                               | <b>TAX RATE</b>  | <b>ESTIMATED TAX</b> |
|-------------------------------|------------------|----------------------|
| <b>2024 CITY NON-HMSTD</b>    | <b>15.186885</b> | <b>\$2,467.87</b>    |
| <b>2024 COUNTY</b>            | <b>2.300056</b>  | <b>\$373.76</b>      |
| <b>2023-2024 SCHOOL / LIB</b> | <b>15.564809</b> | <b>\$2,529.28</b>    |
| <b>TOTAL</b>                  | <b>33.05175</b>  | <b>\$5,370.91</b>    |

**69 WILLIAM STREET  
PROPOSED PROJECT**

**ESTIMATED ASSESSED  
VALUE UPON COMPLETION  
\$3,400,000**

|                               | <b>TAX RATE</b>  | <b>ESTIMATED TAX</b> | <b>TAX PER UNIT</b> |
|-------------------------------|------------------|----------------------|---------------------|
| <b>2024 CITY NON-HMSTD</b>    | <b>15.186885</b> | <b>\$51,635.41</b>   | <b>\$938.83</b>     |
| <b>2024 COUNTY</b>            | <b>2.300056</b>  | <b>\$7,820.19</b>    | <b>\$142.19</b>     |
| <b>2023-2024 SCHOOL / LIB</b> | <b>15.564809</b> | <b>\$52,920.35</b>   | <b>\$962.19</b>     |
| <b>TOTAL</b>                  | <b>33.05175</b>  | <b>\$112,375.95</b>  | <b>\$2,043.20</b>   |

RESOLUTION NO.: 193 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO  
CONTRACT NO. C013229 WITH THE NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION FOR REIMBURSEMENT OF  
ADDITIONAL COSTS INCURRED BY THE CITY OF NEWBURGH  
AS A RESULT OF PROVIDING AN ALTERNATE SOURCE OF DRINKING WATER**

**WHEREAS**, perfluorooctane sulfonic acid (PFOS) has been detected in the City of Newburgh's water supply at levels in excess of the Environmental Protection Agency's recently released lifetime health advisory level; and

**WHEREAS**, there is a continuing need to provide a temporary alternate source of drinking water to residents of the City of Newburgh, which has access to New York City's Catskill Aqueduct as a backup source of drinking water; and

**WHEREAS**, by Resolution No. 204-2016 of August 8, 2016, the City Council of the City of Newburgh authorized Contract No. C010219 with the New York State Department of Environmental Conservation (DEC) for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct, and by Resolution No. 326-2017 of November 27, 2017, Resolution No. 227-2018 of August 13, 2018, and Resolution No. 57-2021 of March 22, 2021, the City Council authorized Amendments No. 1, No. 2 and No. 3 because the need for the temporary alternate source of drinking water extended past the original end date of Contract No. C010219; and

**WHEREAS**, by Resolution No. 58-2021 of March 22, 2021, Resolution No. 198-2022 of August 8, 2022 and by Resolution No. 164-2023 of August 14, 2023, the City Council authorized Contract No. C011789 and Amendments No. 1 and No. 2 with the DEC for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct because the need for the temporary alternate source of drinking water was anticipated to extend past the expiration of Contract No. C010219 and Amendments No. 1, No. 2, and No. 3; and

**WHEREAS**, By Resolution No. 117-2024 of May 28, 2024, the City Council authorized Contract No. C013228 with the DEC for reimbursement for the actual cost of water purchased from the New York City Catskill Aqueduct because the need for the temporary alternate source of drinking water was anticipated to extend past the expiration Contract No. C011789 Amendments No. 1 and No. 2; and

**WHEREAS**, as a result of the necessity to obtain the alternate source of drinking water, the City of Newburgh has incurred and continues to incur additional costs over and above the actual cost of Catskill Aqueduct water; and

**WHEREAS**, by Resolution No. 105-2017 of April 24, 2017, the City Council authorized Contract No. C010563 with the DEC for reimbursement of the additional expenses incurred by the City of Newburgh associated with providing a temporary alternate source of drinking water to City residents through the Catskill Aqueduct not covered by Contract No. C010219, and by Resolution No. 137-2018 of May 29, 2018 and Resolution No. 116-2021 of May 10, 2021, the City Council authorized Contract No. C010563 Amendment No. 1 and No. 2 extending the contract term and the reimbursement amount; and

**WHEREAS**, by Resolution No. 31-2022 of February 14, 2022 and by Resolution No. 256-2023 of December 11, 2023, the City Council authorized Contract No. C012469 and Amendment No. 1 with the DEC for reimbursement of the additional expenses incurred by the City of Newburgh associated with providing a temporary alternate source of drinking water to City residents through the Catskill Aqueduct not covered by Contract No. C011789; and

**WHEREAS**, the need to for the temporary alternate source of drinking water is anticipated to extend past the end date of Contract No. C012469 and Amendment No. 1 and the parties have determined that a new Contract for the reimbursement of the additional expenses incurred by the City of Newburgh associated with providing a temporary alternate source of drinking water to City residents through the Catskill Aqueduct not covered by Contract No. C010219, Contract No. C011789 and Contract No. C013228 is necessary, appropriate, and in the best interest of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter into to Contract No. C013229 with the New York State Department of Environmental Conservation for continuing reimbursement of the additional expenses incurred by the City of Newburgh associated with providing a temporary alternate source of drinking water to City residents through the New York City Catskill Aqueduct not covered by Contract No. C010219, Contract No. C011789 and Contract No. C013228.

**NEW YORK STATE  
DEPARTMENT OF ENVIRONMENTAL CONSERVATION  
CONTRACT C013229**

**THIS CONTRACT** is entered into by and between the New York State Department of Environmental Conservation (hereinafter referred to as “Department”), having offices at 625 Broadway, Albany, New York 12233 and the City of Newburgh (hereinafter referred to as “Newburgh”), having offices at 83 Broadway, Newburgh, New York 12550.

**WITNESSETH:**

**WHEREAS**, perfluorooctane sulfonic acid (PFOS) has been detected in Newburgh’s water supply at levels in excess of the Environmental Protection Agency’s (EPA) recently released lifetime health advisory level; and,

**WHEREAS**, it has been determined by Legislative findings under Article 15 of the Environmental Conservation Law (ECL) that the State has the sovereign power to regulate and control the water resources of the State; and,

**WHEREAS**, in recognition of power under ECL §15-0105.5, the use of water for domestic and municipal purposes shall have priority over all other purposes; and,

**WHEREAS**, in order to provide a temporary alternate source of drinking water to residents of Newburgh, Newburgh has accessed New York City’s Catskill Aqueduct as a backup source of drinking water; and,

**WHEREAS**, reimbursement of applicable City costs related to the purchase of Catskill Aqueduct water payment are outlined in a separate contract between the Department and Newburgh, executed and approved by the New York State Office of the State Comptroller; and,

**WHEREAS**, as a result of the necessity to obtain the alternate source of drinking water Newburgh has incurred additional costs over and above the payment of the actual cost of the drinking water; and

**WHEREAS**, the Department and Newburgh declare that it is to their mutual advantage to set forth the responsibilities of the parties as it relates to the additional costs; and

**WHEREAS**, the Department has determined after fully examining all of its internal capabilities and thoroughly investigating possible alternative approaches that repayment of the expenses of the City of Newburgh associated with the additional allowable costs set forth herein can best be accomplished through a Contract.

**NOW, THEREFORE**, in consideration of the mutual promises herein contained, the parties hereto agree as follows:

## **ARTICLE 1: SCOPE**

The Department agrees to pay the Newburgh documented and Department approved actual costs of certain additional expenses incurred by the City of Newburgh in response to the PFOS contamination in the City of Newburgh drinking water as a result of the discharges from the Air National Guard at Stewart International Airport. Payment shall be based upon Article 2 of this Contract.

## **ARTICLE 2: PAYMENT**

- A. The Department shall pay to Newburgh and Newburgh shall accept from the Department as compensation for the actual costs incurred under this agreement and directly associated with the PFOS contamination in the City of Newburgh drinking water an amount not to exceed \$1,000,000.
- B. Newburgh shall submit invoices to the Department quarterly, with supporting documentation and certification by the appropriate financial officer of Newburgh demonstrating the actual costs incurred and paid by Newburgh during the previous quarter for the allowable costs described in the attached Schedule A Allowable Costs. The Department will review and approve the supporting documentation and reimburse Newburgh for the allowable costs incurred and paid by Newburgh.
- C. The Department will authorize payment within 10 days of receipt of invoices and supporting documentation submitted per paragraph D and Schedule A of this article. The Department will make best efforts to arrange payment within 30 days of receipt of those invoices and supporting documentation.
- D. All invoices must contain the proper certification of the Financial Officer of Newburgh attesting that the expenditures were properly made in accordance with all applicable laws and regulations and in accordance with Schedule A; including but not limited to procurement guidelines and cost justifications required in General Municipal Law.
- E. Newburgh will submit requests for payment, together with supporting documentation, to the Department. Request for payment must be submitted within 45 days of the end of each State fiscal year which is March 31. Failure to comply with this request or notify the Department in writing prior to March 31<sup>st</sup> regarding billing problems shall operate as a waiver by Newburgh for reimbursement by the Department.
- F. If the term of this Contract encompasses more than one State fiscal year, Newburgh shall incur no costs hereunder in subsequent fiscal years without the express written authority of the Department.
- G. Payments for expenditures incurred under this contract will be rendered electronically to Newburgh unless payment by paper check is expressly authorized by the Commissioner of the Department (Commissioner), in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. Newburgh shall comply with the Office of the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the Comptroller's website at [www.osc.state.ny.us/epay/index.htm](http://www.osc.state.ny.us/epay/index.htm), or by e-mail at [epayments@osc.state.ny.us](mailto:epayments@osc.state.ny.us). Newburgh acknowledges that it will not receive payment under this Contract if it does not comply with the Office



of the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

### **ARTICLE 3: TERM**

- A. The term of this Contract shall be from June 1, 2024 to May 31, 2026. The Contract shall be effective upon approval by the Office of the State Comptroller.
- B. This Contract may be extended for a maximum of two one-year periods upon the mutual written consent of both parties and the approval of the Office of the State Comptroller.

### **ARTICLE 4: NOTICES**

Wherever it is provided in this Contract that notice shall be given or other communications sent to the Department or Newburgh, such notices or communications shall be delivered or sent by First Class Mail to:

**Department:**

Division of Environmental Remediation  
NYS Department of Environmental Conservation  
625 Broadway  
Albany, NY 12233-7014  
Telephone Number: (518) 402-9826  
E-Mail: [benjamin.rung@dec.ny.gov](mailto:benjamin.rung@dec.ny.gov)

**Newburgh:**

Todd Venning  
City of Newburgh City Manager/Director of Finance  
83 Broadway  
Newburgh, NY 12550  
Telephone Number: (845) 569-7360  
E-Mail: [tvenning@cityofnewburgh-ny.gov](mailto:tvenning@cityofnewburgh-ny.gov)

Michelle Kelson  
Corporation Counsel  
City of Newburgh  
83 Broadway  
Newburgh NY 12550  
(845) 569-7335  
[mkelson@cityofnewburgh-ny.gov](mailto:mkelson@cityofnewburgh-ny.gov)

### **ARTICLE 5: LIABILITY**

- A. Newburgh shall be responsible for all damage to life and property due to activities of Newburgh, its subcontractors, agents, or employees, in connection with its Services under this Contract, and this

obligation is in no way limited by the enumeration of insurance coverages hereunder. Further, it is expressly understood that Newburgh shall indemnify and save harmless the Department, its officers, employees, agents, and assigns in accordance with the provisions of Appendix B, Clause II.

- B. Nothing in this Article or in this Contract shall create or give to third parties any claim or right of action against Newburgh or the State of New York beyond such as may legally exist irrespective of this Article or this Contract.

## **ARTICLE 6: DEFAULT AND TERMINATION**

- A. The Department shall have the right to postpone, suspend, abandon, or terminate this Contract, and such actions shall in no event be deemed a breach of Contract. In any of these events, the Department shall make settlement with Newburgh upon an equitable basis as determined by the Department, which shall fix the value of the work which was performed by the Newburgh prior to the postponement, suspension, abandonment, or termination of the Contract.
- B. The State shall have the right to terminate this Contract for:
- 1) unavailability of funds
  - 2) cause
    - a) If the Department determines that Newburgh has breached a material term of this Contract, it shall issue a written notice, providing Newburgh with 10 days to correct the defect. If Newburgh fails to correct the defect within this time period, or fails to make a good faith effort to do so as determined by the Department, the Department may terminate this Contract for cause.
  - 3) convenience
    - a) If the termination is for the convenience of the Department, and is not brought about as a result of unsatisfactory performance on the part of Newburgh, the Department shall pay for the allowable costs incurred up to the date of termination.

## **ARTICLE 7: STANDARD CONTRACT CLAUSES**

Newburgh will be required to comply with all of the mandatory New York State and Department contracting provisions contained in the following two attached documents:

Appendix A - Standard Clauses for All New York State Contracts;  
Appendix B - Standard Clauses for All NYSDEC Contracts;  
Appendix C - Standard Clauses for Ethics in all NYSDEC Contracts.

## **ARTICLE 8: ENTIRE CONTRACT**

This Contract consists of the following documents in the following order of precedence.

1. Appendix A
2. Appendix B
3. Appendix C
4. The Contract (including Schedule A)

## **ARTICLE 9: AFFIRMATIVE ACTION REQUIREMENTS**

Newburgh must make good faith efforts to subcontract an overall goal of 0% of the contract amount to Minority and Women Owned Business Enterprises (MWBE's). Newburgh must make good faith efforts to employ minority group members and women for a portion of any workforce hours required to perform the work under this contract. Appendix B further defines the M/WBE and EEO provisions required by Executive Law, Article 15A.

## **ARTICLE 10: INSURANCE CONSIDERATIONS**

Newburgh agrees to procure and maintain at its own expense and without expense to the Department Worker's Compensation Insurance and Disability Benefits by insurance companies licensed to do business in the State of New York, covering all operations under this Contract.

Newburgh shall furnish a certificate or certificates showing that it has complied with the Worker's Compensation and Disability Benefits requirements of this Article detailed below. The certificate or certificates shall provide that:

- Policies shall not be changed or canceled until thirty (30) days prior written notice has been given to the Department.
- Worker's Compensation and Disability Benefits certificates shall name the New York State Department of Environmental Conservation, Division of Environmental Remediation, Bureau of Program Management, 625 Broadway, Albany, NY 12233-7012, as certificate holder.
- This Contract shall be void and of no effect unless Newburgh procures the required insurance policies and maintains them until acceptance/completion of the work, whichever event is later.
- Newburgh shall require that any subcontractors hired, carry insurance with the same provisions as provided herein. Newburgh will maintain the certificate or certificates for all subcontractors hired as part of Newburgh's records.

The Department has reviewed the scope of work being accomplished under this contract and has determined that it will rely on the standard operating procedures and good business practices of Newburgh with respect to securing all appropriate types and amounts of liability insurance and appropriate endorsements. The Department waives its standard requirements for liability insurance certificates, endorsements, and supporting documentation for this Contract.

The following types of insurance are required for this Contract:

**1. Workers' Compensation:**

For work to be performed in New York State, Newburgh shall provide and maintain full New York State (NYS listed in item 3a of the policy's Information Page) coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Workers' Compensation Law.

If the agreement involves work on or near a shoreline, a U.S. Longshore and Harbor Workers' Compensation Act and/or Jones Act policy as applicable must be provided. Any waiver of this requirement must be approved by the Agency and will only be granted in unique or unusual circumstances.

Evidence of Workers' Compensation and Employers Liability coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

| FORM #              | FORM TITLE   |
|---------------------|--|
| C-105.2             | Certificate of Workers' Compensation Insurance (September 2007, or most current version) |
| U-26.3              | State Insurance Fund Version of the C-105.2 form   |
| SI-12/<br>GSI-105.2 | Certificate of Workers' Compensation Self-Insurance                                      |
| CE-200              | Certificate of Attestation of Exemption (when Contractor meets the requirements.)        |

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier.

***Please note that ACORD forms are NOT acceptable proof of New York State Workers' Compensation Insurance coverage.***

Additional information can be obtained at the Workers' Compensation website:

<http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>

**2. Disability Benefits:**

For work to be performed in New York State, Newburgh shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the New York State Disability Benefits Law. Any waiver of this requirement must be approved by the Department of Environmental Conservation and will only be granted in unique or unusual circumstances.

Evidence of Disability Benefits coverage must be provided on one of the following forms specified by the Chairman of the New York State Workers' Compensation Board:

| FORM #   | FORM TITLE   |
|----------|--|
| DB-120.1 | Certificate of Insurance Coverage under the New York State Disability Benefits Law |
| DB-155   | Certificate of Disability Self-Insurance   |
| CE-200   | Certificate of Attestation of Exemption (when Contractor meets the requirements.)  |

All forms are valid for one year from the date the form is signed/stamped, or until policy expiration, whichever is earlier.

***Please note that ACORD forms are NOT acceptable proof of New York State Disability Benefits Insurance coverage.***

Additional information can be obtained at the Workers' Compensation website:  
<http://www.wcb.ny.gov/content/main/Employers/Employers.jsp>

## **ARTICLE 11: SEVERABILITY**

If any part of this Contract is determined to be invalid, illegal or unenforceable, such determination shall not affect the validity, legality or enforceability of any other part of this Contract, and the remaining parts of this Contract shall be enforced as if the invalid, illegal or unenforceable part were not contained therein.

## **ARTICLE 12: FORCE MAJEURE**

Neither party shall be liable for any failure or delay in the performance of its respective obligations hereunder if and to the extent that such delay or failure is due to a cause or circumstance beyond the reasonable control of such party, including, without limitation, acts of God or the public enemy, expropriation or confiscation of lands or facilities, compliance with any law, order or request of any Federal, State, municipal or local governmental authority, acts of war, rebellion or sabotage or damage resulting therefrom, fires, floods, storms, explosions, accidents, riots, strikes or the delay or failure to perform by any subcontractor by reason of any cause or circumstances beyond the reasonable control of such subcontractor.

## **ARTICLE 13: EXECUTIVE ORDER 177**

- A. Executive Order No. 177, Prohibiting State Contracts with Entities that Support Discrimination, orders that New York State's government will not do business with entities that promote or tolerate discrimination or infringement on the civil rights and liberties of New Yorkers. New York State is dedicated to ensuring that all individuals are treated equally, regardless of their age, race, creed, color, national origin, sexual orientation, gender identity, military status, sex, marital status, disability, or other protected basis. To that end, New York has enacted numerous laws, regulations, and policies, and will continue to aggressively enforce its strong protections against discrimination to the maximum extent allowable by law.
- B. In order to comply with this order, Newburgh is required to complete the Executive Order No. 177 Certification which certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national

origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law.

#### **ARTICLE 14: COMPLIANCE WITH LAWS**

Newburgh agrees to comply with the provisions of the Labor Law and all State and Federal laws, local statutes, ordinances, and regulations that are applicable to the performance of this Contract.

**SIGNATURE PAGE**  
**Contract C013229**

**IN WITNESS WHEREOF**, this Contract has been duly executed by the parties hereto on the day and year appearing following their respective signatures.

**Agency Certification:** "In addition to the acceptance of this Contract, I also certify that original copies of this signature page will be attached to all other exact copies of this Contract."

| NEWBURGH SIGNATURE | DEPARTMENT SIGNATURE                           |
|--------------------|--|
| By:                | By:  |
| Print Name:        | Print Name: Katherine Calogero                 |
| Title:             | Title: Director, Division of Fiscal Management |
| Dated:             | Dated:   |

| Newburgh Acknowledgement   |
|--|
| State of _____ )<br>County of _____ ) ss.:<br>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(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.<br><br>_____<br>Notary Public |

| ATTORNEY GENERAL SIGNATURE | COMPTROLLER SIGNATURE                                |
|----------------------------|--|
| Approved as to Form:       | Approved:<br>Thomas P. DiNapoli<br>State Comptroller |
| Dated:                     | Dated:   |

Schedule A  
Allowable Cost Categories

- 1) Legal Services (directly associated with contamination)
- 2) Engineering Services
- 3) Contractual Services
- 4) Labor (force account)
- 5) Utilities
- 6) Equipment
- 7) Other Allowable Costs including such things as public outreach costs, and costs that do not fit within the above categories but fall within legitimate Department approved expenses associated with the Article 1: Scope.

Reimbursement of all of the above costs are subject to the same documentation requirements and the Department discretion to review and approve as set forth herein.



## **APPENDIX A**

# **STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS**

**PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.**

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## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, “the contract” or “this contract”) agree to be bound by the following clauses which are hereby made a part of the contract (the word “Contractor” herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State’s previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller’s approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor’s business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State’s prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER’S APPROVAL.** In accordance with Section 112 of the State Finance Law, if this contract exceeds \$50,000 (or \$75,000 for State University of New York or City University of New York contracts for goods, services, construction and printing, and \$150,000 for State University Health Care Facilities) or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller’s approval of contracts let by the Office of General Services, either for itself or its customer agencies by the Office of General Services Business Services Center, is required when such contracts exceed \$85,000. Comptroller’s approval of contracts established as centralized contracts through the Office of General Services is required when such contracts exceed \$125,000, and when a purchase order or other procurement transaction issued under such centralized contract exceeds \$200,000.

**4. WORKERS’ COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers’ Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, nor subject any individual to harassment, because of age, race, creed, color, national origin, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor’s employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in

accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2 NYCRR § 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records

must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.**

In accordance with Section 312 of the Executive Law and 5 NYCRR Part 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "(a), (b) and (c)" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not

apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this

law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** In accordance with the MacBride Fair Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business and Technology Development  
625 Broadway  
Albany, New York 12245  
Telephone: 518-292-5100

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue 33rd Floor  
New York, NY 10017  
646-846-7364  
email: [mwbebusinessdev@esd.ny.gov](mailto:mwbebusinessdev@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/searchcertifieddirectory.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 2023, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law §§ 899-aa and 899-bb and State Technology Law § 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a “procurement contract” as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 5-a, if the contractor fails to make the certification required by Tax Law § 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law § 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. ADMISSIBILITY OF REPRODUCTION OF CONTRACT.** Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.

## APPENDIX B

### Standard Clauses for All New York State Department of Environmental Conservation Contracts

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department").

#### I. **Postponement, suspension, abandonment or termination by the Department:**

The Department shall have the right to postpone, suspend, abandon or terminate this contract, and such actions shall in no event be deemed a breach of contract. In the event of any termination, postponement, delay, suspension or abandonment, the Contractor shall immediately stop work, take steps to incur no additional obligations, and to limit further expenditures. Within 15 days of receipt of notice, the Contractor shall deliver to the Department all data, reports, plans, or other documentation related to the performance of this contract, including but not limited to source codes and specifications, guarantees, warranties, as-built plans and shop drawings. In any of these events, the Department shall make settlement with the Contractor upon an equitable basis as determined by the Department which shall fix the value of the work which was performed by the Contractor prior to the postponement, suspension, abandonment or termination of this contract. This clause shall not apply to this contract if the contract contains other provisions applicable to postponement, suspension or termination of the contract.

II. **Indemnification and Hold harmless** The Contractor agrees that it will indemnify and save harmless the Department and the State of New York from and against all losses from claims, demands, payments, suits, actions, recoveries and judgments of every nature and description brought or recovered against it by reason of any omission or tortious act of the Contractor, its agents, employees, suppliers or subcontractors in the performance of this contract. The Department and the State of New York may retain such monies from the amount due Contractor as may be necessary to satisfy any claim for damages, costs and the like, which is asserted against the Department and/or the State of New York.

#### III. **Conflict of Interest**

(a) Organizational Conflict of Interest. To the best of the Contractor's knowledge and belief, the Contractor warrants that there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as herein defined, or that the Contractor has disclosed all such relevant information to the Department.

(1) An organizational conflict of interest exists when the nature of the work to be performed under this contract may,

without some restriction on future activities, impair or appear to impair the Contractor's objectivity in performing the work for the Department.

(2) The Contractor agrees that if an actual, or potential organizational conflict of interest is discovered at any time after award, whether before or during performance, the Contractor will immediately make a full disclosure in writing to the Department. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Department, to avoid, mitigate, or minimize the actual or potential conflict.

(3) To the extent that the work under this contract requires access to personal, proprietary or confidential business or financial data of persons or other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure and agrees not to use it to compete with such companies.

(b) Personal Conflict of Interest: The following provisions with regard to management or professional level employee personnel performing under this contract shall apply until the earlier of the termination date of the affected employee(s) or the duration of the contract.

(1) A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair or appear to impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work. The Contractor agrees to notify the Department immediately of any actual or potential personal conflict of interest with regard to any such person working on or having access to information regarding this contract, as soon as Contractor becomes aware of such conflict. The Department will notify the Contractor of the appropriate action to be taken.

(2) The Contractor agrees to advise all management or professional level employees involved in the work of this contract, that they must report any personal conflicts of interest to the Contractor. The Contractor must then advise the Department which will advise the Contractor of the appropriate action to be taken.



(3) Unless waived by the Department, the Contractor shall certify annually that, to the best of the Contractor's knowledge and belief, all actual, apparent or potential conflicts of interest, both personal and organizational, as defined herein, have been reported to the Department. Such certification must be signed by a senior executive of the Contractor and submitted in accordance with instructions provided by the Department. Along with the annual certification, the Contractor shall also submit an update of any changes in any conflict of interest plan submitted with its proposal for this contract. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter. The certification is to be submitted no later than 45 days after the close of the previous certification period covered.

(4) In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York State Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

(c) Remedies - The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid an organizational or personal conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be permitted by the terms of Clause I of this Appendix or other applicable provisions of this contract regarding termination.

(d) The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has

developed the statement of work or the solicitation package

(e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder (except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services) provisions which shall conform substantially to the language of this clause, including this paragraph (e), unless otherwise authorized by the Department.

**If this is a contract for work related to action at an inactive hazardous waste site, the following paragraph shall apply to those Contractors whose work requires the application of professional judgment: It does not apply to construction contracts.**

(f) Due to the scope and nature of this contract, the Contractor shall observe the following restrictions on future hazardous waste site contracting for the duration of the contract.

(1) The Contractor, during the life of the work assignment and for a period of three (3) years after the completion of the work assignment, agrees not to enter into a contract with or to represent any party with respect to any work relating to remedial activities or work pertaining to a site where the Contractor previously performed work for the Department under this contract without the prior written approval of the Department.

(2) The Contractor agrees in advance that if any bids/proposals are submitted for any work for a third party that would require written approval of the Department prior to entering into a contract because of the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk, and no claim shall be made against the Department to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

**IV. Requests for Payment** All requests for payment by the Contractor must be submitted on forms supplied and approved by the Department. Each payment request must contain such items of information and supporting documentation as are required by the Department, and shall be all-inclusive for the period of time covered by the payment request.

V. **Compliance with Federal requirements** To the extent that federal funds are provided to the Contractor or used in paying the Contractor under this contract, the Contractor agrees that it will comply with all applicable federal laws and regulations, including but not limited to those laws and regulations under which the Federal funds were authorized. The Contractor further agrees to insert in any subcontract hereunder, provisions which shall conform substantially to the language of this clause.

VI. **Independent Contractor** The Contractor shall have the status of an independent contractor. Accordingly, the Contractor agrees that it will conduct itself in a manner consistent with such status, and that it will neither hold itself out as, nor claim to be, an officer or employee of the Department by reason of this contract. It further agrees that it will not make any claim, demand or application to the Department for any right or privilege applicable to an officer or employee of the Department, including but not limited to worker's compensation coverage, unemployment insurance benefits, social security coverage, or retirement membership or credit.

VII. **Compliance with applicable laws**

(a) Prior to the commencement of any work under this contract, the Contractor is required to meet all legal requirements necessary in the performance of the contract. This includes but is not limited to compliance with all applicable federal, state and local laws and regulations promulgated thereunder. It is the Contractor's responsibility to obtain any necessary permits, or other authorizations. By signing this contract, the Contractor affirmatively represents that it has complied with said laws, unless it advises the Department otherwise, in writing. The Department signs this contract in reliance upon this representation.

(b) During the term of this contract, and any extensions thereof, the Contractor must remain in compliance with said laws. A failure to notify the Department of noncompliance of which the Contractor was or should have been aware, may be considered a material breach of this contract.

VIII. **Dispute Resolution** The parties agree to the following steps, or as many as are necessary to resolve disputes between the Department and the Contractor.

(a) The Contractor specifically agrees to submit, in the first instance, any dispute relating to this contract to the designated individual, who shall render a written decision and furnish a copy thereof to the Contractor.

(1) The Contractor must request such decision in writing no more than fifteen days after it knew or should have known of the facts which are the basis of the dispute.

(2) The decision of the designated individual shall be the final DEC determination, unless the Contractor files a written appeal of that decision with the designated appeal individual ("DAI") within twenty days of receipt of that decision.

(b) Upon receipt of the written appeal, the DAI, will review the record and decision. Following divisional procedures in effect at that time, the DAI will take one of the following actions, with written notice to the Contractor.

- (1) Remand the matter to the program staff for further negotiation or information if it is determined that the matter is not ripe for review; or
- (2) Determine that there is no need for further action, and that the determination of the designated individual is confirmed; or
- (3) Make a determination on the record as it exists.

(c) The decision of the DAI shall be the final DEC decision unless the Contractor files a written appeal of that decision with the Chair of the Contract Review Committee ("CRC") within twenty days of receipt of that decision.

The designated individual to hear disputes is:

Bureau Director, DER

(Name and Title)

625 Broadway, Albany NY 12233-7011

(Address)

(518) 402-9543

(Telephone)

The designated appeal individual to review decisions is:

David Harrington, Assistant Division Director

(Name and Title)

625 Broadway, Albany NY 12233-7011

(Address)

(518) 402-9543

(Telephone)

The Chair of the Contract Review Committee is:

Department of Environmental Conservation  
Nancy W. Lussier Chair  
Contract Review Committee  
625 Broadway, 10<sup>th</sup> Floor  
Albany, NY 12233-5010  
Telephone: (518) 402-9228

(d) Upon receipt of the written appeal, the Chair of the CRC, in consultation with the members of the CRC and the Office of General Counsel, will take one of the following actions, or a combination thereof, with written notice to the Contractor.

(1) Remand the matter to program staff for additional fact finding, negotiation, or other appropriate action; or

(2) Adopt the decision of the DAI; or

(3) Consider the matter for review by the CRC in accordance with its procedures.

(e) Following a decision to proceed pursuant to (d) 3, above, the Chair of the CRC shall convene a proceeding in accordance with the CRC's established contract dispute resolution guidelines. The proceeding will provide the Contractor with an opportunity to be heard.

(f) Following a decision pursuant to (d) 2 or (d) 3, the CRC shall make a written recommendation to the Assistant Commissioner for Administration who shall render the final DEC determination.

(g) At any time during the dispute resolution process, and upon mutual agreement of the parties, the Office of Hearings and Mediation Services (OHMS) may be requested to provide mediation services or other appropriate means to assist in resolving the dispute. Any findings or recommendations made by the OHMS will not be binding on either party.

(h) Final DEC determinations shall be subject to review only pursuant to Article 78 of the Civil Practice Law and Rules.

(i) Pending final determination of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract in accordance with the decision of the designated individual. Nothing in this Contract shall be construed as making final the decision of any administrative officer upon a question of law.

(j) Notwithstanding the foregoing, at the option of the Contractor, the following shall be subject to review by the CRC: Disputes arising under Article 15-A of the Executive Law (Minority and Women Owned Business participation), the Department's determination with respect to the adequacy of the Contractor's Utilization Plan, or the Contractor's showing of good faith efforts to comply therewith. A request for a review before the CRC should be made, in writing, within twenty days of receipt of the Department's determination.

(k) The CRC will promptly convene a review in accordance with Article 15-A of the Executive Law and the regulations promulgated thereunder.

## **IX. Labor Law Provisions**

(a) When applicable, the Contractor shall post, in a location designated by the Department, a copy of the New York State Department of Labor schedules of prevailing wages and supplements for this project, a copy of all re-determinations of such schedules for the project, the Workers' Compensation Law Section 51 notice, all other notices required by law to be posted at the site, the Department of Labor notice that this project is a public work project on which each worker is entitled to receive the prevailing wages and supplements for their occupation, and all other notices which the Department directs the Contractor to post. The Contractor shall provide a surface for such notices which is satisfactory to the Department. The Contractor shall maintain such notices in a legible manner and shall replace any notice or schedule which is damaged, defaced, illegible or removed for any reason. Contractor shall post such notices before commencing any work on the site and shall maintain such notices until all work on the site is complete.

(b) When appropriate, contractor shall distribute to each worker for this Contract a notice, in a form provided by the Department, that this project is a public work project on which each worker is entitled to receive the prevailing wage and supplements for the occupation at which he or she is working. Worker includes employees of Contractor and all Subcontractors and all employees of suppliers entering the site. Such notice shall be distributed to each worker before they start performing any work of this contract. At the time of distribution, Contractor shall have each worker sign a statement, in a form provided by the Department, certifying that the worker has received the notice required by this section, which signed statement shall be maintained with the payroll records required by the following paragraph (c).

(c) Contractor shall maintain on the site the original certified payrolls or certified transcripts thereof which Contractor and all of its Subcontractors are required to maintain pursuant to the New York Labor Law Section 220. Contractor shall maintain with the payrolls or transcripts thereof, the statements signed by each worker pursuant to paragraph (b).

(d) Within thirty days of issuance of the first payroll, and every thirty days thereafter, the Contractor and every subcontractor must submit a transcript of the original payroll to the Department, which transcript must be subscribed and affirmed as true under penalty of perjury.

X. **Offset** In accordance with State Law, the Department has the authority to administratively offset any monies due it from the Contractor, from payments due to the Contractor under this contract. The Department may also (a) assess interest or late payment charges, and collection fees, if applicable; (b) charge a fee for any dishonored check; (c) refuse to renew certain licenses and permits.

XI. **Tax Exemption** Pursuant to Tax Law Section 1116, the State is exempt from sales and use taxes. A standard state voucher is sufficient evidence thereof. For federal excise taxes, New York's registration Number 14740026K covers tax-free transactions under the Internal Revenue Code.

XII. **Litigation Support** In the event that the Department becomes involved in litigation related to the subject matter of this contract, the Contractor agrees to provide background support and other litigation support, including but not limited to depositions, appearances, and testimony. Compensation will be negotiated and based on rates established in the contract, or as may otherwise be provided in the contract.

XIII **Equipment** Any equipment purchased with funds provided under this contract, shall remain the property of the Department, unless otherwise provided in the contract. The Contractor shall be liable for all costs for maintaining the property in good, usable condition. It shall be returned to the Department upon completion of the contract, in such condition, unless the Department elects to sell the equipment to the Contractor, upon mutually agreeable terms.

XIV. **Inventions or Discoveries** Any invention or discovery first made in performance of this Contract shall be the property of the Department, unless otherwise provided in the contract. The Contractor agrees to provide the Department with any and all materials related to this property. At the Department's option, the Contractor may be granted a non-exclusive license.

XV. **Patent and Copyright Protection**

If any patented or copyrighted material is involved in or results from the performance of this Contract, this Article shall apply.

(a) The Contractor shall, at its expense, defend any suit instituted against the Department and indemnify the Department against any award of damages and costs made against the Department by a final judgment of a court of last resort based on the claim that any of the products, services or consumable supplies furnished by the Contractor under this Contract infringes any patent, copyright or other proprietary right; provided the Department gives the Contractor:

- (1) prompt written notice of any action, claim or threat of infringement suit, or other suit, and
- (2) the opportunity to take over, settle or defend such action at the Contractor's sole expense, and
- (3) all available information, assistance and authority necessary to the action, at the Contractor's sole expense.
- (4) The Contractor shall control the defense of any such suit, including appeals, and all negotiations to effect settlement, but shall keep the Department fully informed concerning the progress of the litigation.

(b) If the use of any item(s) or parts thereof is held to infringe a patent or copyright and its use is enjoined, or Contractor believes it will be enjoined, the Contractor shall have the right, at its election and expense to take action in the following order of precedence:

- (1) procure for the Department the right to continue using the same item or parts thereof;
- (2) modify the same so that it becomes non-infringing and of at least the same quality and performance;
- (3) replace the item(s) or parts thereof with noninfringing items of at least the same quality and performance;
- (4) if none of the above remedies are available, discontinue its use and eliminate any future charges or royalties pertaining thereto. The Contractor will buy back the infringing product(s) at the State's book value, or in the event of a lease, the parties shall terminate the lease. If discontinuation or elimination results in the Contractor not being able to perform the Contract, the Contract shall be terminated.

(c) In the event that an action at law or in equity is commenced against the Department arising out of a claim that the Department's use of any item or material pursuant to or resulting from this Contract infringes any patent, copyright or proprietary right, and such action is forwarded by the Department to the Contractor for defense and indemnification pursuant to this Article, the Department shall copy all pleadings and documents forwarded to the Contractor together with the forwarding correspondence and a copy of this Contract to the Office of the Attorney General of the State of New York. If upon receipt of such request for defense, or at any time thereafter, the Contractor is of the opinion that the allegations in such action, in whole or in part, are not covered by the indemnification set forth in this Article, the Contractor shall immediately notify the Department and the Office of the Attorney General of the State of New York in writing and shall specify to what

extent the Contractor believes it is and is not obligated to defend and indemnify under the terms and conditions of this Contract. The Contractor shall in such event protect the interests of the Department and State of New York and secure a continuance to permit the State of New York to appear and defend its interests in cooperation with Contractor as is appropriate, including any jurisdictional defenses which the Department and State shall have.

(d) The Contractor shall, however, have no liability to the Department under this Article if any infringement is based upon or arises out of: (1) compliance with designs, plans, or specifications furnished by or on behalf of the Department as to the items; (2) alterations of the items by the Department; (3) failure of the Department to use updated items provided by the Contractor for avoiding infringement; (4) use of items in combination with apparatus or devices not delivered by the Contractor; (5) use of items in a manner for which the same were neither designed nor contemplated; or (6) a patent or copyright in which the Department or any affiliate or subsidiary of the Department has any direct or indirect interest by license or otherwise.

(e) The foregoing states the Contractor's entire liability for, or resulting from, patent or copyright infringement or claim thereof.

**XVI. Force Majeure** The term Force Majeure shall include acts of God, work stoppages due to labor disputes or strikes, fires, explosions, epidemics, riots, war rebellion, sabotage or the like. If a failure of or delay in performance by either party results from the occurrence of a Force Majeure event, the delay shall be excused and the time for performance extended by a period equivalent to the time lost because of the Force majeure event, if and to the extent that:

(a) The delay or failure was beyond the control of the party affected and not due to its fault or negligence; and

(b) The delay or failure was not extended because of the affected party's failure to use all reasonable diligence to overcome the obstacle or to resume performance immediately after such obstacle was overcome; and

(c) The affected party provides notice within (5) days of the onset of the event, that it is invoking the protection of this provision.

**XVII. Freedom of Information Requests** The Contractor agrees to provide the Department with any records which must be released in order to comply with a request pursuant to the Freedom of Information Law. The Department will provide the contractor with an opportunity to identify material which may be protected from release

and to support its position.

**XVIII. Precedence** In the event of a conflict between the terms of this Appendix B and the terms of the Contract (including any and all attachments thereto and amendments thereof, but not including Appendix A), the terms of this Appendix B shall control. In the event of a conflict between the terms of this Appendix B, and the terms of Appendix A, the terms of Appendix A shall control.

## **XIX. Article 15-Requirements**

### **PARTICIPATION BY MINORITY GROUP MEMBERS AND WOMEN WITH RESPECT TO STATE CONTRACTS: REQUIREMENTS AND PROCEDURES**

#### **(a) General Provisions**

(1)The Department is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

(2)The Contractor to the subject contract (the "Contractor" and the "Contract," respectively) agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to the New York State Department (the "Department", to fully comply and cooperate with the Department in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for certified minority and women-owned business enterprises ("MWBEs"). Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR §142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, state or local laws.

(3)Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to Section VII of this Article or enforcement proceedings as allowed by the Contract.

**(b) Contract Goals**

(1) For purposes of this procurement, the Department hereby establishes an overall goal of 0% for Minority and Women-Owned Business Enterprises (“MWBE”) participation, (based on the current availability of qualified MBEs and WBEs).

(2) For purposes of providing meaningful participation by MWBEs on the Contract and achieving the Contract Goals established in Section II-A hereof, Contractor should reference the directory of New York State Certified MWBEs found at the following internet address;

<https://ny.newnycontracts.com>

Additionally, the Contractor is encouraged to contact the Division of Minority and Woman Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

(3) Where MWBE goals have been established herein, pursuant to 5 NYCRR §142.8, Contractor must document “good faith efforts” to provide meaningful participation by MWBEs as subcontractors or suppliers in the performance of the Contract. In accordance with Section 316-a of Article 15-A and 5 NYCRR §142.13, the Contractor acknowledges that if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals set forth in the Contract, such a finding constitutes a breach of contract and the Contractor shall be liable to the Department for liquidated or other appropriate damages, as set forth herein.

**(c) Equal Employment Opportunity (EEO)**

(1) Contractor agrees to be bound by the provisions of Article 15-A and the MWBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the “Division”). If any of these terms or provisions conflict with applicable law or regulations, such laws and regulations shall supersede these requirements. Contractor shall comply with the following provisions of Article 15-A:

(i) Contractor and Subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, EEO shall apply in the

areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(ii) The Contractor shall submit an EEO policy statement to the Department within seventy two (72) hours after the date of the notice by Department to award the Contract to the Contractor.

(iii) If Contractor or Subcontractor does not have an existing EEO policy statement, the Department may provide the Contractor or Subcontractor a model statement. This statement can be found at the link provided in Section 8.

(iv) The Contractor’s EEO policy statement shall include the following language:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability or marital status, will undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force.
- b. The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.
- c. The Contractor shall request each employer Department, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employer Department, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex age, disability or marital status and that such union or representative will affirmatively cooperate in the

implementation of the Contractor's obligations herein.

- d. The Contractor will include the provisions of Subdivisions (a) through (c) of this Subsection 4 and Paragraph "E" of this Section III, which provides for relevant provisions of the Human Rights Law, in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.
- e. **EEO Contract Goals** for the purposes of this procurement, the Department hereby establishes a goal of 0% Minority Labor Force Participation, 0% Female Labor Force Participation.

#### (2) Staffing Plan Form

To ensure compliance with this Section, the Contractor shall submit a staffing plan to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and Federal occupational categories. Contractors shall complete the Staffing plan form and submit it as part of their bid or proposal or within a reasonable time, but no later than the time of award of the contract.

#### (3) Workforce Employment Utilization Report Form ("Workforce Report")

- (i) Once a contract has been awarded and during the term of Contract, Contractor is responsible for updating and providing notice to the Department of any changes to the previously submitted Staffing Plan. This information is to be submitted on a quarterly basis during the term of the Contract to report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. The Workforce Report must be submitted to report this information.
- (ii) Separate forms shall be completed by Contractor and any subcontractor performing work on the Contract.

- (iii) In limited instances, Contractor may not be able to separate out the workforce utilized in the performance of the Contract from Contractor's and/or subcontractor's total workforce. When a separation can be made, Contractor shall submit the Workforce Report and indicate that the information provided related to the actual workforce utilized on the Contract. When the workforce to be utilized on the contract cannot be separated out from Contractor's and/or subcontractor's total workforce, Contractor shall submit the Workforce Report and indicate that the information provided is Contractor's total workforce during the subject time frame, not limited to work specifically under the Contract.

- (2) Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

#### (d) MWBE Utilization Plan

- (1) The Contractor represents and warrants that Contractor has submitted an MWBE Utilization Plan either prior to, or at the time of, the execution of the contract.
- (2) Contractor agrees to use such MWBE Utilization Plan for the performance of MWBEs on the Contract pursuant to the prescribed MWBE goals set forth in Section III-A of this Appendix.
- (3) Contractor further agrees that a failure to submit and/or use such MWBE Utilization Plan shall constitute a material breach of the terms of the Contract. Upon the occurrence of such a material breach, Department shall be entitled to any remedy provided herein, including but not limited to, a finding of Contractor non-responsiveness.

#### (e) Waivers

- (1) For Waiver Requests Contractor should use Waiver Request Form.

(2) If the Contractor, after making good faith efforts, is unable to comply with MWBE goals, the Contractor may submit a Request for Waiver form documenting good faith efforts by the Contractor to meet such goals. If the documentation included with the waiver request is complete, the Department shall evaluate the request and issue a written notice of acceptance or denial within twenty (20) days of receipt.

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

#### **(f) Quarterly MWBE Contractor Compliance Report**

Contractor is required to submit a Quarterly MWBE Contractor Compliance Report Form to the Department by the 10<sup>th</sup> day following each end of quarter over the term of the Contract documenting the progress made towards achievement of the MWBE goals of the Contract.

#### **(g) Liquidated Damages - MWBE Participation**

(1) Where Department determines that Contractor is not in compliance with the requirements of the Contract and Contractor refuses to comply with such requirements, or if Contractor is found to have willfully and intentionally failed to comply with the MWBE participation goals, Contractor shall be obligated to pay to the Department liquidated damages.

(2) Such liquidated damages shall be calculated as an amount equaling the difference between:

- (i) All sums identified for payment to MWBEs had the Contractor achieved the contractual MWBE goals; and
- (ii) All sums actually paid to MWBEs for work performed or materials supplied under the Contract.

(3) In the event a determination has been made which requires the payment of liquidated damages and such identified sums have not been withheld by the Department, Contractor shall pay such liquidated damages to the Department within sixty (60) days after they are assessed by the Department unless prior to the expiration of such sixtieth day, the Contractor has filed a complaint with the

Director of the Division of Minority and Woman Business Development pursuant to Subdivision 8 of Section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of the Department.

#### **(h) Forms**

The following forms referenced in Article XVIII 3-A-3, 3B, 3C and 5A can be found at  
<http://www.dec.ny.gov/about/48854.html>



## Appendix C

### Standard Clauses for Ethics in all NYSDEC Contracts

The parties to the attached contract, license, lease, grant, amendment or other agreement of any kind (hereinafter "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract. The word "Offeror" herein refers to any party submitting an application, bid, proposal, or other documents in response to this procurement. The word "Contractor" herein refers to any party to the contract, other than the New York State Department of Environmental Conservation (hereinafter "Department").

#### **I. Conflict of Interest**

##### **A. Procurement Phase:**

1. An Offeror will disclose any existing or contemplated relationship with any other person or entity, including relationships with any member, shareholders of 5% or more, parent, subsidiary, or affiliated entity, which would constitute an actual or potential conflict of interest or appearance of impropriety, relating to other clients/customers of the Offeror or former officers and employees of the Agencies and their Affiliates, in connection with the Offeror rendering services enumerated in this procurement. If a conflict does or might exist, the Offeror will describe how the Offeror would eliminate or prevent it. This description will include, but not be limited to what procedures will be followed to detect, notify the Agencies of, and resolve any such conflicts.
2. The Offeror must disclose whether it, or any of its members, shareholders of 5% or more, parents, affiliates, or subsidiaries, have been the subject of any investigation or disciplinary action by the New York State Joint Commission on Public Ethics or its predecessor State entities (collectively, "Commission"), and if so, a brief description must be included in the Offeror's response indicating how any matter before the Commission was resolved or whether it remains unresolved.
3. The Offeror/Contractor has provided a form (Vendor Assurance of No Conflict of Interest or Detrimental Effect attached hereto), signed by an authorized executive or legal representative attesting that the Offeror's/Contractor's performance of the services does not and will not create a conflict of interest with, nor position the Offeror/Contractor to breach any other contract currently in force with the State of New York, that the Offeror/Contractor will not act in any manner that is detrimental to any State project on which the Offeror/Contractor is rendering services.

##### **B. Contract Phase:**

1. The Contractor hereby reaffirms the attestations made in its proposal and covenants and represents that there is and shall be no actual or potential conflict of interest that could prevent the Contractor's satisfactory or ethical performance of duties required to be performed pursuant to the terms of this contract. The Contractor shall have a duty to notify the Department immediately of any actual or potential conflicts of interest.

2. In conjunction with any subcontract under this contract, the Contractor shall obtain and deliver to the Department, prior to entering into a subcontract, a Vendor Assurance of No Conflict of Interest or Detrimental Effect form, signed by an authorized executive or legal representative of the subcontractor. The Contractor shall also require in any subcontracting agreement that the subcontractor, in conjunction with any further subcontracting agreement, obtain and deliver to the Department a signed and completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form for each of its subcontractors prior to entering into a subcontract.
3. The Department and the Contractor recognize that conflicts may occur in the future because the Contractor may have existing or establish new relationships. The Department will review the nature of any relationships and reserves the right to terminate this contract for any reason, or for cause, if, in the judgment of the Department, a real or potential conflict of interest cannot be cured.
4. In performing this contract, the Contractor recognizes that its employees may have access to data, either provided by the Department or first generated during contract performance, of a sensitive nature which should not be released without prior Department approval. If this situation occurs, the Contractor agrees to obtain confidentiality agreements from all affected employees working on requirements under this contract including subcontractors and consultants. Such agreements shall contain provisions which stipulate that each employee agrees not to disclose, either in whole or in part, to any entity external to the Department, Department of Health or the New York State Department of Law, any information or data provided by the Department or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the Department. If a Contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the Department so that the Department can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.
5. The Department may terminate this contract in whole or in part, if it deems such termination necessary to avoid a conflict of interest, or an unauthorized disclosure of information. If the Contractor fails to make required disclosures or misrepresents relevant information to the Department, the Department may terminate the contract, or pursue such other remedies as may be allowed by law or other applicable provisions of this contract regarding termination.
6. The Contractor will be ineligible to make a proposal or bid on a contract for which the Contractor has developed the statement of work or the solicitation package.
7. ***If this is a contract for work related to action at an inactive hazardous waste site, the following paragraph shall apply to those Contractors whose work requires the application of professional judgment: It does not apply to construction contracts.***

Due to the scope and nature of this contract, the Contractor shall observe the following restrictions on future hazardous waste site contracting for the duration of the contract.

- a. The Contractor, during the life of the work assignment and for a period of three (3) years after the completion of the work assignment, agrees not to enter into a contract with or to

represent any party with respect to any work relating to remedial activities or work pertaining to a site where the Contractor previously performed work for the Department under this contract without the prior written approval of the Department.

- b. The Contractor agrees in advance that if any bids/proposals are submitted for any work for a third party that would require written approval of the Department prior to entering into a contract because of the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk, and no claim shall be made against the Department to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.

## **II. PUBLIC OFFICERS LAW**

Contractors, consultants, vendors, and subcontractors may hire former State Agency or Authority employees. However, as a general rule and in accordance with New York Public Officers Law, former employees of the State Agency or Authority may neither appear nor practice before the State Agency or Authority, nor receive compensation for services rendered on a matter before the State Agency or Authority, for a period of two years following their separation from State Agency or Authority service. In addition, former State Agency or Authority employees are subject to a “lifetime bar” from appearing before the State Agency or Authority or receiving compensation for services regarding any transaction in which they personally participated or which was under their active consideration during their tenure with the State Agency or Authority.

## **III. ETHICS REQUIREMENTS**

The Contractor and its subcontractors shall not engage any person who is, or has been at any time, in the employ of the State to perform services in violation of the provisions of the New York Public Officers Law, other laws applicable to the service of State employees, and the rules, regulations, opinions, guidelines or policies promulgated or issued by the New York State Joint Commission on Public Ethics, or its predecessors (collectively, the “Ethics Requirements”).

The Contractor certifies that all of its employees and those of its subcontractors who are former employees of the State and who are assigned to perform services under this contract shall be assigned in accordance with all Ethics Requirements. During the Term, no person who is employed by the Contractor or its subcontractors and who is disqualified from providing services under this contract pursuant to any Ethics Requirements may share in any net revenues of the Contractor or its subcontractors derived from this Contract. The Contractor shall identify and provide the State with notice of those employees of the Contractor and its Subcontractors who are former employees of the State that will be assigned to perform services under this Contract, and make sure that such employees comply with all applicable laws and prohibitions.

The State may request that the Contractor provide it with whatever information the State deems appropriate about each such person’s engagement, work cooperatively with the State to solicit advice from the New York State Joint Commission on Public Ethics, and, if deemed appropriate by the State, instruct any such person to seek the opinion of the New York State Joint Commission on Public Ethics. The State shall have the right to withdraw or withhold approval of any subcontractor if utilizing such subcontractor for any work performed hereunder would be in conflict with any of the Ethics Requirements. The State

shall have the right to terminate this Contract at any time if any work performed hereunder is in conflict with any of the Ethics Requirements.

#### **IV. SUBCONTRACTING**

The Contractor agrees not to subcontract any of its services, unless as indicated in its proposal, without the prior written approval of the Department. Approval shall not be unreasonably withheld upon receipt of written request to subcontract.

The Contractor may arrange for a portion/s of its responsibilities under this Contract to be subcontracted to qualified, responsible subcontractors, subject to prior approval of the Department. If the Contractor decides to subcontract a portion of the services, the subcontractors must be clearly identified and the nature and extent of its involvement in and/or proposed performance under this contract must be fully explained by the Contractor to the Department. As part of this explanation, the subcontractor must submit to the Department a completed Vendor Assurance of No Conflict of Interest or Detrimental Effect form, as required by the Contractor prior to execution of this contract.

The Contractor retains ultimate responsibility for all services performed under the contract.

All subcontracts shall be in writing and shall contain provisions, which are functionally identical to, and consistent with, the provisions of this contract including, but not limited to, the body of this contract, Appendix A – Standard Clauses for New York State Contracts, Appendix B – Standard Clauses for All New York State Department of Environmental Conservation Contracts, Appendix C - Standard Clauses for Ethics in all New York State Department of Environmental Conservation Contracts, and the Solicitation Document.

Unless waived in writing by the Department, all subcontracts between the Contractor and subcontractors shall expressly name the State, through the Department, as the sole intended third party beneficiary of such subcontract. The Department reserves the right to review and approve or reject any subcontract, as well as any amendment to said subcontract(s), and this right shall not make the Department or the State a party to any subcontract or create any right, claim, or interest in the subcontractor or proposed subcontractor against the Department.

The Department reserves the right, at any time during the term of the contract, to verify that the written subcontract between the Contractor and subcontractors is in compliance with all of the provisions of this Section and any subcontract provisions contained in this contract. The Contractor shall give the Department immediate notice in writing of the initiation of any legal action or suit which relates in any way to a subcontract with a subcontractor or which may affect the performance of the Contractor's duties under the contract. Any subcontract shall not relieve the Contractor in any way of any responsibility, duty and/or obligation of the contract.

If at any time during performance under this contract total compensation to a subcontractor exceeds or is expected to exceed \$100,000, or as otherwise requested by the Department that subcontractor shall be required to submit and certify a Vendor Responsibility Questionnaire.

**Vendor Assurance of No Conflict of Interest or Detrimental Effect**

The Entity offering to provide services pursuant to this Procurement/Contract, as a contractor, joint venture contractor, subcontractor, or consultant, attests that its performance of the services outlined in this Procurement/Contract does not and will not create a conflict of interest with nor position the Entity to breach any other contract currently in force with the State of New York.

Furthermore, the Entity attests that it will not act in any manner that is detrimental to any State project on which the Entity is rendering services. Specifically, the Entity attests that:

1. The fulfillment of obligations by the Entity, as proposed in the response, does not violate any existing contracts or agreements between the Entity and the State;
2. The fulfillment of obligations by the Entity, as proposed in the response, does not and will not create any conflict of interest, or perception thereof, with any current role or responsibility that the Entity has with regard to any existing contracts or agreements between the Entity and the State;
3. The fulfillment of obligations by the Entity, as proposed in the response, does not and will not compromise the Entity's ability to carry out its obligations under any existing contracts between the Entity and the State;
4. The fulfillment of any other contractual obligations that the Entity has with the State will not affect or influence its ability to perform under any contract with the State resulting from this Procurement;
5. During the negotiation and execution of any contract resulting from this Procurement, the Entity will not knowingly take any action or make any decision which creates a potential for conflict of interest or might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
6. In fulfilling obligations under each of its State contracts, including any contract which results from this Procurement, the Entity will act in accordance with the terms of each of its State contracts and will not knowingly take any action or make any decision which might cause a detrimental impact to the State as a whole including, but not limited to, any action or decision to divert resources from one State project to another;
7. No former officer or employee of the State who is now employed by the Entity, nor any former officer or employee of the Entity who is now employed by the State, has played a role with regard to the administration of this contract procurement in a manner that may violate section 73(8)(a) of the State Ethics Law; and
8. The Entity has not and shall not offer to any employee, member or director of the State any gift, whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence said employee, member or director, or could reasonably be expected to influence said employee, member or director, in the performance of the official duty of said employee, member or director or was intended as a reward for any official action on the part of said employee, member or director.

Entities responding to this Procurement/Contract should note that the State recognizes that conflicts may occur in the future because a Entity may have existing or new relationships.

The State will review the nature of any such new relationship and reserves the right to terminate the contract for cause if, in its judgment, a real or potential conflict of interest cannot be cured.

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**This form must be signed by an authorized executive or legal representative and returned with the Bid/Proposal/Contract.**

## **Executive Order No. 177 Certification**

The New York State Human Rights Law, Article 15 of the Executive Law, prohibits discrimination and harassment based on age, race, creed, color, national origin, sex, pregnancy or pregnancy-related conditions, sexual orientation, gender identity, disability, marital status, familial status, domestic violence victim status, prior arrest or conviction record, military status or predisposing genetic characteristics.

The Human Rights Law may also require reasonable accommodation for persons with disabilities and pregnancy-related conditions. A reasonable accommodation is an adjustment to a job or work environment that enables a person with a disability to perform the essential functions of a job in a reasonable manner. The Human Rights Law may also require reasonable accommodation in employment on the basis of Sabbath observance or religious practices.

Generally, the Human Rights Law applies to:

- all employers of four or more people, employment agencies, labor organizations and apprenticeship training programs in all instances of discrimination or harassment;
- employers with fewer than four employees in all cases involving sexual harassment; and,
- any employer of domestic workers in cases involving sexual harassment or harassment based on gender, race, religion or national origin.

In accordance with Executive Order No. 177, the Bidder hereby certifies that it does not have institutional policies or practices that fail to address the harassment and discrimination of individuals on the basis of their age, race, creed, color, national origin, sex, sexual orientation, gender identity, disability, marital status, military status, or other protected status under the Human Rights Law. Executive Order No. 177 and this certification do not affect institutional policies or practices that are protected by existing law, including but not limited to the First Amendment of the United States Constitution, Article 1, Section 3 of the New York State Constitution, and Section 296(11) of the New York State Human Rights Law.

Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

RESOLUTION NO.: 194 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO  
AN AGREEMENT WITH THE NEW YORK STATE DEPARTMENT  
OF ENVIRONMENTAL CONSERVATION FOR TEMPORARY USE OF CITY PROPERTY  
AND RIGHT-OF-WAYS TO FACILITATE REPLACEMENT OF  
GRANULAR ACTIVATED CARBON AT THE WATER FILTRATION PLANT**

**WHEREAS**, perfluorooctane sulfonic acid (PFOS) has been detected in the City of Newburgh's water supply at levels in excess of the Environmental Protection Agency's recently released lifetime health advisory level and resulted in a need to provide a temporary alternate source of drinking water to residents of the City of Newburgh, which has access to New York City's Catskill Aqueduct ("NYC Water System") as a backup source of drinking water; and

**WHEREAS**, by Resolution No. 229-2016 of September 12, 2016, the City Council approved a Temporary Use and Occupancy Agreement with the Department of Environmental Conservation ("DEC") for access to City-owned property for the purpose of performing work in connection with upgrades to the City's connection to the NYC Water System and the construction of a granular activated carbon water treatment system to remove PFOS from water produced through the City's Water Filtration Plant; and

**WHEREAS**, the DEC will be removing and replacing the granular activated carbon at the City water filtration plant which requires access to and work performed on the City's property for the purpose of conducting remedial activities including but not limited to removal and replacement of the granular activated carbon; and

**WHEREAS**, the City Council of the City of Newburgh has determined that entering into a Temporary Use and Occupancy Agreement with the DEC for access to City-owned property for the purpose of performing the granular activated carbon replacement and related work is in the best interest of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to enter a Temporary Use and Occupancy Agreement with the Department of Environmental Conservation for access to City-owned property for the purpose of performing work in connection with the replacement granular activated carbon at the City of Newburgh Water Filtration Plant.



New York State Department of Environmental Conservation

**AGREEMENT for TEMPORARY USE of CITY PROPERTIES AND RIGHT-OF-WAYS PURSUANT TO ENVIRONMENTAL CONSERVATION LAW SECTIONS 27-1309 AND 27-1313(8) AND OTHER ECL SECTIONS**

This Agreement is between the CITY OF NEWBURGH, a municipal corporation formed for the purpose of exercising such powers and discharging such duties of local government and administration of public affairs as may be imposed or conferred upon it by law, whose offices are located at 83 Broadway, Newburgh, New York 12550 hereinafter referred to as "CITY," and the COMMISSIONER OF THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION FOR THE PEOPLE OF THE STATE OF NEW YORK, hereinafter referred to as "the DEPARTMENT," pursuant to the above-cited law,

WITNESSETH:

WHEREAS, the DEPARTMENT has and continues to investigate and respond to the presence of perfluorooctane sulfonic acid ("PFOS"), a hazardous substance being discharged from Stewart Air national Guard Base ("Stewart ANG"), in the waters of Lake Washington, a public drinking water resource for the CITY.

WHEREAS, the DEPARTMENT has facilitated the CITY's temporary use of water from the New York City Water Supply System ("NYC Water System") pursuant to Contracts C010219, C011789 and currently C013228 with a term of June 1, 2024 through May 31, 2026.

WHEREAS, certain upgrades to the CITY's connection to the NYC Water System were constructed to ensure the continued use of such water as an alternate source.

WHEREAS, the CITY has contractual obligations to provide water to neighboring municipalities under the terms and conditions specified in their agreements.

WHEREAS, the NYC Water System has undertaken a program of periodic maintenance activities on its infrastructure in the vicinity of the CITY, including periodic shutdown of the Delaware Aqueduct and Catskill Aqueduct, creating a potential need for the CITY to obtain water from its currently designated backup supply at Brown's Pond.

WHEREAS, the DEPARTMENT and the CITY concur that in order to protect the health of CITY water consumers replacement and clearance for use of the granular activated carbon ("GAC") water treatment system should be expeditiously completed.

WHEREAS, pursuant to Article 27 of the Environmental Conservation Law, the DEPARTMENT registered the Stewart ANG, located at the Stewart Airport, as a class 2 inactive hazardous waste site, Site No. 336089.

WHEREAS, pursuant to Article 27 of the Environmental Conservation Law, the DEPARTMENT also identified other property at Stewart Airport as a potential hazardous waste disposal site, Site No. 336088.

WHEREAS, The CITY has been advised by the DEPARTMENT that the DEPARTMENT is preparing to undertake interim remedial measures to address PFOS contamination impacting the City's drinking water supply, including the replacement of all GAC in the eighteen (18) contactors constructed on CITY properties to supplement the City's existing water treatment system to address potential PFOS contamination impacting the CITY's drinking water supply, and based on the information provided to the CITY, the CITY fully supports this replacement, recognizes the need to expeditiously carry out the replacement, and will make good faith efforts to assist the DEPARTMENT with achieving the project schedule.

WHEREAS, the CITY's properties will be entered upon and occupied by the DEPARTMENT, its agents, employees, representatives, or contractors, for the performance of work thereon for one or more of the purposes set forth in Environmental Conservation Law Sections 27-1309(3)-(4) and 27-1313(8), and particularly for the purpose of conducting remedial activities. The scope of work generally includes site preparation, removal, replacement and commissioning of 720,000 pounds of GAC contained in eighteen (18) contactors previously constructed by the DEPARTMENT; and

WHEREAS, the DEPARTMENT recognizes that the CITY's existing water treatment system must continue to operate to provide drinking water during and after the construction activities contemplated by this agreement;

NOW THEREFORE, the parties hereto agree as follows:

1. This Agreement is to facilitate the entry of the DEPARTMENT and its agents, employees, representatives, and contractors onto the CITY's properties identified as tax map parcel numbered 4-1-35 and 97-3-17, as shown in the figure attached as Figure 1., to conduct activities authorized by the ECL. This Agreement does not convey any interest in the subject property to the State of New York.
2.
  - a. The mitigation measures are to include replacement of GAC and will be performed by a DEPARTMENT standby contractor Environmental Assessment and Remediation, Inc. under the supervision of the DEPARTMENT standby engineer ARCADIS in consultation with state and county Departments of Health. GAC currently in the contactors will be removed and replaced with new and regenerated GAC provided by Calgon Carbon.
  - b. The DEPARTMENT will let contracts in accordance with its own procurement and contracting requirements and will not be acting as agent of the City.
  - c. The work will be in compliance with all State and County Departments of Health rules and regulations and Ten States Standards. The CITY Engineer will be provided five business days to submit written comments on plans and specifications.
  - d. The DEPARTMENT has acknowledged that it is the generator for the GAC, including GAC previously removed, GAC to be removed, and GAC replacements. GAC removed will be handled in accordance with all applicable laws and regulations. The City of Newburgh will be provided copies of all paperwork, bills of lading, chains of custody, tracking information, and Certificate(s) of Reactivation provided by Calgon Carbon to the DEPARTMENT to document placement of reactivated GAC into their reuse pool.
  - e. The CITY Water Superintendent will be the primary point of contact for the project. The DEPARTMENT's primary point of contact will be \_\_\_\_\_.
- 3 Staging of materials and equipment by the DEPARTMENT and its contractors will be coordinated with the CITY.
- 4 The CITY will permit entry on and use of the property by the DEPARTMENT, its agents, employees, representatives, and contractors until 12/31/24. Such right of entry includes the right to the use of CITY's properties and right-of-ways to:
  - operate a work area;
  - remove therefrom any material generated from the DEPARTMENT's work activities;
  - perform site restoration activities;
  - collect water samples;



- carry on any activity necessary for the completion of the work together with the rights at all times during the duration of this agreement of ingress, egress and regress by the State of New York, its employees, agents, contractors and/or representatives for the purposes connected with the above work; and
- enforce the provisions of the relevant contracts including applicable warranties.

6. The DEPARTMENT covenants that all work performed hereunder will be done in substantive conformance, as applicable, with Chapter 122 of the Code of the City of Newburgh at no cost or expense to the CITY. Neither the DEPARTMENT nor its agents, employees, representatives and contractors will interfere with the continued operation of the City's water treatment plant. No plant shutdowns are contemplated in connection with the Project. Any requirements regarding fees are waived by both parties to this Agreement.

7. Prior to the termination of this agreement, the DEPARTMENT or its contractors, at its cost and expense, will complete the work in accordance with final design(s). Any available contractual representations and warranties will include the CITY as third party beneficiary.

8. The DEPARTMENT agrees that all contracts with any consultant or contractor, will require such party to hold the CITY harmless from and against any and all claims for injury to person or property to the extent such claims result from any negligent act or omission of such party, its employees, agents and subcontractors, in connection with the work undertaken pursuant to the activities described in Paragraph 5 of this Agreement, except to the extent caused by CITY's own negligence or willful misconduct.

9. The DEPARTMENT agrees to require that all of its consultants, and contractors, shall have and maintain for the activities conducted at these properties its or their sole cost and expense, the following policies of insurance procured from insurance companies authorized to do business in New York: (a) Workers Compensation Insurance and Employer Liability Insurance providing statutory benefits and limits; (b) Motor Vehicle Insurance with coverage for all owned, non-owned and hired vehicles with combined single limits of not less than \$1,000,000.00 per occurrence for bodily injury and property damage; and (c) Commercial General Liability Insurance with combined single limits of not less than \$3,000,000.00 per occurrence for bodily injury and property damage naming the CITY as additional insured. The DEPARTMENT's consultants, contractors and agents shall not enter the work sites or commence any portion of the work on the work sites prior to delivery to CITY of an insurance certificate or certificates evidencing the foregoing insurance. The DEPARTMENT shall furnish the foregoing insurance to the CITY and shall also name the CITY as an additional named insured in said policies. Such insurance shall be maintained in force during the entire term of this Agreement.

The DEPARTMENT will cooperate with the CITY in pursuing with the insurer any claim that may arise.

10. The CITY will waive any CITY permits but will provide the DEPARTMENT, as part of the CITY's comments on draft design/procurement documents, with information regarding any substantive requirements of CITY permits. The DEPARTMENT and/or the DEPARTMENT's consultant shall ensure substantive compliance with MS4 stormwater compliance, compliance with wastewater industrial discharge pretreatment requirements, site inspections and site restoration activities resulting from the planned replacement.

11. Neither party may assign its obligations under this agreement.

This AGREEMENT shall inure to the benefit of and bind the parties and their legal representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties have executed this AGREEMENT on the date indicated opposite each signature.

CITY OF NEWBURGH

Dated: \_\_\_\_\_

By: \_\_\_\_\_

STATE OF NEW YORK )

) ss:

COUNTY OF )

On the \_\_\_\_\_ day of \_\_\_\_\_, in the year 2024, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Signature and Office of individual taking  
acknowledgment

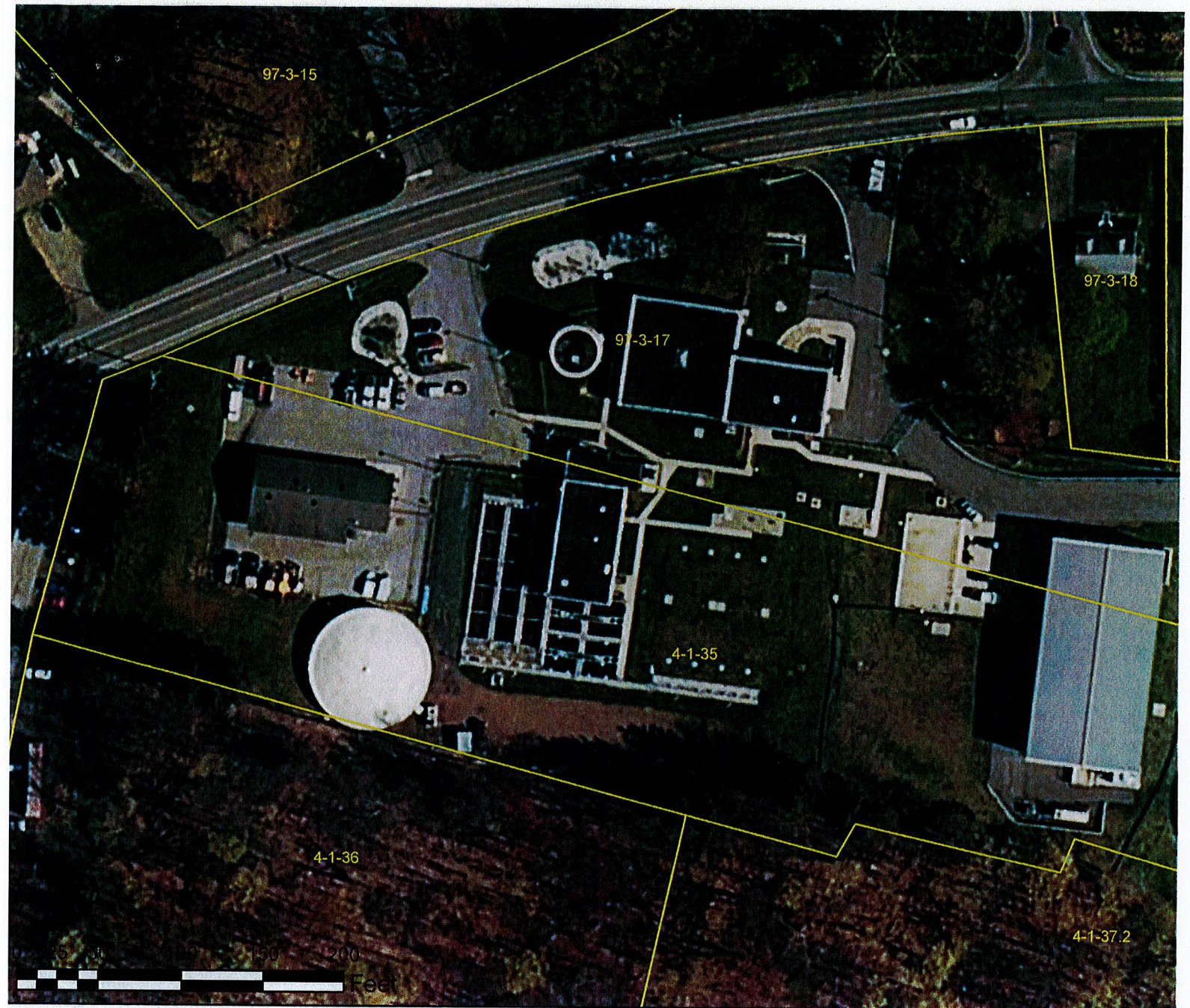
Dated: \_\_\_\_\_

NEW YORK STATE DEPARTMENT OF  
ENVIRONMENTAL CONSERVATION

By: \_\_\_\_\_

Director, Division of Environmental  
Remediation





Washington Lake Filtration Plant & Surrounding Properties  
City of Newburgh, Orange County  
Registry Site No. 336089  
Labels depict parcel Section-Block-Lot  
FIGURE 1



RESOLUTION NO.: 195 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION ADOPTING THE CITY OF NEWBURGH  
VEHICLE USAGE POLICY AND PROCEDURE  
FOR COMMUTING WITH A CITY-OWNED TAKE-HOME VEHICLE**

**WHEREAS**, by Resolution No. 109-2014 of April 28, 2014, the City Council of the City of Newburgh adopted a Vehicle Policy and Procedure for Commuting; and

**WHEREAS**, by Resolution No. 291-2021 of December 13, 2021 and Resolution No. 17-2022 of January 24, 2022, the City Council adopted an amended Vehicle Usage Policy and Procedure for Commuting with a City Owned Take-Home Vehicle; and

**WHEREAS**, the City Manager and City Comptroller have proposed additional revisions to update and to add the Stand-by Detective in the Police Department to the Vehicle Usage Policy and Procedure for Commuting with a City Owned Take-Home Vehicle, and the City Council finds that adopting the policy with the additional revision is in the best interest of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, New York hereby adopts the City of Newburgh Vehicle Usage Policy and Procedure for Commuting with a City Owned Take-Home Vehicle, a copy of which is attached hereto and made a part of this Resolution; and

**BE IT FURTHER RESOLVED**, that the City of Newburgh Vehicle Usage Policy and Procedure for Commuting with a City Owned Take-Home Vehicle shall take effect on September 9, 2024.



# CITY OF NEWBURGH

Office of the City Manager

83 Broadway, Newburgh, New York 12550

(845) 569-7301 • [www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)

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TO: Mayor & City Council

FROM: Todd Venning, City Manager  
Janice Gaston, City Comptroller

Date: September 9, 2024

**Subject: City Vehicle Usage Policy for Commuting with a City Owned Take-Home Vehicle**

I. Purpose

The purpose of this Memorandum is to update the policies and procedures for employees who are issued a city-owned take-home vehicle, and for the City to comply with IRS rules regarding the fringe benefit cost of such use.

II. General

The Office of the Comptroller will be responsible for ensuring compliance with this Memorandum

III. Vehicle Assignment

The City Manager is responsible for assigning city-owned vehicles to employees for the use of commuting and daily work-related travel. Currently the following positions are authorized to be issued a city-owned vehicle:

1. City Manager
2. Police Commissioner
3. Police Chief
4. Police – Administrative Commander
5. Police – Detective Commander
6. Police – Patrol / Operations Commander
7. Police – Staff Services Supervisor
8. K-9 Unit Members
9. Police - Detective Non-Fatal Shooting Task Force
10. Police – Stand-by Case Detective



11. Fire Chief
12. Assistant Fire Chief – Fire Prevention
13. Commissioner of Public Works
14. Superintendent of Public Works
15. Water Superintendent
16. City Engineer

The employees above are deemed on-call for all city of Newburgh related emergencies. Law enforcement officers are authorized to carry a firearm, execute search warrants, and make arrests while commuting in an unmarked police vehicle.

The vehicles are for the exclusive use by the employee assigned the vehicles and driving non-city employees is prohibited. Apart from the City Manager, no personal use is allowed. **Employees are required to commute in the vehicle.**

#### IV. Notifications

If applicable, the Office of the Comptroller will notify an employee that use of a vehicle is a taxable fringe benefit by memo. The Office of the Comptroller will record the vehicle usage as a taxable fringe benefit on the employee's payroll and W2 form using the method in accordance with IRS regulations.

The City Manager has the authority to take away an employee's commuting vehicle if the employee fails to comply with the policy.

The Office of the Comptroller may require the submission of mileage use forms to ensure proper use of the vehicles is occurring in accordance with this policy.

**This policy takes effect September 9, 2024 and replaces all existing policies issued by the City of Newburgh related to city owned commuter vehicles.**

Nothing in this policy is intended to conflict with a specific provision in a collective bargaining agreement between the City and the recognized labor organization representing City employees.



# CITY OF NEWBURGH

Office of the City Manager

83 Broadway, Newburgh, New York 12550  
(845) 569-7301 • [www.cityofnewburgh-ny.gov](http://www.cityofnewburgh-ny.gov)

TO: Mayor & City Council

FROM: Todd Venning, City Manager  
~~Ryan Ciancanelli, Acting Janice Gaston~~, City Comptroller

Date: ~~January 24, 2022~~ September 9, 2024

**Subject: City Vehicle Usage Policy for Commuting with a City Owned Take-Home Vehicle**

I. Purpose

The purpose of this Memorandum is to update the policies and procedures for employees who are issued a city-owned take-home vehicle, and for the City to comply with IRS rules regarding the fringe benefit cost of such use.

II. General

The Office of the Comptroller will be responsible for ensuring compliance with this Memorandum

III. Vehicle Assignment

The City Manager is responsible for assigning city-owned vehicles to employees for the use of commuting and daily work-related travel. Currently the following positions are authorized to be issued a city-owned vehicle:

1. City Manager
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3. Police Chief
4. Police – Administrative Commander
5. Police – Detective Commander
6. Police – Patrol / Operations Commander
7. Police – Staff Services Supervisor
8. K-9 Unit Members
- ~~9.~~ 10. Police – Stand-by Case Detective

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- ~~10~~, 11, \_\_\_\_\_ Fire Chief
- ~~11~~, 12, \_\_\_\_\_ Assistant Fire Chief – Fire Prevention
- ~~12~~, 13, \_\_\_\_\_ Commissioner of Public Works
- ~~13~~, 14, \_\_\_\_\_ Superintendent of Public Works
- ~~14~~, 15, \_\_\_\_\_ Water Superintendent
- ~~15~~, 16, \_\_\_\_\_ City Engineer

The employees above are deemed on-call for all city of Newburgh related emergencies. Law enforcement officers are authorized to carry a firearm, execute search warrants, and make arrests while commuting in an unmarked police vehicle.

The vehicles are for the exclusive use by the employee assigned the vehicles and driving non-city employees is prohibited. Apart from the City Manager, no personal use is allowed. **Employees are required to commute in the vehicle.**

#### IV. Notifications

If applicable, the Office of the Comptroller will notify an employee that use of a vehicle is a taxable fringe benefit by memo. The Office of the Comptroller will record the vehicle usage as a taxable fringe benefit on the employee's payroll and W2 form using the method in accordance with IRS regulations.

The City Manager has the authority to take away an employee's commuting vehicle if the employee fails to comply with the policy.

The Office of the Comptroller may require the submission of mileage use forms to ensure proper use of the vehicles is occurring in accordance with this policy.

**This policy takes effect ~~January 25, 2022~~ September 9, 2024 and replaces all existing policies issued by the City of Newburgh related to city owned commuter vehicles.**

Nothing in this policy is intended to conflict with a specific provision in a collective bargaining agreement between the City and the recognized labor organization representing City employees.

RESOLUTION NO.: 196 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES  
TO PROVIDE CREATIVE ARTS CLASSES AND RELATED SERVICES  
IN CONNECTION WITH THE CITY OF NEWBURGH'S  
ART-BIZ FALL SERIES FOR 2024**

**WHEREAS**, the City of Newburgh Arts & Cultural Commission successfully undertook an Art-Biz Workshop Series program in 2023; and

**WHEREAS**, the City of Newburgh Arts & Cultural Commission will continue the ArtBiz Workshop Series program in 2024; and

**WHEREAS**, the ArtBiz Workshop Series program is an 8-week program to engage youth and their families in activities that can lead to viable creative career paths by providing a series of free classes for youth focusing on providing exposure to career paths and career opportunities in arts and culture; and

**WHEREAS**, spanning a variety of artistic media, including visual art, performance, and hand-crafts, as well as other forms of cultural production such as writing, gardening, and culinary arts, Art-Biz Workshop Series 2024 will be taught by artists, makers, and other creative professionals; and

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

**WHEREAS**, the costs for these activities will not exceed \$6,400.00 and will derive from budget line A.8043.0455; and

**WHEREAS**, this Council has determined that entering into agreements in connection with this ArtBiz program is in the best interests of the City of Newburgh and its residents;

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into agreements with terms and conditions as Corporation Counsel may require, with the teaching artists and providers of related necessary services in connection with the Art-Biz program, at cost not to exceed \$6,400.00.

# AGREEMENT FOR VENDOR SERVICES

**THIS AGREEMENT** is entered into as of this \_\_\_\_ day of September, 2024, by and between the **CITY OF NEWBURGH**, a municipal corporation chartered under the authority of the State of New York, hereinafter referred to as the “**CITY**,” with principal offices at 83 Broadway, City Hall, Newburgh, New York 12550; and \_\_\_\_\_, an individual with principal offices at \_\_\_\_\_ hereinafter referred to as “**VENDOR**.”

## ARTICLE 1. SCOPE OF WORK

VENDOR agrees to perform the SERVICES and identified in Schedule A, (the “SERVICES”) which is attached to, and is part of this Agreement. VENDOR agrees to perform the SERVICES in accordance with the terms and conditions of this Agreement. It is specifically agreed that the CITY will not compensate VENDOR for any SERVICES provided outside those specifically identified in Schedule A, without prior authorization, evidenced only by a written Addendum to this Agreement executed by the City Manager of the CITY after consultation with the City Department Head responsible for the oversight of this Agreement (hereinafter “Department Head”). In the event of a conflict between the body of this Agreement and Schedule A, the provisions in the body of this Agreement shall govern.

Any and all reports, documents, charts, graphs, maps, designs, images, photographs, computer programs and software, artwork, creative works, compositions, and the rights to employ, publish, disseminate, amend or otherwise use same, and/or any other intellectual property to be provided by VENDOR to CITY under the terms of this Agreement shall remain the property of VENDOR, except that CITY shall have VENDOR’s permission to make full use for the completion and implementation of the Project for which the material was prepared without compensation in addition to the amounts set forth in Article 3 and Schedule B of this Agreement. VENDOR shall have the affirmative obligation to notify CITY in a timely fashion of any and all limitations, restrictions or proprietary rights to such

intellectual property and/or materials which may be applicable which would have the effect of restricting or limiting the exercise of the CITY’s rights regarding same for any purpose outside the scope of the Project and its implementation.

## ARTICLE 2. TERM OF AGREEMENT

VENDOR agrees to perform the SERVICES and/or supply goods beginning September \_\_, 2024, and ending November 30, 2024.

## ARTICLE 3. COMPENSATION

For satisfactory performance of the SERVICES or, as such SERVICES or goods may be modified by mutual written agreement, the CITY agrees to compensate VENDOR in accordance with the fees and expenses as stated in Schedule B, which is attached to and is part of this Agreement. VENDOR shall submit to the CITY an itemized invoice for SERVICES rendered, as set forth in Schedule B, and prepared in such form and supported by such documents as the CITY may reasonably require. The CITY will pay the proper amounts due VENDOR within 30 days after the CITY receives Claimant’s Certification form. If the Claimant’s Certification form is objectionable, the CITY will notify VENDOR, in writing, of the CITY’S reasons for objecting to all or any portion of the invoice submitted by VENDOR.

A not-to-exceed cost of \$800.00 has been established for the scope of SERVICES rendered by VENDOR. Costs in excess of such not-to-exceed cost, if any, may not be incurred without prior written authorization

of the City Manager of the CITY, evidenced only by an Addendum to this Agreement, after consultation with the Department Head. It is specifically agreed to by VENDOR that the CITY will not be responsible for any additional cost or costs in excess of the above noted not-to-exceed cost if the CITY'S authorization by the City Manager is not given in writing prior to the performance of the SERVICES giving rise to such excess or additional costs.

Any bills or invoices sent by VENDOR to the CITY more than six (6) months after services which are the subject of such billing have been rendered shall not be paid by the CITY and the CITY shall have no liability therefor.

#### **ARTICLE 4. EXECUTORY CLAUSE**

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

#### **ARTICLE 5. PROCUREMENT OF AGREEMENT**

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

For a breach or violation of such representations or warranties, the CITY shall have the right to annul this Agreement without liability, entitling the CITY to recover all monies paid hereunder and VENDOR shall not make claim or be entitled to recover, any sum or sums otherwise due under this Agreement. This

remedy, if effected, shall not constitute the sole remedy afforded the CITY for such falsity or breach, nor shall it constitute a waiver of the CITY'S right to claim damages or otherwise refuse payment or to take any other action provided for by law or pursuant to this Agreement.

#### **ARTICLE 6. CONFLICT OF INTEREST**

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

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

## ARTICLE 7. FAIR PRACTICES

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

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

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

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

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

## ARTICLE 8. INDEPENDENT CONTRACTOR

In performing the SERVICES and incurring expenses under this Agreement, VENDOR shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of the CITY. As an independent contractor, VENDOR shall be solely responsible for determining the means

and methods of performing the SERVICES and shall have complete charge and responsibility for VENDOR'S personnel engaged in the performance of the same.

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

## ARTICLE 9. ASSIGNMENT AND SUBCONTRACTING

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

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

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

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

#### **ARTICLE 10. BOOKS AND RECORDS**

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

#### **ARTICLE 11. RETENTION OF RECORDS**

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

#### **ARTICLE 12. AUDIT BY THE CITY AND OTHERS**

All Claimant Certification forms or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said Claimant's Certification forms or invoices are based are subject to audit by the CITY. VENDOR shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the CITY so that it may evaluate the reasonableness of the charges, and VENDOR shall make its records available to the CITY upon request. All books, Claimant's Certification forms, records, reports, cancelled checks and any and all similar material may be subject to periodic

inspection, review and audit by the CITY, the State of New York, the federal government, and/or other persons duly authorized by the CITY. Such audits may include examination and review of the source and application of all funds whether from the CITY, State, the federal government, private sources or otherwise. VENDOR shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

#### **ARTICLE 13. INSURANCE**

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

When applicable, VENDOR shall attach to this Agreement certificates of insurance evidencing VENDOR'S compliance with the following requirements:

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary without right of contribution of any other insurance carried by or on behalf of the CITY with respect to its interests, (ii) it shall



not be cancelled, including, without limitation, for non-payment of premium, or materially amended, without fifteen (15) days prior written notice to the CITY, directed to the City Manager, the Corporation Counsel and to the Department Head and the CITY shall have the option to pay any necessary premiums to keep such insurance in effect and charge the cost back to VENDOR.

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

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

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

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

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

#### **ARTICLE 14. INDEMNIFICATION**

VENDOR agrees to defend, indemnify and hold harmless the CITY, including its officials, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including, without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of

the SERVICES performed pursuant to this Agreement which the CITY or its officials, employees or agents, may suffer by reason of any negligence, fault, act or omission of VENDOR, its employees, representatives, subcontractors, assignees, or agents.

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

#### **ARTICLE 15. PROTECTION OF CITY PROPERTY**

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

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

VENDOR agrees to defend, indemnify and hold the CITY harmless from any and all liability or claim for loss, cost, damage or expense (including, without limitation,

reasonable attorney fees and costs of litigation and/or settlement) due to any such loss or damage to any such CITY property described in this Article.

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

#### **ARTICLE 16. CONFIDENTIAL INFORMATION**

In the course of providing the SERVICES hereunder, VENDOR may acquire knowledge or come into possession of confidential, sensitive or proprietary information belonging to CITY. VENDOR agrees that it will keep and maintain such information securely and confidentially, and not disclose such information to any third parties, including the media, nor use such information in any manner publically or privately, without receiving the prior approval, in writing, of the CITY authorizing such use. VENDOR'S obligations under this clause to maintain the confidentiality of such information and to refrain from using such information in any manner without the prior written approval of the CITY shall survive the termination or expiration of this Agreement.

#### **ARTICLE 17. TERMINATION**

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

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

A. Accounting for and refunding to the CITY within thirty (30) days, any

unexpended funds which have been paid to VENDOR pursuant to this Agreement; and

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

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

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

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

#### **ARTICLE 18. GENERAL RELEASE**

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

#### **ARTICLE 19. SET-OFF RIGHTS**

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

#### **ARTICLE 20. DISPUTE RESOLUTION**

All disputes shall be heard in the Supreme Court of the State of New York, with venue in Orange County or if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

#### **ARTICLE 21. GOVERNING LAW**

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

#### **ARTICLE 22. CURRENT OR FORMER CITY EMPLOYEES**

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

actual or perceived conflict of interests due to their position with the CITY.

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

#### **ARTICLE 23. ENTIRE AGREEMENT**

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

#### **ARTICLE 24. MODIFICATION**

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

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

THE CITY OF NEWBURGH

VENDOR

BY: \_\_\_\_\_  
TODD VENNING  
CITY MANAGER

BY: \_\_\_\_\_  
TITLE: ArtBiz Teaching Artist

Per Resolution No.:

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Michelle Kelson  
Corporation Counsel

\_\_\_\_\_  
Janice Gaston  
City Comptroller

## SCHEDULE A

### SCOPE OF SERVICES

#### Deliverables:

- Oversee a group of children for a single, 1-2 hour workshop occurring September-November.
- Prepare a lesson plan to be approved by the Art-Biz project management team
- Prepare a materials list to be approved by the Art-Biz project management team
- Meet with the Art Biz project manager to communicate progress and prepare for class
- Participate in a short 5 minute demonstration for a live marketing experience
- Prepare class evaluation

#### Timeline:

Prepare lesson plan and materials list on or before 2 weeks prior to Art-Biz Class session

Submit close out report no later than 10 days after Art-Biz Class session

## **SCHEDULE B**

### **FEES AND EXPENSES**

The Vendor will be compensated at \$500 for one class plus reimbursement for materials total cost not to exceed \$300.

LOCAL LAW NO.: 197 - 2024

OF

SEPTEMBER 9, 2024

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

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

**SECTION 1 - TITLE**

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

**SECTION 2 – PURPOSE AND INTENT**

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

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

### **SECTION 3 – AMENDMENT**

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

#### **§ 240-30. Protections established; legislative authority.**

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

#### **§ 240-31. Local Options.**

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

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

### **SECTION 4 – SEVERABILITY**

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

### **SECTION 5 – CODIFICATION**

It is the intention of the City Council of the City of Newburgh and it is hereby enacted that the provisions of this Local Law shall be included in the Charter of the City of Newburgh; that the sections and subsections of this Local Law may be re-numbered and/or re-lettered by the codifier to accomplish such intention; that the term “Local Law” shall be changed to “Charter”, “Article”, or other appropriate word as required for codification; and that any such rearranging of the numbering



and/or lettering and editing shall not affect the validity of this Local Law or the provisions of the City Charter affected thereby.

#### **SECTION 6 - VALIDITY**

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

#### **SECTION 7 - EFFECTIVE DATE**

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

LOCAL LAW NO.: \_\_\_\_\_ - 2024

OF

\_\_\_\_\_, 2024

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

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

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DRAFT

# The City of Newburgh

## Office of the Corporation Counsel

Michelle Kelson  
Corporation Counsel

City Hall – 83 Broadway  
Newburgh, New York 12550

Jeremy Kaufman  
Assistant Corporation Counsel

Tel. (845) 569-7335  
Fax (845) 569-7338

Tiombe Tallie Carter  
Assistant Corporation Counsel

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### **MEMORANDUM**

**TO:** Council Member Gisele Martinez  
Council Member Robert McLymore  
Council Member Ramona Monteverde  
Council Member Omari Shakur  
Council Member Robert Sklarz  
Council Member Patricia Sofokles  
Mayor Torrance Harvey  
Todd Venning, City Manager

**FROM:** Michelle Kelson, Corporation Counsel

**RE:** Draft local law amending City Code Chapter 240, Article III  
Repealing and Replacing Prohibition of Eviction without Good Cause

**DATE:** August 27, 2024

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As you are aware New York State adopted Article 6-A of the Real Property Law (RPL) entitled “Good Cause Eviction Law” as part of the FY2024-2025 New York State Budget in Chapter 56 of the 2024 Session Laws of New York (FY2024-2025 Budget Part HH). Generally, RPL Article 6-A limits unreasonable rent increases for units not already stabilized; ensures existing tenants of unregulated units are offered renewal leases; and curbs evictions of free-market tenants unless the owner has “good cause”.

RPL Article 6-A (Section 216) provides for 10 grounds for establishing “good cause” to support an eviction:

1. Failure to pay rent provided failure was not due to unreasonable rent increase; rebuttable presumption that rent increase is NOT reasonable if rent increased in any calendar year by more than 5% plus the change in the CPI as published by DHCR or 10% whichever is lower
2. Breach of a substantial obligation of the tenancy after 10-day written notice to cure.
3. Nuisance conduct interfering with safety of landlord or other tenants or gross negligence damages the unit

4. Occupancy violates law or causes violation of law and landlord subject to civil and criminal penalties provided that local government issues a vacate order and court finds violation cannot be cured without vacating the unit and the landlord did not create the condition by neglect, intentionally or failure to act
5. Tenant's illegal use
6. Tenant's failure to provide access for repairs, improvements required by law or to show to prospective parties with legitimate interests
7. Recovery for landlord's personal use and tenant is not 65 or older or disabled
8. Good faith intent to demolish
9. Good faith intent to withdraw from the market
10. Tenant's refusal to agree to reasonable changes in a renewal lease if changes sent between 90 and 30 days before lease expiration

RPL Article 6-A applies to all existing residential units in New York City (Section 212) and any city, town or village that opts in by local law (Section 213) unless an exception applies.

RPL Article 6-A (Section 214) includes a list of 15 exceptions to the application of "good cause" grounds:

1. Owner of 10 units or less in NYS – small landlord (can be modified by local option and discussed below)
2. ***Owner-occupied building 10 units or less***
3. Sublets where recovery is for personal use
4. Employment related occupancy
5. Rent regulated units
6. Affordable units under regulatory agreement
7. Condo or coop or subject to an offering plan submitted to the NYSAG
8. Units or buildings for which a temporary or permanent certificate of occupancy issued on or after 1/1/2009 for a period of 30 years
9. Seasonal use units
10. Units in a hospital, continuing care, assisted living, adult care or senior residential community
11. Manufactured homes
12. Hotel rooms or other transient use cover in definition of a class B multiple dwelling
13. Dormitories
14. Units within religious facilities
15. Units where the monthly rent is greater than 245% of the FMR for the county in which the unit is located as published by DHCR (can be modified by local option)

RPL Section 213 authorizes local governments to participate and establishes the requirements to do so. RPL Section 213(2) provides that a village, town or city that opts-in by local may modify two of the 15 exceptions (#1 and #15 above).

- Monthly rent – The local law may provide that any unit on or within a housing accommodation may be exempt if the unit has a monthly rent above a percent of FMR in

the county but if it does not establish such percent of FMR then the exception shall apply to any unit with a monthly rent greater than 245% of FMR (high rent exemption)

- Small landlord – The local law may define “small landlord” as a landlord of no more than any number of units in the state but if it does not define “small landlord” then “small landlord” shall mean landlord of no more than 10 units in the state

RPL Section 211(3) further defines “small landlord” as (b) a single *natural person* that owns or is a beneficial owner of, directly or indirectly, in whole or in part, no more than the number of units established pursuant to paragraph (a) of this subdivision and if there is more than one natural person owner, then no one person may own or be a beneficial owner of, directly or indirectly, in whole or in part, more than the number of units established pursuant to paragraph (a) of this subdivision or as (c) an *entity*, organized under the laws of this state or of any other jurisdiction, if each natural person with a direct or indirect ownership interest in the entity or any affiliated entity owns no more than the number of units established pursuant to paragraph (a) of this subdivision **and if the entity cannot provide the names of all natural persons with a direct or indirect ownership interest in the entity, such entity shall not qualify as a small landlord.**

RPL Section 213(4) provides that “[n]othing in this section shall permit a village, town or city to which this article applies to preempt or alter the terms and provisions of this article within such village, town or city.” Therefore, the City is limited to the modifications allowed under RPL Section 213(2)(a) and (b) and may not modify any other provision of RPL Article 6-A.

The current draft local law addresses the permissible modifications by proposing to increase the percent of fair market rent to a rent 345% above the FMR in Orange County and to define “small landlord” as a landlord of 1 unit across the state. The proposed local options provide the broadest possible application of RPL Article 6-A in the City of Newburgh.

Albany, Kingston, Ithaca, Poughkeepsie and Beacon have defined “small landlord” as a landlord of no more than 1 unit in the state. Albany, Ithaca, Poughkeepsie and Beacon increased the percent of rent exemption to 345% of FMR. Kingston increased to 300% of FMR.

RPL Article 6-A (Section 214(2)) exempts owner-occupied housing accommodation with no more than 10 units (see exemption #2 in the above list). This is NOT the same as the “small landlord” exemption. A report prepared by the Assessor provides a basis framework for estimating the number of the properties and residential units in the City that may be exempt from the Good Cause regulations by using evidence of STAR exemption and credit to identify units that may be owner-occupied. Based on the Assessor’s report, it appears that approximately 399 owner-occupied properties containing less than 10 residential units (488 units) would be exempt under RPL Section 214(2).

In order to obtain a rough estimate of the number of residential units in the City of Newburgh that might be covered or excluded from NYS Good Cause Eviction based on increasing or decreasing the number of units in the “small landlord” option (Sections 211, 213 and 214(1)), the Assessor’s

report of the properties and residential units in the City was used as a baseline. This exercise presumes the property owners do not own other properties in NYS and are not covered by any other exemption.

One unit: 3,219 properties / 3,219 units (1,754 [about half] have a STAR credit/exemption indicating owner-occupancy)

Current draft local law sets “small landlord” exemption as the owner of one unit across the state - all 3,219 units would be exempt from the Good Cause regulations (half as small landlord and half as owner occupant)

Two units: 1,411 properties / 2,822 units (312 properties have a STAR credit/exemption indicating owner-occupancy)

Increasing the “small landlord” exemption to 2 units would remove approximately 1099 properties and 2,198 units from the Good Cause regulations

Three units: 521 properties / 1,563 units (61 properties have a STAR credit/exemption indicating owner-occupancy)

Increasing the “small landlord” exemption to 3 units additionally would remove approximately 422 properties and 1,380 units from the Good Cause regulations

Changing the “small landlord” definition from 1 unit to 3 units removes approximately 1,521 properties and 3,598 units from Good Cause regulations, which is approximately one-third (1/3) of the total number of residential units (10,900) in the City of Newburgh – again presuming that the owners do not own other units in the state and the units are not covered by any other exemption. It is possible that more units would be excluded when all of the statutory exemptions are applied.

If the Council determines to modify either or both of the local options in the proposed local law, then the Council will need to schedule a second public hearing to hear comment on the revised local law. (See *NYCOM Handbook for City Officials (December 2019)* • Chapter 5 • Local Legislation - Amending Proposed Local Laws Prior to Enactment. If, at any time, a proposed local law is amended (other than for very minor grammatical amendments such as the inserting of a punctuation mark or correcting a typo or misspelled word), the proposed local law must be reintroduced to the board members (“aged”) and the public hearing must be re-noticed and re-held. (1978 Op. Atty. Gen., p. 243; and Op. State Comp. No. 81-124, p. 125 (1981).

Attached for your reference are the following:

1. Draft proposed local law repealing and replacing City Code Chapter 240, Article III
2. NYS Real Property Law Article 6-A, as adopted in Chapter 56 of the 2024 Session Laws of New York (Part HH)
3. City Assessor Report – residential units



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

## PART HH

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

Ch. 50, Art. 6–A, prec. 210

### ARTICLE 6–A

#### GOOD CAUSE EVICTION LAW

**Section 210. Short title.**

**211. Definitions.**

**212. Applicability in the city of New York.**

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

**214. Covered housing accommodations.**

**215. Necessity for good cause.**

**216. Grounds for removal of tenants.**

**217. Preservation of existing requirements of law.**

**218. Waiver of rights void.**

<< NY REAL PROP § 210 >>

#### § 210. Short title

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

<< NY REAL PROP § 211 >>

#### § 211. Definition

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

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

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

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

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

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

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

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

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

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

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

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

<< NY REAL PROP § 212 >>

**§ 212. Applicability in the city of New York**

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

<< NY REAL PROP § 213 >>

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

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

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

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

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

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

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

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

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

<< NY REAL PROP § 214 >>

§ 214. Covered housing accommodations

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

1. premises owned by a small landlord provided that in connection with any eviction proceeding in which the landlord claims an exemption from the provisions of this article on the basis of being a small landlord, such landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person who owns or is a beneficial owner of, directly or indirectly, in whole or in part, the housing accommodation at issue in the proceeding, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence; provided further that if the landlord is an entity, organized under the laws of this state or of any other jurisdiction, then such landlord shall provide to the tenant or tenants subject to the proceeding the name of each natural person with a direct or indirect ownership interest in such entity or any affiliated entity, the number of units owned, jointly or separately, by each such natural person owner, and the addresses of any such units, excluding each natural person owner's principal residence;
2. owner-occupied housing accommodation with no more than ten units;
3. unit on or within a housing accommodation where such unit is sublet pursuant to section two hundred twenty-six-b of this chapter, or otherwise, where the sublessor seeks in good faith to recover possession of such housing accommodation for their own personal use and occupancy;
4. unit on or within a housing accommodation where the possession, use or occupancy of which is solely incident to employment and such employment is being or has been lawfully terminated;
5. unit on or within a housing accommodation where such unit is otherwise subject to regulation of rents or evictions pursuant to local, state or federal law, rule, or regulation;
6. unit on or within a housing accommodation where such unit must be affordable to tenants at a specific income level pursuant to statute, regulation, restrictive declaration, or pursuant to a regulatory agreement with a local, state, or federal government entity;
7. unit on or within a housing accommodation owned as a condominium or cooperative, or a unit on or within a housing accommodation subject to an offering plan submitted to the office of the attorney general, provided that nothing herein shall abrogate or otherwise limit any rights or obligations a tenant residing in a unit within a condominium or cooperative or a purchaser, owner, or offeror of a condominium or cooperative unit has pursuant to any other state law;
8. housing accommodation for which a temporary or permanent certificate of occupancy was issued on or after the first of January, two thousand nine, for a period of time of thirty years following issuance of such certificate;
9. unit on or within a housing accommodation that qualifies as a seasonal use dwelling unit pursuant to subdivisions four and five of section 7–108 of the general obligations law;
10. housing accommodation in a hospital as defined in subdivision one of section twenty-eight hundred one of the public health law, continuing care retirement community licensed pursuant to article forty-six or forty-six-A of the public health law, assisted living residence licensed pursuant to article forty-six-B of the public health law, adult care facility licensed pursuant to article seven of the social services law, senior residential community that have submitted an offering plan to the attorney general, and not-for-profit independent retirement community that offer personal emergency response, housekeeping, transportation and meals to their residents;

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

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

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

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

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

<< NY REAL PROP § 215 >>

#### § 215. Necessity for good cause

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

<< NY REAL PROP § 216 >>

#### § 216. Grounds for removal of tenants

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<< NY REAL PROP § 217 >>

#### § 217. Preservation of existing requirements of law

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



<< NY REAL PROP § 218 >>

**§ 218. Waiver of rights void**

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

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

<< NY REAL PROP § 226-c >>

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

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

<< NY REAL PROP § 231-c >>

**§ 231-c. Good cause eviction law notice**

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

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

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

**NOTICE (THIS SHOULD BE FILLED OUT BY YOUR LANDLORD)**

**UNIT INFORMATION**



**STREET:**

**UNIT OR APARTMENT NUMBER:**

**CITY/TOWN/VILLAGE:**

**STATE:**

**ZIP CODE:**

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

**YES** ☐

**NO** ☐

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

.....

.....

.....

.....

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

<< NY RP ACT & PRO § 711 >>

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

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

<< NY RP ACT & PRO § 741 >>

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

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

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

<< Note: NY REAL PROP § 226-c >>

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

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

§ 7. This act shall take effect immediately and shall apply to actions and proceedings commenced on or after such effective date; provided, however, that:

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

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

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

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

## PART II

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

<< NY RP ACT & PRO § 711 >>

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

§ 2. This act shall take effect immediately.

## PART JJ

| NO. OF UNITS | RESIDENTIAL PROPERTIES<br>including condos & property<br>with more than 1 house |                                      |            | COMM PROPERTIES WITH<br>RESIDENTIAL UNITS |      |             |
|--------------|---|--------------------------------------|------------|---|------|-------------|
|              |   | TOTAL NUMBER OF<br>RESIDENTIAL UNITS | STAR / RES |   |      | STAR / COMM |
| 1            | 3219  | 3219                                 | 1754       | 84  | 84   | 10          |
| 2            | 1263  | 2526                                 | 310        | 148                                       | 296  | 2           |
| 3            | 483   | 1449                                 | 61         | 38  | 114  | -           |
| 4            | 2   | 8                                    | 1          | 188                                       | 752  | 14          |
| 5            | 3   | 15                                   | -          | 20  | 100  | -           |
| 6            | -   |                                      | -          | 43  | 258  | 1           |
| 7            | -   |                                      | -          | 11  | 77   | -           |
| 8            | -   |                                      | -          | 15  | 120  | -           |
| 9            | -   |                                      | -          | 6   | 54   | -           |
| 10           | -   |                                      | -          | 4   | 40   | -           |
| MORE THAN 10 | -   |                                      | -          | 24  | 1788 | -           |
| TOTAL        | 4970  | 7217                                 | 2126       | 581                                       | 3683 | 27          |



# FY 2024 FAIR MARKET RENT DOCUMENTATION SYSTEM

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

### Final FY 2024 & Final FY 2023 FMRs By Unit Bedrooms

| Year                   | Efficiency | <u>One-<br/>Bedroom</u> | <u>Two-<br/>Bedroom</u> | <u>Three-<br/>Bedroom</u> | <u>Four-<br/>Bedroom</u> |
|------------------------|------------|-------------------------|-------------------------|---------------------------|--------------------------|
| FY 2024<br>FMR         | \$1,237    | \$1,419                 | \$1,825                 | \$2,315                   | \$2,560                  |
| <u>FY 2023<br/>FMR</u> | \$1,126    | \$1,233                 | \$1,583                 | \$2,016                   | \$2,238                  |

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

### Fair Market Rent Calculation Methodology

— *Show/Hide Methodology Narrative* —

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

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

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



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

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

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

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

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

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

4. **Calculate the Trend Factor**: To further inflate rents from CY2022 to FY2024, HUD uses a "trend factor" based on the forecast of CPI gross rent changes through FY2024.
5. **Multiply the Factors**: HUD multiplies the base rent by the recent mover factor, the gross rent inflation factor, and the trend factor to produce a rent that is "as of" the current fiscal year.
6. **Compare to the State minimum**: FY2024 FMRs are then compared to a State minimum rent, and any area whose preliminary FMR falls below this value is raised to the level of the State minimum.
7. **Calculate Bedroom Ratios**: HUD calculates "bedroom ratios" and multiplies these by the two-bedroom rent to produce preliminary FMRs for unit sizes other than two bedrooms.
8. **Compare to Last Year's FMR**: FY2024 FMRs may not be less than 90% of FY2023 FMRs. Therefore, HUD applies "floors" based on the prior year's FMRs.

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

#### 1. **Base Rent Calculation**

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

| Area                                     | ACS <sub>2021</sub><br>5-Year<br>2-Bedroom<br>Adjusted<br>Standard<br>Quality<br>Gross<br>Rent | ACS <sub>2021</sub><br>5-Year 2-Bedroom<br>Adjusted<br>Standard<br>Quality<br>Gross<br>Rent<br>Margin<br>of Error | Ratio                     | Sample<br>Size<br>Category | Result   |
|--|--|---|---------------------------|----------------------------|--|
| Poughkeepsie-Newburgh-Middletown, NY MSA | <u>\$1,377</u>   | \$27  | \$27 /<br>\$1,377=0.01961 | 6                          | 0.01961 < .5<br>6 ≥ 4<br>Use ACS <sub>2021</sub><br>5-Year<br>Poughkeepsie-Newburgh-Middletown, NY MSA 2-Bedroom |

Adjusted  
Standard  
Quality Gross  
Rent

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

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

## 2. Recent Mover Adjustment Factor Calculation

A recent mover adjustment factor is applied based on the smallest area of geography containing Poughkeepsie-Newburgh-Middletown, NY MSA that has an ACS<sub>2021</sub> 1-year Adjusted Standard Quality Recent-Mover estimate with a Margin of Error Ratio that is less than .5 and a sufficient number of sample cases.

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

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

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

| ACS <sub>2021</sub> 5-Year Area                        | ACS <sub>2021</sub> 5-Year 40th Percentile Adjusted Standard Quality Gross Rent | ACS <sub>2021</sub> 1-Year 40th Percentile Adjusted Standard Quality Recent-Mover Gross Rent |
|--|---|--|
| Poughkeepsie-Newburgh-Middletown, NY MSA – All Bedroom | <u>\$1,277</u>  | <u>\$1,448</u>   |

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

### 3. Inflation Adjustment Factor Calculation

A gross rent inflation adjustment factor is applied based on a weighted average of a private source gross rent inflation factor and a Consumer Price Index gross rent inflation factor. Since Poughkeepsie-Newburgh-Middletown, NY MSA is covered by at least 3 private data sources, a local-based private rent factor is applied.

Furthermore, since Poughkeepsie-Newburgh-Middletown, NY MSA is covered by a local-CPI rent area, a Local-based CPI gross rent factor is applied.

| Components of 2022 Inflation Adjustment Factor for Poughkeepsie-Newburgh-Middletown, NY MSA |   |   |   |  |                              |
|---|---|---|---|--|------------------------------|
|   | <b>R<sub>2022</sub> = Shelter Rent Change, 2021 to 2022</b> | <b>U<sub>2022</sub> = CPI Annual Utilities Change, 2021 to 2022</b> | <b>C<sub>2022</sub> = ACS Utility Cost as a Percent of Gross Rent</b> | <b>Gross Rent Inflation Factor Calculation = (R<sub>2022</sub> × (1 - C<sub>2022</sub>) + U<sub>2022</sub> × C<sub>2022</sub>)</b> | <b>Inflation Factor Type</b> |
| <b>P<sub>2022</sub> = Private Inflation Factor</b>  | 1.1004  | 1.18213   | 0.1575  | $(1.10040 * 0.84250) + (1.182125 * 0.1575) = 1.11327$  | Local                        |
| <b>CPI<sub>2022</sub> = CPI Inflation Factor</b>  | 1.01141   | 1.18213   | 0.1575  | $(1.01141 * 0.8425) + (1.18213 * 0.1575) = 1.0383$   | Local                        |

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

$$= \text{CPI}_{2022} \times (1 - \text{W}_{2022}) + \text{P}_{2022} \times \text{W}_{2022}$$

$$= (1.0383 \times 0.442) + (1.11327 \times 0.558)$$

$$= (0.458929) + (0.621205)$$

$$= \mathbf{1.08016}$$

#### 4. **Trend Factor Adjustment**

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

| <b>Trend Factor</b> |                | <b>Trend Factor Type</b> |
|---------------------|----------------|--------------------------|
| Trend Factor        | <u>1.08202</u> | Local                    |

#### 5. **Combination of Factors**

The FY 2024 2-Bedroom Fair Market Rent for Poughkeepsie-Newburgh-Middletown, NY MSA is calculated as follows:

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

#### 6. **State Minimum Comparison**

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

| <b>Area</b>                              | <b>Preliminary FY2024 2-Bedroom FMR</b> | <b>FY 2024 New York State Minimum</b> | <b>Final FY2024 2-Bedroom FMR</b>   |
|--|---|---------------------------------------|---|
| Poughkeepsie-Newburgh-Middletown, NY MSA | \$1,825                                 | <u>\$905</u>                          | \$1,825 ≥ \$905 Use Poughkeepsie-Newburgh-Middletown, NY MSA FMR of \$1,825 |

#### 7. **Bedroom Ratios Application**

Bedroom ratios are applied to calculate FMRs for unit sizes other than two bedrooms.

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

**FY 2024 FMRs By Unit Bedrooms**

|             | <b><u>Efficiency</u></b> | <b><u>One-Bedroom</u></b> | <b><u>Two-Bedroom</u></b> | <b><u>Three-Bedroom</u></b> | <b><u>Four-Bedroom</u></b> |
|-------------|--------------------------|---------------------------|---------------------------|-----------------------------|----------------------------|
| FY 2024 FMR | \$1,237                  | \$1,419                   | \$1,825                   | \$2,315                     | \$2,560                    |

#### 8. **Comparison to Previous Year**

The FY2024 FMRs for each bedroom size must not be below 90% of the FY2023 FMRs.

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

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

#### **Final FY 2024 FMRs By Unit Bedrooms**

|                   | <b><u>Efficiency</u></b> | <b><u>One-Bedroom</u></b> | <b><u>Two-Bedroom</u></b> | <b><u>Three-Bedroom</u></b> | <b><u>Four-Bedroom</u></b> |
|-------------------|--------------------------|---------------------------|---------------------------|-----------------------------|----------------------------|
| Final FY 2024 FMR | \$1,237                  | \$1,419                   | \$1,825                   | \$2,315                     | \$2,560                    |

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

Permanent link to this page:

[http://www.huduser.gov/portal/datasets/fmr/fmrs/FY2024\\_code/2024summary.odn?&year=2024&fmrtype=Final&selection\\_type=county&fips=3607199999](http://www.huduser.gov/portal/datasets/fmr/fmrs/FY2024_code/2024summary.odn?&year=2024&fmrtype=Final&selection_type=county&fips=3607199999)

#### **Select a different area**

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

areas):

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

Select a new county

Press below to select a different state:

Select a new state

Select a Final FY 2024 Metropolitan FMR Area:

Poughkeepsie-Newburgh-Middletown, NY MSA

Select Metropolitan FMR Area

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RESOLUTION NO.: 198 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION IN  
SETTLEMENT CLASS IN THE IN RE: AQUEOUS FILM-FORMING FOAMS  
PRODUCTS LIABILITY LITIGATION, MDL NO. 2:18-mn-02873 RELATING TO  
CITY OF CAMDEN, ET AL. V. BASF CORPORATION, NO. 2:24-cv-03147-RMG  
IN CONNECTION WITH THE CONTAMINATION OF WASHINGTON LAKE  
AND THE CITY OF NEWBURGH WATER SUPPLY**

**WHEREAS**, by Resolution No. 307-2017 of October 23, 2017, the Council of the City of Newburgh, New York authorized litigation against any and all potentially responsible parties in connection with the contamination of Washington Lake and the City of Newburgh Water Supply; and

**WHEREAS**, a proposed settlement has been reached with defendant BASF Corporation (the “Defendant”); and

**WHEREAS**, The City of Newburgh is an active public water system for the provision of public water for human consumption through pipes or other constructed conveyances with at least 15 service connections or regularly serves an average of twenty-five individuals daily at least sixty days out of the year and has one or more impacted water systems which was tested on or before May 15, 2024 using a state- or federal-approved methodology and found to contain a measurable concentration of PFAS, and therefore, is a Qualifying Settlement Class Member eligible to receive compensation from the Settlement Funds which the Defendant has agreed to pay; and

**WHEREAS**, the City Council of the City of Newburgh has determined that resolving the City’s claims against the Defendant and avoiding the cost and uncertainty of continuing litigation by participating in the proposed settlement as a Settlement Class Member 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 City Manager, Corporation Counsel and the City’s special counsel, Knauf Shaw, LLP, are hereby authorized to resolve the City of Newburgh’s claims against defendant BASF Corporation and continue to represent the City of Newburgh as a Settlement Class Member as provided in Notice of Proposed Class Action Settlement and Court Approval Hearing in the matter of In Re: Aqueous Film-Forming Foams Products Liability Litigation, MDL No. 2:18-mn-02873 relating to City of Camden, et al. v. BASF Corporation No. 2:24-cv-03147-RMG; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that City Manager, Corporation Counsel and the City’s special counsel, Knauf Shaw, LLP, are further authorized to execute documents as may be required to effectuate the settlement as herein described.

RESOLUTION NO.: 199 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING EXCLUSION FROM THE SETTLEMENT CLASS  
IN THE IN RE: AQUEOUS FILM-FORMING FOAMS  
PRODUCTS LIABILITY LITIGATION, MDL NO. 2:18-mn-02873 RELATING TO  
CITY OF CAMDEN, ET AL. V. TYCO FIRE PRODUCTS, LP, ET AL.,  
NO. 2:23-cv-02321-RMG IN CONNECTION WITH  
THE CONTAMINATION OF WASHINGTON LAKE  
AND THE CITY OF NEWBURGH WATER SUPPLY**

**WHEREAS**, by Resolution No. 307-2017 of October 23, 2017, the Council of the City of Newburgh, New York authorized litigation against any and all potentially responsible parties in connection with the contamination of Washington Lake and the City of Newburgh Water Supply; and

**WHEREAS**, a proposed settlement has been reached with defendant Tyco Fire Products LP (the “Defendant”); and

**WHEREAS**, The City of Newburgh is an active public water system for the provision of public water for human consumption through pipes or other constructed conveyances with at least 15 service connections or regularly serves an average of 25 individuals daily at least 60 days out of the year and has one or more impacted water systems which was tested on or before May 15, 2024 using a state- or federal-approved methodology and found to contain a measurable concentration of PFAS, and therefore, is a Qualifying Settlement Class Member; and

**WHEREAS**, the Settlement Agreement does not adequately address the City’s specific claims against the Defendant and future costs and expenses but allows Settlement Class Members who request exclusion by September 23, 2024 to rejoin the Settlement Class before the Final Fairness Hearing on November 1, 2024; and

**WHEREAS**, the City Council of the City of Newburgh has determined that based on the inadequacy of the proposed settlement as it applies to the City of Newburgh, excluding the City of Newburgh as a Settlement Class Member at this time 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 City Manager, Corporation Counsel and the City’s special counsel, Knauf Shaw, LLP, are hereby authorized to exclude the City of Newburgh from the Settlement Class as provided in Notice of Proposed Class Action Settlement and Court Approval Hearing in the matter of In Re: Aqueous Film-Forming Foams Products Liability Litigation, MDL No. 2:18-mn-02873 relating to City of Camden, et al. v. Tyco Fire Products, LP, et al., No. 2:23-cv-02321-RMG; and

**BE IT FURTHER RESOLVED**, by the Council of the City of Newburgh, New York, that City Manager, Corporation Counsel and the City's special counsel, Knauf Shaw, LLP, are further authorized to execute documents as may be required to effectuate the exclusion authorization as herein described.

RESOLUTION NO.: 200 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION  
REGARDING THE FORECLOSURE OF TAX LIENS IN REM  
FOR THE YEAR 2018 RELATED TO PROPERTY KNOWN AS  
5 GRAND STREET (SECTION 37, BLOCK 8, LOT 10)**

**WHEREAS**, The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number EF011885-2018; and

**WHEREAS**, the City of Newburgh filed a Motion for Default Judgment with respect to the property known as 5 Grand Street (Section 37, Block 8, Lot 10) ("Premises"); and

**WHEREAS**, Michael Gabor, acting *pro se*, tendered funds as set forth below prior to the return date of the motion in an attempt to resolve the tax foreclosure litigation; and

**WHEREAS**, this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter without the need for further litigation;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the Director of Finance and Enforcing Officer is hereby authorized to withdraw the liens on the property located at 5 Grand Street (Section 37, Block 8, Lot 10), City of Newburgh, from the List of Delinquent Taxes and remove the property from the 2018 In Rem tax foreclosure action (Index Number EF011885-2018), as the sum of Eighty-Three Thousand Nine Hundred Fifty-Seven and 08/100 dollars (\$83,957.08), representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due water charges, sewer charges, and sanitation charges, have been tendered to the City of Newburgh in full by certified check and is ready for acceptance.

RESOLUTION NO.: 201 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION AUTHORIZING THE SETTLEMENT OF LITIGATION  
REGARDING THE FORECLOSURE OF TAX LIENS IN REM  
FOR THE YEAR 2021 RELATED TO PROPERTIES KNOWN AS  
14 GRAND AVENUE (SECTION 4, BLOCK 6, LOT 2) AND  
18 GRAND AVENUE (SECTION 4, BLOCK 6, LOT 1),**

**WHEREAS,** The City of Newburgh commenced a proceeding for the foreclosure of certain tax liens, such action being designated as Orange County Index Number EF008006-2021; and

**WHEREAS,** Nicholas Micalone, by and through his attorney, filed an Answer to the tax foreclosure proceeding on August 6, 2024 with respect to two (2) properties known as 14 Grand Avenue (Section 4, Block 6, Lot 2), and 18 Grand Avenue (Section 4, Block 6, Lot 1), respectively; and

**WHEREAS,** the property owner indicated that it is prepared to withdraw its Answer and settle the action as it applies to the subject property; and

**WHEREAS,** this Council has determined that it would be in the best interests of the City of Newburgh to settle this matter without the need for further litigation;

**NOW, THEREFORE, BE IT RESOLVED,** by the Council of the City of Newburgh, New York, that the Director of Finance and Enforcing Officer is hereby authorized to withdraw the liens on the above-referenced properties from the List of Delinquent Taxes and remove said properties from the 2021 In Rem tax foreclosure action (Index Number EF008006-2021), as the amounts set forth below for each property, representing all past due tax liens, together with all interest and penalties accruing thereon, together with all currently due water charges, sewer charges, and sanitation charges, have been tendered to the City of Newburgh in full by certified check and is ready for acceptance.

| <u>Address</u>                              | <u>Redemption Amount</u> |
|---|--------------------------|
| 14 Grand Avenue (Section 4, Block 6, Lot 2) | \$5,142.30               |
| 18 Grand Avenue (Section 4, Block 6, Lot 1) | \$37,067.47              |

RESOLUTION NO.: 202 - 2024

OF

SEPTEMBER 9, 2024

**A RESOLUTION APPOINTING SHARONDA POWELL  
AS DEPUTY CITY CLERK OF THE CITY OF NEWBURGH**

**WHEREAS**, there is a vacancy in the office of Deputy City Clerk; and

**WHEREAS**, Section C4.21(B) of the City Charter authorizes the City Council to appoint as many Deputy City Clerks as it may deem necessary; and

**WHEREAS**, this Council finds that it is in the best interests of the City of Newburgh to appoint Sharonda Powell to the office of Deputy City Clerk of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Newburgh that Sharonda Powell be and she hereby is appointed to the office of Deputy City Clerk of the City of Newburgh effective September 20, 2024 at Grade 2, Step 1 of Schedule A of the Non-Bargaining Unit Salary Plan.

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