



City of Newburgh Council Work Session

6:00 pm

October 24, 2013

1. Presentation:

- a. 211 Mill Street – Fred Visconti
- b. 255 Broadway – Ted and Jean Doering

2. Economic and Community Development/Real Estate:

- a. Discussion of various proposals for acquisition of City-owned property
- b. (Res. 221) Amendment to the State Assistance Contract with the DEC relating to the closeout costs associated with the ERP site located at 7-11 Johnes Street.
- c. (Res. 222) Amendment to the State Assistance Contract with the DEC relating to the closeout costs associated with the ERP site located at 86 Wisner.
- d. (Res. 215) Schedule a public hearing for November 12, 2013 receive comments on the proposed CDBG 2014 Budget.

3. Parking Violations Bureau:

- a. (Res. 217) Agreement with Professional Account Management, LLC for municipal parking services and related equipment.
- b. (Ord. 11) Rescinding Section 288-35.1 Parking Permits and amending Section 288-85 Schedule XXVII: City Parking Lot and Parking Garages – Parking Permit Fees of Chapter 288 entitled “Vehicles and Traffic” of the Code of the City of Newburgh.
- c. (Ord. 12) Amending Section 297-22 Towing of Vehicles by City of Chapter 297 Wreckers and Towers of the Code of the City of Newburgh.
- d. (Ord. 13) Amending Chapter 163 Fees of the Code of the City of Newburgh to add fees for Parking Violations Bureau transcripts and appeals and to add towing and booting fees.
- e. (Res. 216) Scheduling a public hearing for November 12, 2013 to receive comment on a proposed local law to increase the fines for certain parking violations.

4. Finance:

- a. (Res. 218) Requesting an exemption from County taxes for the City’s reservoir and filter plant properties for the year 2015.

5. Grants/Contracts/Agreements:

- a. (Res. 219) Agreement with the New York State Department of Environmental Conservation to designate the City Clerk as an Assistant Licensing Issuing Agent for the purpose of issuing hunting and fishing licenses.

6. Engineering:

- a. West Trunk Sewer and Quassaick Creek Stabilization Project – Preliminary Report of Holden Dam Removal
- b. Renewal of agreement with Severn Trent Services for the Operation and Maintenance of the Wastewater Treatment Plant

7. Discussion:

- a. (Res. 220) Halloween curfew for minors 16 years of age and under from 9:00 p.m. to 6:00 a.m. on Oct. 30 and 31

8. Executive Session:

- a. Pending Litigation

RESOLUTION NO. 221 -2013

OF

OCTOBER 28, 2013

A RESOLUTION AUTHORIZING A REQUEST TO AMEND THE ENVIRONMENTAL RESTORATION PROGRAM STATE ASSISTANCE CONTRACT (SAC) IN CONNECTION WITH THE INVESTIGATION, INTERIM REMEDIAL MEASURES AND PREPARATION OF REMEDIAL ALTERNATIVES FOR CITY OWNED PROPERTY LOCATED AT 7-11 JOHNES STREET IN AN AMOUNT OF \$99,500.00

WHEREAS, the City of Newburgh has entered into a State Assistance Contract (SAC) with the New York State Department of Environmental Conservation (the "DEC") to address environmental concerns at 7-11 Johnes Street, and

WHEREAS, the nature and extent of the problems at the site were complicated by conditions unknown to the City of Newburgh, and

WHEREAS, the Project has incurred or will incur an additional \$99,500.00 in costs beyond the limit of the current SAC Agreement Limit in order to complete the required scope of work, and

WHEREAS, it is now necessary to authorize the City Manager to request a SAC Amendment with the DEC to cover said costs, of which the City share will be \$60,000.00 and the DEC share will be \$39,500.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to request a SAC Amendment to cover additional costs to the contract for the City-owned property located at 7-11 Johnes Street at a cost not to exceed \$99,500.00.

RESOLUTION NO. 222 -2013

OF

OCTOBER 28, 2013

A RESOLUTION AUTHORIZING A REQUEST TO AMEND THE ENVIRONMENTAL RESTORATION PROGRAM STATE ASSISTANCE CONTRACT (SAC) IN CONNECTION WITH THE INVESTIGATION, INTERIM REMEDIAL MEASURES AND PREPARATION OF REMEDIAL ALTERNATIVES FOR CITY OWNED PROPERTY LOCATED AT 86 WISNER AVENUE IN AN AMOUNT OF \$38,000.00

WHEREAS, the City of Newburgh has entered into a State Assistance Contract (SAC) with the New York State Department of Environmental Conservation (the "DEC") to address environmental concerns at 86 Wisner Avenue, and

WHEREAS, the nature and extent of the problems at the site were complicated by conditions unknown to the City of Newburgh, and

WHEREAS, the Project has incurred or will incur an additional \$38,000.00 in costs beyond the limit of the current SAC Agreement Limit in order to complete the required scope of work, and

WHEREAS, it is now necessary to authorize the City Manager to request a SAC Amendment with the DEC to cover said costs, of which the City share will be \$9,000.00 and the DEC share will be \$29,000.00;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to request a SAC Amendment to cover additional costs to the contract for the City-owned property located at 86 Wisner Avenue at a cost not to exceed \$38,000.00

RESOLUTION NO.: 215 - 2013

OF

OCTOBER 28, 2013

RESOLUTION SCHEDULING A PUBLIC HEARING FOR NOVEMBER 12, 2013
TO HEAR PUBLIC COMMENT CONCERNING A LOCAL LAW AMENDING
CHAPTER 70 ENTITLED "PARKING VIOLATIONS BUREAU"
OF THE CODE OF THE CITY OF NEWBURGH TO INCREASE FINES
FOR CERTAIN PARKING VIOLATIONS

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 70, entitled "Parking Violations Bureau" of the Code of the City of Newburgh to Increase Fines for Certain Parking Violations and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 12th day of November, 2013, in the 3rd Floor Council Chambers, City Hall, 83 Broadway, Newburgh, New York.

LOCAL LAW NO.: 2 - 2013

OF

_____, 2013

A LOCAL LAW AMENDING CHAPTER 70 ENTITLED "PARKING VIOLATIONS BUREAU" OF THE CODE OF THE CITY OF NEWBURGH TO INCREASE FINES FOR CERTAIN PARKING VIOLATIONS

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 70 Entitled 'Parking Violations Bureau' of the Code of Ordinances of the City of Newburgh to Increase Fines for Certain Parking Violations."

SECTION 2 - AMENDMENT

Chapter 70 entitled "Parking Violations Bureau" is hereby amended to read as follows:

§ 70-17. Schedule of fines and penalties.

The schedule of fines and penalties shall be as follows:

Violation	Fine
Failure to deposit required coins in a parking meter, overtime parking in a metered space or other meter violation	\$15.00 <u>30.00</u>
Parking prohibited beyond time limit allowed, other than parking meter	\$10.00 <u>30.00</u>
Parking over lines	\$10.00 <u>30.00</u>
Improper Angle Parking	\$10.00 <u>30.00</u>
Parking on the sidewalk	\$10.00 <u>30.00</u>
Parking prohibited upon publicly or privately owned premises without permission	\$10.00 <u>30.00</u>
Parking in City lot without permit	\$10.00 <u>30.00</u>
Restricted Parking near Newburgh Free Academy and St. Luke's Cornwall Hospital; <u>Gidney Avenue Parking Lot</u>	\$10.00 <u>30.00</u>
Stopped, standing or parked facing wrong direction	\$10.00 <u>30.00</u>
Stopped, standing or parked more than 12 inches from curb	\$10.00 <u>30.00</u>

Underlining denotes additions

~~Strikethrough~~ denotes deletions

Parking prohibitions:

Parking prohibited at any time	\$10.00 <u>30.00</u>
Parking prohibited during certain hours	\$10.00 <u>30.00</u>
Parking prohibited on alternate days	\$25.00 <u>30.00</u>
Parking prohibited on alternate days – snow emergency	\$50.00
Parking prohibited on alternate days – street cleaning	\$50.00
Parking prohibited on snow emergency routes	\$50.00
Parking prohibited in a taxi stand	\$10.00 <u>30.00</u>
Parking prohibited in a bus stop	\$10.00 <u>30.00</u>
Parking prohibited in a loading zone	\$10.00 <u>30.00</u>
Parking prohibited in boat trailer parking zone	\$10.00 <u>50.00</u>

Standing prohibitions:

Standing prohibited at any time	\$10.00 <u>30.00</u>
Standing prohibited during certain hours	\$10.00 <u>30.00</u>
Standing prohibited from here to corner	\$20.00 <u>30.00</u>

Stopping prohibitions:

Stopping prohibited at any time	\$10.00 <u>30.00</u>
Stopping prohibited during certain hours	\$10.00 <u>30.00</u>
Stopping prohibited from here to corner	\$20.00 <u>30.00</u>
Stopped, standing or parked on a sidewalk	\$20.00 <u>30.00</u>

Standing or parked in front of a public or private driveway	\$25.00 <u>30.00</u>
Expired certificate of inspection or registration	\$20.00 <u>30.00</u>
Stopped, standing or parked within 15 feet of a fire hydrant	\$25.00 <u>100.00</u>

Double parking	\$25.00 <u>50.00</u>
Obstructing traffic	\$25.00 <u>50.00</u>
Interfering with snow removal	\$50.00
Public Safety Reserved Parking	\$10.00 <u>30.00</u>
<u>Abandoned vehicle</u>	<u>\$100.00</u>
Parking/Standing within 50 ft of Firehouse	\$10.00 <u>50.00</u>
Handicapped parking violations per § 1203-c of the Vehicle and Traffic Law	\$100.00

NOTE: In addition, a surcharge of \$30 has been levied by the state of New York for handicapped parking violations pursuant to § 1809-b of the Vehicle and Traffic Law.

SECTION 3 - VALIDITY

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

Underlining denotes additions
~~Strikethrough~~ denotes deletions

SECTION 4 - EFFECTIVE DATE

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

Underlining denotes additions
~~Strikethrough~~ denotes deletions

RESOLUTION NO.: 217 - 2013

OF

OCTOBER 28, 2013

**A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER
TO ENTER INTO AN AGREEMENT WITH
PROFESSIONAL ACCOUNT MANAGEMENT, LLC
FOR MUNICIPAL PARKING SERVICES AND RELATED EQUIPMENT**

WHEREAS, the City of Newburgh has requested proposals regarding Municipal Parking Services and Related Equipment; and

WHEREAS, proposals have been duly received and reviewed and it has been determined that Professional Account Management LLC ("PAM") has submitted the proposal that would most benefit the City of Newburgh; and

WHEREAS, a copy of the agreement with PAM is attached hereto and made a part of this resolution;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the Interim City Manager be and he is hereby authorized to enter into an agreement with Professional Account Management LLC in accordance with the proposal with all such terms and conditions as may be required by the Corporation Counsel for the Municipal Parking Services and Related Equipment.

GOODS AND SERVICES AGREEMENT

This Goods and Services Agreement (Agreement) is made effective on this _____ day of _____, 2013 (Effective Date) by and between the City of Newburg (City) having a location at 83 Broadway, Newburg, New York 12550 U.S.A. and Professional Account Management, LLC its subsidiaries, affiliates, parent, agents and representatives (collectively, PAM), a Wisconsin corporation having a location at 633 West Wisconsin Avenue, Suite 1600 Milwaukee, Wisconsin 53203 U.S.A. City and PAM may hereinafter be referred to individually as Party, or collectively as Parties.

WHEREAS, City intends that PAM provide the goods and services described herein, and PAM intends to provide such goods and services subject to the mutually agreed terms and conditions herein, and

WHEREAS, City has completed all necessary steps for procurement and retention of goods and services under applicable City policies, procedures and other applicable rules and regulations.

NOW, THEREFORE, in consideration of the sums to be paid to PAM, the promises and mutual agreements stated herein, and other good and valuable consideration the sufficiency of which is hereby acknowledged, the Parties agree as follows;

1. Term of Agreement. This Agreement remains in effect for three (3) calendar years from the Effective Date (Term). This Agreement may be extended (Extension) in writing by mutual agreement of the Parties. During the Term and any Extension, PAM retains all ownership, title and license to the Products.
2. Agreement and Precedence. This Agreement governs all Orders and all products and services provided by any parent, subsidiary, affiliate, subcontractor, agent or representative of PAM as described herein or in any writing amending this Agreement. Any schedules, attachments and exhibits referenced herein, whether or not attached, and any purchase orders provided by City and accepted in writing by PAM (Orders), are hereby incorporated and made part of this Agreement. Should any conflict exist between or among the body of this Agreement, schedules, exhibits, attachments, and Orders, the following order of precedence shall apply;
 - 2.1. the body of this Agreement
 - 2.2. Schedule A - Pricing
 - 2.3. Schedule B - Processing Services and Schedule C - Collections Services, each of equal significance
 - 2.4. Schedule D - Support, Warranty and Returns
 - 2.5. any Orders
3. Invoices and Payments. City shall maintain and control a bank account (City Account) for purposes of deposit of funds collected by PAM in performance of this Agreement. Costs related to such account are the sole responsibility of City. Where required, PAM will invoice City monthly or as otherwise described in the Schedules. All invoices are payable net thirty (30) days from date of invoice. PAM reserves the right to add one and one-half percent (1.5%) interest, or the maximum allowed by law, per month to invoices past due by ten (10) days or greater. Payments shall be remitted to:
PAM P.O. Box 2081 Milwaukee WI 53201-2081
4. Reimbursement and Set off. Any fees, costs or expenses due or required under this Agreement will be set off against amounts due the City. Should funds collected be insufficient for payment in full through set off, the City understands and acknowledges that PAM will invoice the City and City shall pay all costs and expenses due hereunder.
5. Confidential Information. PAM acknowledges that City is a public agency with certain legal obligations for transparency and public disclosure. City acknowledges that the goods and services PAM provides incorporate proprietary design, processes and technology that if disclosed would materially harm PAM. Therefore, City will not itself, or assist a third party in, reverse engineer, document, abuse or otherwise evaluate or use the goods and services without the express written permission of PAM. All data produced or compiled by PAM shall be considered confidential unless it can be obtained as public record and shall not be shared with a third party without the prior written consent of the other Party. All financial, statistical, personal, technical, and other data and information relating to PAM's operations shall be presumed to be confidential regardless of whether such

GOODS AND SERVICES AGREEMENT

information has been disclosed as confidential. City shall protect all confidential information from unauthorized use and disclosure by use of the same or more effective procedures as City requires of its own personnel to protect its own confidential information. City is not required by this paragraph to keep confidential any data or information that is or becomes publicly available, is already rightfully in City's possession and not subject to any requirement to maintain confidentiality, is independently developed by City outside the scope of the Agreement and without the use of the confidential information, or is rightfully obtained from third parties.

6. Patents, Trademarks, Copyrights, Ownership. All intellectual property, including, but not limited to, patentable inventions, patentable plans, copyrightable works, mask works, trademarks, service marks and trade secrets invented, developed, created or discovered in the performance of this Agreement are the property of the Party that so invented, developed, created or discovered such intellectual property. For any non-hosted, stand-alone system, City acknowledges and agrees that in the event City elects to sell, license, or dispose of the system, or any portion thereof, in any way without the express written consent of PAM, this Agreement automatically and immediately terminates without notice. The equipment, firmware and software (Products) provided by PAM are proprietary products of PAM and protected under United States copyright laws. The Software provided for installation on personal computers or server systems may be copied for archival purposes only and may not be used on more central processing units (CPUs) concurrently than the number of purchased licenses without prior written approval of PAM. PAM hereby grants to City a revocable, non-exclusive license to use the Products provided during the Term and any Extensions of this Agreement and solely for the purposes contemplated under this Agreement.

NO LICENSE UNDER ANY PATENTS, COPYRIGHTS, TRADEMARKS, MASK WORKS, TRADE SECRETS OR OTHER INTELLECTUAL PROPERTY OF PAM IS GRANTED OR IMPLIED UNLESS EXPRESSED IN WRITING. PAM AT ALL TIMES RETAINS ALL OWNERSHIP AND RIGHTS TO ALL PRODUCTS PROVIDED UNDER THIS AGREEMENT.

CITY HEREBY ACKNOWLEDGES AND AGREES THAT IT IS RESPONSIBLE FOR ALL COSTS RELATED TO DAMAGE AND REPAIR OF PRODUCTS DIRECTLY OR INDIRECTLY RELATED TO ANY ABUSE, MISUSE, NEGLIGENCE, IMPROPER MAINTENANCE, VANDALISM, OR ACTS OF GOD.

7. Relationship of the Parties. PAM agrees and understands that services performed under this Agreement are performed as an independent contractor and not as an employee of City and that PAM acquires none of the rights, privileges, powers or advantages of City employees. This Agreement does not create any relationship of agency, partnership or joint venture between the Parties. Nothing in this Agreement gives any Party the right to use any corporate names, trademarks or trade names of any other Party.
8. Indemnification. Each Party indemnifies and will defend the other, its employees and agents from claims, damages and liability occasioned by or arising out of negligence in the performance of this Agreement. Except to the extent caused by the sole negligence or willful misconduct of either Party, each Party shall indemnify and hold and save each other, its officers, agents and employees, harmless from liability of any kind, including all claims, costs (including defense) and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims, costs (including defense) and losses accruing or resulting to any person firm, or corporation that may be injured or damaged by the other in the performance of this Agreement. This representation and warranty shall survive the termination or expiration of this Agreement.

Each Party shall indemnify and hold and save each other, its officers, agents, and employees, harmless from liability of any kind, including claims, costs (including defense) and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this Agreement.

9. Limitation of Liability and Disclaimer. UNLESS OTHERWISE EXPRESSLY STATED IN THIS AGREEMENT, AND WHETHER OR NOT THE PARTIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO WARRANTY, NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL LOSS OR DAMAGES, LOSS OF REVENUE, LOST PROFITS, BUSINESS OR GOODWILL.

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10. Insurance. During the Term, PAM will maintain insurance in the type and amount specified in Attachment 1 – Proof of Insurance Certificates.
11. Sub-contracting. PAM is authorized to engage subcontractors at PAM's sole expense. PAM shall notify the City of the name, address, and other information reasonably requested regarding any proposed subcontractor, in advance of use of such subcontractor. City shall respond in writing within two (2) business days of PAM's request for approval. Approvals under this section will not be unreasonably withheld by the City.
12. Licenses and Certificates of Authority. During the Term and any Extensions, PAM will maintain all licenses and certificates of authority required by law.
13. Compliance with Laws. Parties shall ensure full compliance with federal, state and local laws, regulations, directives, ordinances and executive orders applicable to the performance of this Agreement.
14. Audit and Records.
 - 14.1. PAM agrees that City, or any of its duly authorized representatives may, at any time during normal business hours and upon reasonable notice to PAM, have access to and the right to examine and audit books, documents, papers, records, and other items that relate to accounting and performance under this Agreement.
 - 14.2. PAM shall maintain these records for a period of three (3) years from the date of any termination of this Agreement. The inspection requirements of this section shall survive any termination of the Agreement by no less than three (3) years.
 - 14.3. City shall maintain and control a bank account (City Account) for purposes of deposit of funds collected by PAM in performance of this Agreement. At least monthly, City shall audit records related to the deposit of funds by PAM into City Account and reconcile such records with deposit data provided by PAM. City shall report any variance to PAM within sixty (60) calendar days after the closing date of the record that includes the alleged variance. City shall provide all records and documents related to any variance, as requested by PAM, including without limitation;
 - 14.3.1. bank deposit slips
 - 14.3.2. cumulative financial reports
 - 14.3.3. account-related communications
 - 14.4. City acknowledges and agrees that PAM is not be responsible for variances caused in whole or in part by City, any financial institution, vandalism, theft, force majeure events or variances not reported as required under this section.
15. Arbitration. Any controversy arising out of or related to this Agreement or the breach thereof shall be settled by arbitration in accordance with the Rules of the American Arbitration Association (AAA) located in New York State. Another location for arbitration under the Rules of AAA may be chosen if mutually agreed by the parties. The consideration given by the Parties herein is deemed consideration adequate to support this Agreement for arbitration. A judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof in accordance with New York State law except as otherwise provided herein. The arbitrators shall have all powers of a court of law in the relevant jurisdiction. Such powers shall include but shall not be limited to: (a) the power to issue temporary restraining orders and injunctions; (b) the power to award damages; (c) the power to issue subpoenas; and (d) the power to issues all orders and to take all actions necessary to enforce their jurisdictions as provided by law. The identity of the arbitrator shall be agreed upon by the Parties. In the absence of an agreement, one (1) arbitrator shall be selected by Resolute under its standard selection procedures using any reasonable and fair method. An award in arbitration shall be final and binding upon the Parties and enforceable under law. The prevailing Party in any arbitration proceeding herein shall be awarded its costs and expensed including reasonable attorney fees. For purposes of this contract, a "prevailing Party" shall be the Party awarded any non-monetary relief sought or more than fifty percent (50%) of the monetary damages sought.
16. Termination and Notice. Either Party may terminate this Agreement or any part thereof for any reason. Notice of termination must be provided in writing a minimum of sixty (60) days in advance of the effective termination

GOODS AND SERVICES AGREEMENT

date. City understands and acknowledges that performance under this Agreement requires substantial capital and other investment by PAM. Therefore, any termination of this Agreement by the City within the first year of the Term for any reason other than material breach of this Agreement will result in termination fees and costs ("Termination Fees") to the City.

Termination Fees are at the sole discretion on PAM and shall be reasonable, supported by evidence, and subject to generally accepted accounting principles. In the event of termination, all finished or unfinished documents, data, studies, maps, photographs, reports and materials ("Materials") prepared by PAM specifically and solely for the City under this Agreement shall become the property of, and be promptly delivered to, the City. In the event of any termination of this Agreement, City shall return all Products within ten (10) business days of the effective termination date. PAM will provide a final invoice and City shall pay all outstanding amounts as herein described including costs of Products not returned in compliance with this section. Except as otherwise expressly provided herein, any notice required or desired to be served, given or delivered hereunder will be in writing and deemed delivered (1) business day after delivery by a reputable overnight delivery service; or upon delivery by courier or in person to the following addresses:

To City:

City of Newburg
83 Broadway Newburg, New York 12550

To PAM:

Professional Account Management, LLC
Contracts
633 West Wisconsin Avenue Suite 1600 Milwaukee, Wisconsin 53203
contracts@duncansolutions.com

17. **Force Majeure.** A nonperforming Party shall not be held in default or breach due to any force majeure event. A force majeure event ("Event") is any act or event, whether foreseen or unforeseen; (a) that prevents the nonperforming Party, in whole or in part, from performing its obligations under this Agreement, and (b) is beyond the reasonable control of and not the fault of the nonperforming Party, and (c) the nonperforming Party has made all reasonable efforts but has been unable to avoid or overcome the act or event. An Event includes but is not limited to flood, lightning, drought, earthquake, fire, volcanic eruption, landslide, hurricane, cyclone, typhoon, tornado, explosion, civil disturbance, act of God or public enemy, terrorist, military action, epidemic, famine or plague, shipwreck, action of a court or public authority, or strike, work-to-rule action, other labor disputes, each on an industry-wide, region-wide or nationwide basis. An Event does not include economic hardship, changes in market conditions, insufficiency of funds, unavailability of equipment or supplies or labor other than strikes, or work-to-rule actions. No obligation by either the performing Party or the nonperforming Party to make any payment required under this Agreement is excused as a result of the Event. Upon occurrence of an Event, the non performing Party shall furnish the other Party written notification describing the Event, including an estimate of its expected duration and probable impact on the performance of the nonperforming Party's obligations under this Agreement.
18. **Assignment.** This Agreement is for the sole use of City and cannot be used by or for any other entity without prior written approval by PAM. The firmware or software cannot be provided to any entity or unlicensed user under any circumstances. In the event of loss, misplacement or damage of the original software or archive copies, PAM will provide an additional copy upon written request and at the sole cost of the City.
19. **No Third-Party Beneficiaries.** The Parties specifically intend and agree that no one other than the Parties to this Agreement, except either Parties subsidiaries, affiliates, successors and any controlling parent, whether now existing or hereafter resulting from a merger, acquisition, or restructuring of the Party, is or shall be deemed to be a third-party beneficiary of any of the rights or obligations set forth in this Agreement.
20. **Modification and Waiver.** This Agreement may only be modified in writing signed by duly authorized representatives of both Parties. The failure of either Party to insist upon or enforce the performance of this Agreement, or the failure to exercise any right or privilege herein conferred, is not a waiver of any such

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covenant, conditions, rights, or privileges. No different or additional terms, conditions, amendments or modifications of any type are valid or have any effect on this Agreement unless mutually agreed between the Parties in a separate writing.

21. Severability. If any provision in this Agreement, or the application thereof to any person or circumstance is determined by any competent court to be held invalid, illegal, or unenforceable, that determination shall not affect the validity, legality, or enforceability of the remainder of this Agreement, unless that effect is made impossible by the absence of the omitted provision.
22. Counterparts. This Agreement may be executed in any number of counterparts, each of which is deemed an original and all of which taken together constitute one Agreement. Any legible, executed copy of this Agreement is deemed an original.
23. Applicable Law. This Agreement is construed and will be enforced under the laws and in the courts of the State of New York without consideration to any conflicts of laws principles.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date last written below.

CITY OF NEWBURG, NEW YORK

Signature _____
Printed Name _____
Title _____
Date _____

PROFESSIONAL ACCOUNT MANAGEMENT, LLC.

Signature _____
Printed Name *Jason Johnston*
Title *President*
Date _____

GOODS AND SERVICES AGREEMENT

SCHEDULE A – PRICING

\$3.67 per citation issued includes;

- a. use of four (4) AutoCITE handheld citation issuance units and PAM-owned charging station
 - b. maximum eight (8) user licenses
 - c. Three (3) late notices with late fees (Late Notice)
 - d. One (1) judgment notice (Judgment Notice) after final late notice
 - e. hosted AutoISSUE and AutoPROCESS software
 - f. electronic citation ticket stock and payment envelopes
 - g. manual ticket stock for up to 3,000 tickets per year
 - h. use of two (2) PAM-owned cashiering workstations (includes PC, printer, cash drawer, display pole, barcode scanner)
 - i. internet and IVR inquiry and payment solution
 - j. weekly state of New York DMV registered owner request export/import
 - k. configuration and implementation (including standard data transition)
 - l. warranty, maintenance and support
 - m. account management
2. Collections Program 30% Contingency Fee
3. The City shall provide;
- a. reliable electricity and broadband internet connectivity where required, and
 - b. appropriate and safe cashiering workspace, and
 - c. cashiering printer supplies, and
 - d. forward of manual tickets and drop box payment to PAM, and
 - e. cashiering services staff, and
 - f. management and issuance of all refunds,
 - g. manage all hearings and notify PAM of result
4. Debtors will be charged a convenience fee of \$2.95 for credit card payment transactions less than \$100.00 or 5% of the credit card transaction amount if greater than \$100.00.
5. All postage is the responsibility of the City. PAM shall pay all postage and itemized such costs in monthly reconciliation to the City. City is responsible for its cost of all other consumable supplies.
6. Pricing is based on minimum 20,000 citations issued annually including a maximum of 3,000 manual citations to be entered into system by PAM. Pricing is subject to change based on volume.
7. The collection Contingency Fee is in addition to any and all other costs including but not limited to court costs, sheriff's fees, interest, late fees, investigatory fees, credit reporting fees or other costs incurred directly or indirectly by PAM in collection of amounts owed under this Agreement.
8. Automatic annual price adjustments (Adjustment(s)) based on the City area Consumer Price Index (CPI) will take effect on or about three (3) years after the Effective Date of this Agreement and annually thereafter including any Extension(s). The increase is a percentage equal to the percentage increase in the U.S. Department of Labor, Consumer Price Index, All Items, Unadjusted, Urban Areas (CPI-U) for the twelve (12) month period ending in June immediately prior to the scheduled Adjustment
9. During the Term and any Extension, PAM retains all ownership, interest and title to all Products. City shall not itself place or allow, and shall insure against and prevent, any lien or other interest that may be claimed against the Products.

GOODS AND SERVICES AGREEMENT

SCHEDULE B – PROCESSING SERVICES

1. Referral and Reconciliation. PAM shall receive and process parking citations that the City delivers to it. The City shall deliver, mail, or transmit all parking citations on a daily basis. PAM will provide a daily reconciliation of the number of citations delivered by the City.
2. Computer Programs and Hardware. PAM will provide all software, written procedures and other supporting items required in performance of this Agreement. PAM shall be responsible for the warranty and maintenance of all hardware and software including hosted AutoISSUE and AutoPROCESS. The City is responsible for any damage, loss, or theft of computer hardware, software, or equipment used by the City at the City location. The City will provide insurance coverage for such equipment as described herein.
3. Remittance. Payments on Citations made directly to PAM will be deposited by PAM into the City Account. PAM will provide a monthly reconciliation and report of activities to the City, up to and including the date of any expiration or termination of this Agreement, within thirty (30) calendar days of such expiration or termination.
4. NSF and Disputed Payments. In the event that any debts reported to the City as paid are subsequently returned NSF or reversed as disputed, PAM will reverse the amount of such debt payment and all fees taken on such payment in the current month's deposits and reporting.
5. Base Processing. Notice of illegal parking or violation (collectively 'Citations') issued by the City, whether through AutoPROCESS or manually, will be entered into PAM's system and cleared upon payment or other disposition. Requests for Registered Owner information will be sent to the appropriate Departments of Motor Vehicles (DMV). Citations will be generated and mailed by PAM to the Registered Owner and the penalty or fine amount requested. Debtor payments by mail will be made directly to PAM. DMV registration liens will be placed on vehicles having unpaid fines and fees in compliance with the New York DMV and other applicable state and local laws. DMV liens shall be removed through DMV when the entire amount of parking citation fines, fees, and penalties due against the vehicle are satisfied. No extra processing charge will be made for a citation incorrectly processed and subsequently corrected and re-entered into the database. PAM shall provide hearing scheduling and disposition posting as forwarded by the City.
6. Suspension of Processing. PAM shall suspend processing any citation referred to it upon written notice to do so by the City. PAM shall maintain records indicating any suspension resulted by the City.
7. Computer System. PAM will provide the City with internet inquiry capability at the City location for retrieval of parking citation information. User specific licenses will be installed at the City location. The City is responsible for all electricity, broadband internet connection and related costs.
8. Collection and Deposit of Funds. PAM shall collect and deposit funds received for the payment of Citation fines and fees into the City Account. Costs related to such account are the sole responsibility of CLIENT. All citation revenues will be deposited in the CLIENT bank account by the end of the next banking day of receipt by PAM. Deposits will be batched in increments of one hundred (100) to limit the number of bank transactions necessary. A maximum of three (3) deposits daily will be made.
9. Collection Disbursement. PAM shall disburse to CLIENT on a monthly basis, all monies on deposit from the payment of parking citation fines and fees. Disbursement will be made after the close of the processing month beginning the month following the Agreement date.
10. IVR and Internet Payments. PAM shall provide the public with the ability to pay parking citations using an accepted credit card via an Interactive Voice Response (IVR) system or the internet. The cost for these services, including credit card discount fees, will be recovered by PAM in the form of a per transaction convenience fee assessed to the Debtor for each transaction.
11. Customer Service. PAM will provide a toll-free Customer Service number listed on all correspondence for debtors to contact PAM for any reason.

GOODS AND SERVICES AGREEMENT

SCHEDULE C – COLLECTION SERVICES

1. Performance by City

- 1.1. Authority to Collect. The City hereby authorizes PAM to use any legal means necessary to collect Debts placed with PAM by the City upon issuance of the Judgment Notice.
- 1.2. Ownership of Debts. The City maintains ownership of all Debts placed with PAM for collection under this Agreement. The City maintains all legal right and title to Debts unless otherwise agreed in writing between the Parties.
- 1.3. Duty to Provide Information. The City agrees to provide PAM with all information obtained regarding each Debt placed with PAM under this Agreement. It is the obligation of the City to provide PAM with all information that may prohibit or delay the collection of the Debt or in any way impact the ability of PAM to collect the Debt, including but not limited to bankruptcy, death, legal disability or other potential or actual defenses, including statute of limitations defense.
- 1.4. Warranties. Where applicable, the City warrants that, to the best of its knowledge, the Debts placed with PAM have been reviewed by the City in accordance with this Agreement prior to transfer to PAM, and that the balances reported to PAM are true and accurate, that all obligors on Debts have been disclosed and that all disputes and defenses of debtors have been reported to PAM.
- 1.5. Notice of Dispute. The City will inform PAM in writing, or by such other means as the Parties may expressly mutually agree from time to time, of any Debts subject to this Agreement that have been or are in dispute. Disputes under this provision include oral and written indications and statements by the debtor or any third party that the Debt is in dispute, and includes but is not limited to a request for validation of the Debt. If such dispute is made in writing by debtor, the City will notify PAM of the date of the writing and provide PAM with the original written dispute or a copy thereof.
- 1.6. Continuing Obligation. The City will continue to provide the most current version of the information required under this Agreement throughout the Term and any Extension.
- 1.7. Authorization to Receive and Endorse Payments. The City authorizes and appoints PAM to collect and receive all payments due or payable to the City for Debts placed with PAM. PAM has authority to receive payments in any form including but not limited to cash, check, money order, or electronic payment and has authority to endorse all such payments as may be required.
- 1.8. Authorization to Investigate. The City expressly authorizes PAM to perform investigative services related to ordinary debt collection activities.

2. Performance by PAM

- 2.1. Agreement to Collect. PAM agrees to provide debt collection services to the City in compliance with all applicable laws, regulations, licensing and bonding requirements.
- 2.2. Documentation of Accounts/Financial Reporting. PAM will provide monthly, detailed reports of collection activity related to Debts including without limitation; principal amount of Debt, amounts collected to date including any allowable fees, costs and interest, dispute information, requests for validation by debtor, agreements by the debtor regarding future payments, bankruptcy, death or legal disability of the debtor, amount of commission retained by PAM, amount remitted to the City and amount remitted to others under this Agreement.
- 2.3. Credit Reporting. PAM will report information regarding Debts in accordance with this Agreement to the following Consumer Reporting Agencies: Equifax, Experian and Trans Union. PAM agrees to comply with the Fair Credit Reporting Act (FCRA) and all applicable state and federal laws related to such reporting. PAM will comply with standards set by the American Collectors Association, Inc. (ACA), including the ACA Code of Ethics and the ACA Code of Operations.
- 2.4. Insurance and Bond Coverage. PAM will maintain at least the minimum level of insurance and bond coverage required by ACA or state law, whichever is greater, in all jurisdictions in which engaged in collection activity under this Agreement.
- 2.5. Trust Account. PAM warrants that it will maintain a trust account if required by state law while PAM is engaged in collection activity under this Agreement.
- 2.6. Methods and Compliance. PAM uses ordinary and reasonable collection efforts as permitted by law and will at all times comply with the Fair Debt Collection Practices Act (FDCPA), the Fair Credit Reporting Act (FCRA) and all applicable state, federal and local laws and regulations applicable to collections under this Agreement.

GOODS AND SERVICES AGREEMENT

3. Legal Process. The City reserves sole right and authority to place Debts in litigation, including Debts subject to a forwarding agreement. The City may authorize PAM in writing to retain an attorney and commence litigation on behalf of the City, subject to separate terms and conditions mutually agreed in writing between the Parties. At no time, nor in any case, does PAM accept any responsibility or liability for any expenses, fees, or damages or any costs or liability related to legal process or use of an attorney to collect Debts.
4. Cost and Fees
 - 4.1. Contingency Fee. The cost of collection services described in this Agreement is percentage-based contingent on Debts collected. A Debt placed for collection with PAM or with an attorney to obtain judgment or otherwise satisfy payment of the Debt is subject to the fee based on the amount actually collected (Contingency Fee) by PAM. The Contingency Fee is in addition to any and all other costs including but not limited to court costs, sheriff's fees, interest, late fees, investigatory fees, credit reporting fees or other costs incurred directly or indirectly by PAM in collection of amounts owed under this Agreement.
 - 4.2. Interest and Fees on Debts. The City hereby authorizes PAM to add interest, civil penalties, litigation and legal process fees, court costs, attorney fees and other such expenses relating to the collection of Debts as provided by law or debtor contract and to collect this amount from the debtor. Such amounts are considered part of the total original amount placed for collection.
 - 4.3. Remittance. Amounts due the City based on one (1) calendar month of collections will be remitted to the City Account by the fifteenth (15th) day of the following month. PAM will provide a report of collection activities to the City, up to and including the date of any expiration or termination of this Agreement, within thirty (30) calendar days of expiration or termination.
 - 4.4. NSF and Disputed Payments. In the event that any Debts reported to the City as paid are subsequently returned NSF or reversed as disputed, PAM will reverse the amount of such Debt payment and all fees taken on such payment from the current month's billing statement.
5. Authorization To Forward Accounts. PAM may forward any of the City' Debts to another collection agency if the debtor has moved out of the general business area of PAM, and such other collection agency shall have authority to exercise all ordinary and reasonable collection efforts as permitted by law, and shall remit any payments made to PAM less agreed commissions, and PAM shall then remit to the City less any agreed commissions.
6. Right To Withdraw Accounts or Termination. The City may request the return of any Debts not yet collected provided thirty (30) calendar days advance written notice (Notification Period). PAM agrees to return Debts not collected by the end of the Notification Period along with appropriate financial records of the Debts including amounts collected, commission retained, additional fees, interest and charges added, and a detailed statement of expenses incurred by PAM on behalf of the City. In the event of termination of this Schedule or the Agreement, the City will pay all amounts due under this Agreement on Debts that have been collected through the end of PAM's business day on the date of termination.
7. Assignment and Process. PAM will accept Debts in accordance with the business rules adopted by the City but shall not assume collection activities until the Judgment Notice.
8. Collection Letters. PAM will propose customized collection letters to the City for review, edit and approval. Collection letter types may include Notice of Assignment to Collection Agency, Demand for Payment, Pending DMV Hold, Pending Tax Offset (where applicable), or Pending Credit Bureau Placement.
9. Skip Tracing. PAM will provide skip trace services where required to locate debtors current address for all Debts.
10. DMV Information. PAM will verify DMV information, as required, and obtain vehicle registrations for Debts.
11. Customer Service. PAM will provide a toll-free Customer Service number listed on all correspondence for debtors to contact PAM for any reason.
12. Debtor Dispute Resolution. PAM will provide dispute resolution services, in accordance with business rules established by the City, to review debtor claims of non-liability and forward accounts to the City where PAM has determined a valid reason for dismissal. The City, at its sole discretion, will make final decisions on such matters and update the AutoCOLLECT System to reflect such decision.
13. Lockbox Remittance Processing. All PAM collection notices include a return remittance envelope addressed to PAM's remittance processing center. PAM will provide lockbox remittance processing of all payments and update the AutoCOLLECT System on a daily basis.

GOODS AND SERVICES AGREEMENT

SCHEDULE D – SUPPORT, WARRANTY AND RETURNS

- 1) Support - Applications. Software engineers will be available by telephone for support between 8:30 a.m. – 5:00 p.m. EST in support of PAM provided hardware, software and systems. Remote access to personal computers will be accomplished via LogMeIn. Change requests that modify the configuration or features of the system will be quoted separately and are not included.
- 2) Support - Hosted Systems. The following support is available where applicable PAM systems are in place.
 - a) Server Infrastructure. PAM will monitor and maintain all application servers, database servers, authentication services, virtualized machines, monitoring servers, backup servers, network equipment (including switches, routers, firewalls, data lines) and other necessary infrastructure components. PAM will install Microsoft system updates, including window patches. PAM will tune and maintain database systems.
 - b) System Backups. Online Oracle Database backups to tape drive will occur nightly. Offline Oracle Database backups to tape will occur weekly. Application server backups to tape drive will occur nightly. All tapes will be stored in secure facility off-site.
 - c) Software Maintenance. PAM will install all necessary software updates on the Hosted System infrastructure.
 - d) City Network Hardware and Connectivity. For PAM provided and maintained network connections, PAM will remotely monitor firewall, routers, and data lines to ensure connectivity. In the event of outage, PAM will assist with, but is not responsible for the restoration of service.
- 3) Warranty and Returns. PAM expressly warrants parking products against defects in materials and workmanship for twelve (12) months from date of installation or fourteen (14) months from the date of delivery to City, whichever is sooner (Warranty Period).
- 4) Included in this limited warranty are electronic modules, replacements parts, certain software fixes and upgrades, and accessories. This warranty is expressly limited to repair or replacement of the defective part or parts at PAM's sole discretion. PAM's sole obligation and City's sole and exclusive remedy related to defective goods and this limited warranty is repair or replacement of defective goods, at PAM's sole discretion, during the Warranty Period. This limited warranty is restricted to the performance defined within the relevant PAM Product Specifications.
- 5) This limited warranty applies to goods determined to be defective in material or workmanship under normal use and service. The following Exclusions apply to this limited warranty;
 - a) Parts determined to be abused, misused, incorrectly handled, improperly maintained, or vandalized
 - b) Consumables and batteries, unless proven to be defective upon supply
 - c) Unauthorized, imitation or other non-PAM parts, accessories, or alterations
 - d) Goods affected by environmental conditions or acts of God
 - e) Software upgrades or changes due to changes in City systems, software, hardware or other operating environment changes
 - f) Change requests that modify the configuration or features of the system
- 6) Hardware is moisture resistant however, not designed to be completely moisture proof or waterproof. All parts being returned under this limited warranty for repair will be managed through the National Repair Center (DNRC) located in Carlsbad, California. To initiate a repair under this limited warranty, City shall:
 - a) Call the DNRC at **(760) 945-9893** between 8:30 a.m. to 5:00 p.m. EST Monday through Friday.
 - b) A customer support representative will review the issue and provide further instruction that may include a Return Merchandise Authorization (RMA) number.
 - c) City is responsible for proper packaging and shipment costs to the DNRC. The RMA number must be clearly printed on the outside of any packaging.
 - d) Parts shipped without contacting the DNRC in advance will be refused.
 - e) Shipments without an RMA number clearly printed on the outside of packaging may be delayed in processing or refused.
 - f) PAM will pay shipping charges to return goods to City after repair or replacement.

THIS LIMITED WARRANTY IS THE EXCLUSIVE AND SOLE WARRANTY PROVIDED BY PAM AND EXCLUDES ALL OTHER WARRANTIES WHETHER STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. PAM IS NOT RESPONSIBLE FOR ANY GENERAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, LOSS OF USE OR LOSS OF PROFITS.

GOODS AND SERVICES AGREEMENT

ATTACHMENT 1 – INSURANCE CERTIFICATES

ORDINANCE NO.: 11 - 2013

OF

OCTOBER 28, 2013

AN ORDINANCE RESCINDING SECTION 288-35.1 ENTITLED "PARKING PERMITS" AND AMENDING SECTION 288-85 ENTITLED "SCHEDULE XXVII: CITY PARKING LOTS AND PARKING GARAGES - PARKING PERMIT FEES" OF CHAPTER 288 ENTITLED "VEHICLES AND TRAFFIC" OF THE CODE OF THE CITY OF NEWBURGH

BE IT ORDAINED by the City Council of the City of Newburgh that:

Section 1. Section 288-35.1 entitled "Parking Permits" of Chapter 288 entitled "Vehicles and Traffic" of the Code of the City of Newburgh be and hereby is rescinded in its entirety.

Section 2. Section 288-85 entitled "Schedule XXVII: City Parking Lots And Parking Garages - Parking Permit Fees" of Chapter 288 entitled "Vehicles and Traffic." of the Code of the City of Newburgh be and hereby is amended as follows:

§ 288-85 Schedule XXVII: City Parking Lots and Parking Garages - Parking Permit Fees.

Whenever the City Manager shall, pursuant to the authority delegated to him by § ~~288-35~~ of this chapter, have designated all or some of the spaces in parking lots owned or operated by the City of Newburgh as reserved for vehicles displaying a valid parking permit for said parking lot issued by the City of Newburgh, the fee for the purchase of said parking permit shall be as established herein; and no person shall park or stand a vehicle in such space without displaying a valid parking permit issued by the City of Newburgh and without having paid the fee set forth herein. All permits designated in this section shall be issued by the Parking Violations Bureau.

Location of Parking Lot	Monthly Fee	<u>Day Permit</u>	<u>Resident Overnight</u>
		<u>6am to 6pm</u> Monthly Fee	<u>6pm to 6am</u> Monthly Fee
Ann Street (between Liberty Street and South Johnson Street)	\$20	<u>\$50</u>	<u>\$35</u>
Ann Street (between William Street and Mill Street)	\$20	<u>\$50</u>	<u>\$35</u>

Underlining denotes additions
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Broadway (at Grand Street)	\$35	<u>\$50</u>	<u>\$35</u>
Chambers Street	\$20	<u>\$50</u>	<u>\$35</u>
Delano-Hitch Park	\$20	<u>\$50</u>	<u>\$35</u>
Front Street (east side)	\$20	<u>\$50</u>	<u>\$35</u>
Front Street (west side)	\$20	<u>\$50</u>	<u>\$35</u>
Grand Street (Courthouse Square)	\$35	<u>\$50</u>	<u>\$35</u>
Johnston Street	\$20		
Liberty Street	\$20		
Public Safety Building	\$20		
Van Ness Street	\$20	<u>\$50</u>	<u>\$35</u>
Ward Brothers Park	\$20		
Washington Street Boat Launch		Daily or seasonal permit as set forth in Chapter <u>163</u> , Fees	
Water Street	\$20	<u>\$50</u>	<u>\$35</u>
West End	\$20	<u>\$50</u>	<u>\$35</u>

Section 3. This ordinance shall take effect immediately.

Underlining denotes additions
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ORDINANCE NO.: 12 -2013

OF

OCTOBER 28, 2013

AN ORDINANCE AMENDING SECTION 297-22 ENTITLED "TOWING OF VEHICLES BY CITY" OF CHAPTER 297 ENTITLED "WRECKERS AND TOWERS" OF THE CODE OF THE CITY OF NEWBURGH

BE IT ORDAINED by the City Council of the City of Newburgh that:

Section 1. Section 297-22 entitled "Towing of Vehicles by City" of Chapter 297 entitled "Wreckers and Towers" of the Code of the City of Newburgh be and hereby is amended as follows:

§ 297-22. Towing of vehicles by City.

C. Boot and Tow Program for Scofflaws

- (1) Any unattended vehicle found parked upon a street or on any City-owned property or property under the jurisdiction or control of the City against which there are three or more outstanding or otherwise unsettled parking violation summonses within an eighteen-month period for which judgments have been issued may, by or under the direction of a police officer, parking enforcement officer or other designee of the Director of the Parking Violations Bureau, either by towing or otherwise, be removed or conveyed to and impounded in any place designated by the Director of Parking Violations or immobilized in such a manner as to prevent its operation, except that no such vehicle shall be immobilized by any means other than by use of a device or other mechanism which will cause no damage to such vehicle unless it is moved while such device or mechanism is in place.
- (2) It shall be the duty of the police officer, parking enforcement officer or other designee of the Director of the Parking Violations Bureau, removing or immobilizing such motor vehicle or under whose direction such motor vehicle is removed or immobilized to inform as soon as practicable the Director of Parking Violations, who shall in turn inform by first class mail the owner of the impounded or immobilized vehicle of the nature and circumstances of the prior unsettled parking violations summonses, for which or on account of which such vehicle was impounded or immobilized. In any case involving immobilization of a vehicle

Underlining denotes additions

~~Strikethrough~~ denotes deletions

pursuant to this subsection, such police officer, parking enforcement officer or other designee of the Director of the Parking Violations Bureau, shall cause to be placed on such vehicle, in a conspicuous manner, a notice sufficient to warn any individual to the effect that such vehicle has been immobilized and that any attempt to move such vehicle might result in damage to such vehicle.

- (3) The owner or person entitled to possession of such vehicle may secure the release of the vehicle by complying with the rules and regulations of the Parking Violations Bureau concerning all outstanding summonses and judgments against said vehicle and by payment of the sum as outlined in Chapter 163, Fees, for the removal of the immobilization device or mechanism.

Section 2. This ordinance shall take effect immediately.

Underlining denotes additions
~~Strikethrough~~ denotes deletions

ORDINANCE NO.: 13 - 2013

OF

OCTOBER 28, 2013

AN ORDINANCE AMENDING CHAPTER 163 ENTITLED "FEES" OF THE CODE OF THE CITY OF NEWBURGH TO ADD FEES FOR PARKING VIOLATIONS BUREAU TRANSCRIPTS AND APPEALS AND TO ADD TOWING AND BOOT FEES

BE IT ORDAINED by the City Council of the City of Newburgh that:

Section 1. Chapter 163 entitled "Fees" of the Code of the City of Newburgh be and hereby is amended as follows:

Code Section	Type of Fee	Amount
Chapter 70, Parking Violations Bureau		
<u>§ 70-10 Hearings</u>	<u>Transcript Fee</u>	<u>\$10</u>
<u>§ 70-12 Appeals</u>	<u>Appeal Application Fee</u>	<u>\$25</u>
Chapter 297, Wreckers and Towers		
<u>§ 297-3</u>	Towing storage and cleanup rates: Initial pickup charge for towing or road service:	
	Between 8:00 a.m. and 5:00 p.m.	\$100 <u>\$125</u>
	Between 5:00 p.m. and 8:00 a.m.	\$125 <u>\$150</u>
	Anytime during snow emergency	\$150 <u>\$175</u>
	Winching Charge	\$85 <u>100</u> per hour
<u>§ 297-22</u>	<u>Installation of immobilization device</u>	<u>\$75</u>
	<u>Removal of immobilization device</u>	<u>\$25</u>
	<u>Removal of Scofflaw Administrative Fee</u>	<u>\$10</u>

Section 2. This ordinance shall take effect immediately.

Underlining denotes additions
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RESOLUTION NO.: 216 - 2013

OF

OCTOBER 28, 2013

A RESOLUTION SCHEDULING A PUBLIC HEARING FOR
NOVEMBER 12, 2013 TO RECEIVE PUBLIC COMMENT ON THE
CITY OF NEWBURGH'S PROPOSED ACTIONS WITH RESPECT TO
THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR THE
CONSOLIDATED PLAN FOR HOUSING AND COMMUNITY DEVELOPMENT
FOR FISCAL YEAR 2014

BE IT 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 for the Consolidated Plan for Housing and Community Development for FY 2014; and that such public hearing be and hereby is duly set to be held at 7:00 p.m. on the 12th day of November, 2013 in the City Council Chambers, 83 Broadway, City Hall, 3rd Floor, Newburgh, New York.

RESOLUTION NO.: 218 - 2013

OF

OCTOBER 28, 2013

A RESOLUTION REQUESTING AN EXEMPTION FROM COUNTY
TAXES FOR THE CITY'S RESERVOIR AND FILTER PLANT
PROPERTIES FOR THE YEAR 2015

BE IT RESOLVED, by the Council of The City of Newburgh, New York, that the City Manager be and he is hereby authorized and directed to request a real property tax exemption from real property taxes to be levied by the County of Orange on all of the City's reservoir and filter plant properties, and the buildings and improvements thereon, and to be constructed thereon in the Town of Newburgh and the Town of New Windsor, pursuant to the provisions of Section 406, subdivision 3, of the Real Property Tax Law of the State of New York.

The requested exemption would include exemption from all taxation, special ad valorem levies and special assessments through December 31, 2015, so long as the subject premises are used for the aforesaid purposes.

The specific properties involved are as follows:

<u>OWNER</u>	<u>MUNICIPALITY</u>	<u>TAX PARCEL NO.</u>
CITY OF NEWBURGH	TOWN OF NEW WINDSOR	4 - 1 - 38
		4 - 1 - 35
		4 - 3 - 1.1
		4 - 1 - 12.2
		4 - 1 - 9.21
		4 - 1 - 10
		32 - 2 - 53
	TOWN OF NEWBURGH	75 - 1 - 17
		97 - 3 - 17
		97 - 2 - 22.1
		97 - 3 - 10
		97 - 1 - 44

RESOLUTION NO.: 29-2013

OF

OCTOBER 28, 2013

A RESOLUTION AUTHORIZING THE CITY CLERK TO EXECUTE A
LICENSING ISSUING AGENT AGREEMENT WITH THE NEW YORK STATE
DEPARTMENT OF ENVIRONMENTAL CONSERVATION AND DESIGNATING
THE DEPUTY CITY CLERK AS ASSISTANT LICENSING ISSUING AGENT

WHEREAS, under Section 11-0713 of the New York State Environmental Conservation Law, the New York State Department of Environmental Conservation is authorized to appoint municipal clerks as agents to issue hunting and fishing licenses in New York State; and

WHEREAS, in order for the City Clerk to continue to issue hunting and fishing licenses, a Licensing Issuing Agent Agreement with the New York State Department of Environmental Conservation is required; and

WHEREAS, the Licensing Issuing Agent Agreement permits the City Clerk to appoint an Assistant Licensing Agent to be trained and authorized to issue said licenses; and

WHEREAS, the City Council of the City of Newburgh finds appropriate and in the best interests of the City of Newburgh to authorize the City Clerk to execute the Licensing Issuing Agent Agreement and to appoint a Deputy City Clerk to serve as the Assistant Licensing Agent;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh hereby authorizes the City Clerk to execute the Licensing Issuing Agent Agreement, annexed hereto and made part hereof, with New York State Department of Environmental Conservation and to appoint a Deputy City Clerk to serve as the Assistant Licensing Issuing Agent for the purpose of issuing hunting and fishing licenses in New York State.

2. **APPOINTMENT**

A. The Department hereby appoints the License Issuing Agent and their duly appointed Assistant License Issuing Agent (designed below) to be an agent issuing hunting, trapping, and fishing licenses at the approved location.

B. The License Issuing Agent hereby appoints _____,
Name
_____, as the Assistant License Issuing Agent.
Title

(See paragraph [11. F] herein for information regarding changes in appointment of the Assistant License Issuing Agent.)

3. **DEPARTMENT REPRESENTATIONS**

The Department hereby agrees that it will:

A. Provide the License Issuing Agent with a license printer (and necessary supplies) at the approved location for the sale and reporting of hunting and fishing licenses and provide necessary support for the printer.

B. Pay a commission to the License Issuing Agent for each license sold as prescribed in Department laws, rules and regulations.

C. Provide appropriate training and training materials to the Assistant License Issuing Agent, including a toll free telephone "help desk" service to answer questions and assist with problems.

D. Provide informational materials for use at the approved location for the License Issuing Agent and their authorized employees to distribute to hunters, anglers, etc., regarding regulatory requirements for all authorized licenses issued.

4. **AGENT REPRESENTATIONS**

The Agent hereby agrees that it will:

A. Provide authorization attached hereto as Attachment "A" for the Department to access a bank account for electronic fund transfers to pay for all licenses sold. Fund transfers shall be scheduled on a regular basis as determined by the Department.

B. Provide reasonable and necessary security to protect equipment and supplies from damage and unauthorized use.

C. Ensure that all Department license issuing equipment is maintained in good working condition and returned to the Department when license sales are no longer provided at the approved location.

D. Pay all amounts due to the Department. Failure to maintain an adequate balance in the License Issuing Agent's account may result in immediate termination of this Agreement.

E. The License Issuing Agent must provide a compatible computer system including a plain paper printer and access to the internet at no charge to the Department.

F. The License Issuing Agent 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 in a court of competent jurisdiction, to the extent such loss is attributable to a negligent omission or tortious act of the License Issuing Agent, its agents or employees, in the performance of this Agreement.

G. The License Issuing Agent is solely responsible for the supervision and direction of the performance of this Agreement by the Assistant License Issuing Agent and other authorized license issuing employees other than as specifically provided herein.

5. AGENT RESPONSIBILITY

A. General Responsibility: The License Issuing Agent shall at all times during the Agreement term remain responsible. The License Issuing Agent agrees, if requested by the Commissioner or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

B. Suspension of Work (for Non-Responsibility): The Commissioner or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Agreement, at any time, when he or she discovers information that calls into question the responsibility of the License Issuing Agent. In the event of such suspension, the License Issuing Agent will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the License Issuing Agent must comply with the terms of the suspension order. Agreement activity may resume at such time as the Commissioner or his or her designee issues a written notice authorizing a resumption of performance under the Agreement.

6. LICENSE ISSUING CONDITIONS

A. All licenses authorized to be sold pursuant to this Agreement may only be sold by the Assistant License Issuing Agent or authorized employees of the License Issuing Agent at the approved location set forth in this Agreement.

B. All employees authorized to issue licenses by the License Issuing Agent pursuant to paragraph "A" of this section, shall be appropriately trained in the use of the license issuing system by the Assistant License Issuing Agent prior to using the issuance system.

C. The Assistant License Issuing Agent must receive recurring training sponsored by the Department at least once every three years or sooner as circumstances warrant as determined by the Department.

D. The License Issuing Agent and its employees who are authorized to issue licenses pursuant to this Agreement must abide by New York State Regulations 6 NYCRR Part 177 (www.dec.ny.gov/regs/3936.html) and 6 NYCRR Part 183 (www.dec.ny.gov/regs/3931.html).

E. All personal data provided by customers shall be kept confidential to the extent required by Law.

F. All documents considered returnable documents as well as all voided licenses for which credit is requested must be returned to the Department within one month of the transaction.

G. All funds received from the sale of licenses, less the commission fee established by the Department, will be held in trust for the Department. Monies collected from the sale of licenses are Department funds and any other use of such funds is prohibited. The License Issuing Agent accepts the responsibility and duties of trustee for all funds collected for the benefit of the Department under this Agreement.

H. No license may be sold for a fee in excess of or less than the amount established by the Department.

I. The complete catalog of sportsman licenses must be available for sale at the License Issuing Agent's approved location as designated in this Agreement.

7. USE OF EQUIPMENT AND SUPPLIES

A. Supplies and equipment assigned to the License Issuing Agent for the printing of licenses are to be used for that purpose only, unless prior approval for such use is provided by the Department. Equipment is not transferable to other license issuing agent locations.

B. In the event that defective equipment is replaced, the License Issuing Agent shall return the defective equipment immediately to the specified repair center. The License Issuing Agent shall pay for any such equipment not returned, or equipment that shows obvious abuse. Failure to remit payment for abused or unreturned equipment may result in the immediate termination of this Agreement.

8. CHANGE IN OWNERSHIP

In the event of a change in ownership of the License Issuing Agent's business, the Department must be notified 30 days in advance of any such change, and this Agreement becomes immediately terminated at the time of such change in ownership. At the time of termination, all Department-provided licensing equipment must be returned to the Department or the

Department's representative. This License Issuing Agent's appointment is not transferable and shall apply only to the License Issuing Agent's appointment to sell hunting and fishing licenses.

9. CHANGE IN MUNICIPAL CLERK

In the event of a change in municipal clerk from that who entered into this Agreement, the Department must be notified within 30 days of such change and this Agreement will become void at the time of such change. To avoid a disruption in service, a new Agreement should be submitted in advance of such change signed by the new municipal clerk. If the municipality intends to submit a new Agreement, Department-provided equipment does not need to be returned.

10. COMPLIANCE INSPECTIONS

The Department reserves the right to inspect the approved location for the purpose of determining compliance with this Agreement.

11. TERMINATION

In addition to any termination event appearing elsewhere in this Agreement, or provided in the applicable Department regulations, the following shall apply:

A. This Agreement may be terminated for cause if the Department determines that any false statements or omissions were made on the License Issuing Agent's application.

B. This Agreement may be terminated for cause for failure to comply with the terms of this Agreement at any or all approved locations at any time by the Department.

C. Either party may terminate this Agreement for convenience by 15 days written notice to the other party.

D. In the event of termination of this Agreement, the License Issuing Agent shall pay for all licenses sold and not previously paid for and return all equipment and supplies to the Department within 30 days of such termination.

E. ~~Termination for Non-Responsibility:~~ Upon written notice to the License Issuing Agent, and a reasonable opportunity to be heard with appropriate Department officials or staff, the Agreement may be terminated by the Commissioner or his or her designee at the License Issuing Agent's expense where the License Issuing Agent is determined by the Commissioner or his or her designee to be non-responsible. In such event, the Commissioner or his or her designee may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

F. In the event of a change in the appointment of the Assistant License Issuing Agent, the License Issuing Agent shall notify the Department of such change within 15 business days by submitting to the Department a completed revised License Issuing Agent Application

Form attached hereto as Attachment "B," which shall provide, among other things, the name and title of the newly appointed Assistant Licensing Issuing Agent. In the Department's sole discretion, this agreement may be suspended or terminated in the event the Department is not notified of any change in appointment of the Assistant License Issuing Agent as provided herein.

12. **TERM**

This Agreement shall remain in effect from the date of execution until such termination.

13. **APPLICABLE LAWS**

A. This Agreement shall be governed by the laws of the State of New York.

B. All licenses shall be issued in accordance with the provisions of the New York Codes, Rules and Regulations of the State of New York (<http://www.dec.ny.gov/regs/2494.html>) and New York State Law and the policies and procedures of the Department.

14. **TOTAL AGREEMENT**

This Agreement together with any laws, documents and instruments herein referenced, shall constitute the entire agreement and any previous communication pertaining to this Agreement is hereby superseded.

15. **CONTRACT AMENDMENT**

Any agreement revisions, including payment adjustments or time extensions, shall be made by a written amendment to the agreement, signed by both parties.

Signature _____ Date: _____
License Issuing Agent
(notarization required below)

LICENSE ISSUING AGENT ACKNOWLEDGMENT

State of _____)
County of _____) s.s.:

On the _____ day of _____, in the year _____, before me, the undersigned, personally appeared _____ personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he/she/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.

Date Notary Expires Notary Public

Signature _____
DEC Representative

Date: _____

NOTE: A faxed copy of this agreement and the associated application will not be accepted.

Completed applications and agreements in their original form should be mailed to:

Attn: Revenue and Accounting Unit
New York State Department of Environmental Conservation
625 Broadway, 10th Floor
Albany, New York 12233-4900

Attachment A

New York State Department of Environmental Conservation
Division of Management & Budget Services
Bureau of Revenue Management -10th Floor
625 Broadway, Albany, New York 12233-5012
Phone: (518) 402-9365 • FAX: (518) 402-9023
Website: www.dec.state.ny.us

Please complete, review and sign this form. Attach a voided check or a statement from your bank that includes the routing number and account number for the account from which the ACH debits will be drawn and mail this items to the address above.

New York State Department of Environmental Conservation Authorization Agreement for Direct Payments (ACH Debits) relative to the Department's automated sporting license system.

Agent/Officer Name: _____
Business Address: _____
City: _____
State: _____
ZIP: _____
Telephone: _____

I hereby authorize the New York State Department of Environmental Conservation, hereinafter called DEPARTMENT, to initiate debit entries to my account indicated below at the financial institution named below, hereinafter called DEPOSITORY, and to debit the same account. I acknowledge that the origination of ACH Transactions to my account must comply with the provisions of U.S. law.

Branch Name: _____
Address: _____
City: _____
State: _____
ZIP Code: _____
Contact: _____
Telephone: _____
Routing Number: _____
Account Number: _____
Account Name _____
Account Type: Checking Savings

This authorization is to remain in full force and effect until DEPARTMENT has received written notification from me of its termination in such manner as to afford DEPARTMENT and DEPOSITORY a reasonable opportunity to act on it.

Signature: _____

Date: _____

NOTE: ALL WRITTEN DEBIT AUTHORIZATIONS MUST PROVIDE THAT THE RECEIVER MAY REVOKE THE AUTHORIZATION ONLY BY NOTIFYING THE ORIGINATOR IN THE MANNER SPECIFIED IN THE AUTHORIZATION.

**NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
 LICENSE ISSUING AGENT APPLICATION
 ATTACHMENT "B"**



LICENSE ISSUING AGENT PERSONAL INFORMATION		
FIRST, MIDDLE INITIAL, LAST NAME:		
HOME ADDRESS:		
STREET/PO BOX:		
CITY:	STATE:	ZIP CODE:
HOME TELEPHONE NUMBER: _____		WORK TELEPHONE NUMBER: _____
HAS APPLICANT SOLD NEW YORK STATE HUNTING AND FISHING LICENSES PREVIOUSLY? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE PROVIDE AGENT NUMBER: _____		
HAVE YOU EVER BEEN DENIED A BOND OR BEEN THE DEFENDANT IN COURT PROCEEDINGS INVOLVING THE NONPAYMENT OF DEBTS? <input type="checkbox"/> YES <input type="checkbox"/> NO		
HAVE YOU EVER BEEN CONVICTED OF A FELONY? <input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE AGENT 18 YEARS OF AGE OR OLDER? <input type="checkbox"/> YES <input type="checkbox"/> NO		
POSITION OF APPLICANT: <input type="checkbox"/> OWNER <input type="checkbox"/> MUNICIPAL CLERK <input type="checkbox"/> MANAGER		
BUSINESS INFORMATION		
LEGAL NAME OF BUSINESS OR MUNICIPALITY:		
FEDERAL EMPLOYER IDENTIFICATION NUMBER: _____		
TYPE OF BUSINESS: <input type="checkbox"/> GOVERNMENT <input type="checkbox"/> SOLE PROPRIETORSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> LIMITED PARTNERSHIP		
BUSINESS MAILING ADDRESS:		
STREET/PO BOX:		
CITY:	STATE:	ZIP CODE:
BUSINESS SHIPPING ADDRESS (If Different From Above)		
STREET ADDRESS		
CITY	STATE:	ZIP CODE:
BUSINESS TELEPHONE NUMBER: _____		BUSINESS FAX NUMBER: _____
BUSINESS E-MAIL ADDRESS: _____		
HAS THIS BUSINESS LOCATION SOLD NEW YORK STATE HUNTING AND FISHING LICENSES PREVIOUSLY? <input type="checkbox"/> YES <input type="checkbox"/> NO IF YES, PLEASE PROVIDE AGENT NUMBER: _____		

BUSINESS OPERATIONS		
DAYS/HOURS OF OPERATION		
DAY OF WEEK	OPENING TIME	CLOSING TIME
SUNDAY	__ AM __ PM	__ AM __ PM
MONDAY		
TUESDAY		
WEDNESDAY		
THURSDAY		
FRIDAY		
SATURDAY		
IS THIS BUSINESS OPEN YEAR AROUND? <input type="checkbox"/> YES <input type="checkbox"/> NO		
IF NO, STATE MONTHS OF OPERATION:		
ASSISTANT LICENSE ISSUING AGENT INFORMATION (To be appointed by the License Issuing Agent listed above)		
FIRST, MIDDLE INITIAL, LAST NAME:		
HOME ADDRESS:		
STREET/PO BOX:		
CITY:	STATE:	ZIP CODE:
HOME TELEPHONE NUMBER:		WORK TELEPHONE NUMBER:
HAVE THE ASSISTANT AGENT EVER BEEN CONVICTED OF A FELONY? <input type="checkbox"/> YES <input type="checkbox"/> NO		
IS THE ASSISTANT AGENT 18 YEARS OF AGE OR OLDER? <input type="checkbox"/> YES <input type="checkbox"/> NO		

License Issuing Agent Applicant Certification and Signature:

The undersigned recognizes that this application is submitted for the express purpose of inducing the State of New York, through the Department, to appoint me as a license issuing agent with the authority to issue hunting, trapping, and fishing privileges in the State of New York; acknowledges that the State or the Department may, by means which it may choose, determine the truth and accuracy of all statements made herein; acknowledges that intentional submission of false or misleading information may constitute a felony or misdemeanor under Penal Law § 210; and states that the information submitted in this application and any attached pages is true, accurate and complete.

Signed: _____ Dated: _____
License Issuing Agent

RESOLUTION NO.: 220 - 2013

OF

OCTOBER 28, 2013

A RESOLUTION TO IMPLEMENT A CITY-WIDE
CURFEW FOR MINORS 16 YEARS OF AGE AND UNDER
ON OCTOBER 30TH AND 31ST
FROM 9:00 P.M. TILL 6:00 A.M.

WHEREAS, the City of Newburgh has a general obligation to ensure the safety and welfare of the general population of the City including minors, along with protection of private property; and

WHEREAS, October, 30th and 31st are associated with Halloween related activities, including "Trick or Treating" and other related outdoor activities, some of which might be prejudicial to the safety and welfare of the population and protection of private property; and

WHEREAS, the City of Newburgh determines that the passage of a curfew resolution for Halloween and the preceding night will assist in protecting the welfare of minors by reducing the likelihood of their involvement in inappropriate behavior, while aiding parents or guardians of minors entrusted in their care;

NOW THEREFORE, BE IT RESOLVED:

THIS COUNCIL HEREBY DECLARES a city-wide curfew for minors from 9:00 P.M. until 6:00 A.M. each day, starting at 9:00 p.m. on Wednesday, October 30, 2013, and ending at 6:00 a.m. on Friday, November 1, 2013; and

BE IT FURTHER RESOLVED, this Council urges all parents to inform their children and supervise the implementation of this City-wide curfew so that we may avoid problems and promote the safety, health and welfare of our City's young people and property owners; and

BE IT FURTHER RESOLVED, that it shall be a defense to a violation of this curfew that the minor was accompanied by the minor's parent or guardian, engaged in an employment activity, or involved in an emergency or other legally justifiable activity.