

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

Thursday, February 7, 2013

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- Members Present: Mayor Judy Kennedy  
Councilwoman Regina Angelo  
Councilman Curlie Dillard  
Councilwoman Gay
- Members Absent: Councilman Cedric Brown
- Also Present: Richard F. Herbek, City Manager  
Michelle Kelson, Corporation Counsel
- Call to Order: The meeting was called to order by City Manager Richard F. Herbek at 6:00 pm.
- Executive Session: At 6:03 p.m. a motion was made by Mayor Judy Kennedy and seconded by Councilwoman Gay Lee to enter into executive session regarding matters of litigation
- YES: 4  
NO: 0  
CARRIED
- At 6:10 p.m. a motion was made by Councilwoman Gay Lee and seconded by Councilwoman Regina Angelo to return to the regular work session agenda.
- Adjournment: Upon consensus, the Council adjourned at 7:00 p.m.

Account#	Account Description	Fee Description	Qty	Local Share
	Marriage License	Marriage License	23	402.50
			<b>Sub-Total:</b>	<b>\$402.50</b>
2590	Additional Tow Truck	Additional Tow Truck	1	25.00
	Loading Zone	Loading Zone	1	100.00
	Misc. Fees	Handicap Parking Spaces	1	25.00
	Towing License	Towing License	1	150.00
			<b>Sub-Total:</b>	<b>\$300.00</b>
A12550002	Cancellation Certificate	Cancellation Certificate	1	25.00
			<b>Sub-Total:</b>	<b>\$25.00</b>
A12550003	Misc. Fees	Certified Copies - Marriage	34	352.00
			<b>Sub-Total:</b>	<b>\$352.00</b>
A12550008	Misc. Fees	Copies	342	85.50
			<b>Sub-Total:</b>	<b>\$85.50</b>
A12550012	Thumbprint Fee	Thumbprint Fee	1	5.00
		Thumbprint Fee	1	5.00
			<b>Sub-Total:</b>	<b>\$10.00</b>
A2544	Dog Licensing	Female, Spayed	5	37.50
		Female, Unspayed	3	37.50
		Male, Neutered	6	45.00
		Male, Unneutered	2	25.00
			<b>Sub-Total:</b>	<b>\$145.00</b>
A25450002	Annual License Fee	Annual License Fee	1	200.00
			<b>Sub-Total:</b>	<b>\$200.00</b>
A25900008	Alarm Permit	Alarm Permit	1	100.00
			<b>Sub-Total:</b>	<b>\$100.00</b>
A25900019	Taxi Application Fee	Taxi Application Fee	3	300.00
			<b>Sub-Total:</b>	<b>\$300.00</b>
A25900020	Taxi Drivers License	Taxi Drivers License	1	100.00
			<b>Sub-Total:</b>	<b>\$100.00</b>

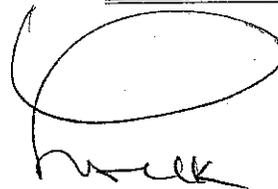
**Total Local Shares Remitted: \$2,020.00**

Amount paid to: NYS Ag. & Markets for spay/neuter program \_\_\_\_\_ 26.00

Amount paid to: State Health Dept. For Marr. Licenses \_\_\_\_\_ 517.50

**Total State, County & Local Revenues: \$2,563.50**

**Total Non-Local Revenues: \$543.50**



City Clerk

2/1/13

Date



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

February 4, 2013

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

TO: MAYOR AND CITY COUNCIL

FROM: REGISTRAR OF VITAL STATISTICS

I RESPECTFULLY REPORT THAT THERE HAS BEEN  
RECEIVED IN THE OFFICE OF VITAL STATISTICS DURING THE MONTH  
OF JANUARY 2013 THE SUM OF \$6,954.00 AS FOLLOWS:

250 CERTIFIED COPIES OF BIRTH CERTIFICATES	\$2,500.00
445 CERTIFIED COPIES OF DEATH CERTIFICATES	<u>\$4,454.00</u>
TOTAL	\$6,954.00

IN ADDITION:

86 BIRTHS HAVE BEEN FILED IN THIS OFFICE TO DATE,  
65 DEATHS HAVE BEEN FILED IN THIS OFFICE TO DATE,

  
\_\_\_\_\_  
LORENE VITEK

**PERSONNEL REPORT**  
**CIVIL SERVICE COMMISSION**  
**JANUARY 2013**

**COMPTROLLER:**

Ja’Nise Patrick  
14 S. Miller Street  
Newburgh, NY

Intern  
Temporary Appointment  
1/14/13 \$11/hr.

Vickiana Demora  
202 Fullerton Avenue  
Newburgh, NY

Cashier  
Permanent Appointment  
1/22/13 \$36,934

**DPW:**

Sharieff Anderson  
56 Bay View Terrace  
Newburgh, NY

CDBG Temporary Laborer  
End of Assignment  
1/31/13 \$16.00/hr.

Bldg. Maint. Worker  
Temporary Appointment  
2/1/13 \$16.00/hr.

Kenyon Nolcox  
241 Third Street  
Newburgh, NY

CDBG Temporary Laborer  
End of Assignment  
1/31/13 \$16.00/hr.

Bldg. Maint. Worker  
Temporary Appointment  
2/1/13 \$16.00/hr.

Irell Jones  
1 Chadwick Gardens  
Newburgh, NY

CDBG Temporary Laborer  
End of Assignment  
1/31/12 \$16.00/hr.

Alex Livingston  
57 Carson Avenue  
Newburgh, NY

CDBG Temporary Laborer  
End of Assignment  
1/31/13 \$16.00/hr.

**DPW**

**Continued:**

Joseph DiBlasi  
PO Box 15  
Newburgh, NY

Sanitation Worker  
Suspended w/o Pay  
12/27/12- 1/26/13  
\$45,230

Julius Riglioni  
33 Central Avenue  
Wallkill, NY

Motor Equip Operator  
Deceased 1/22/13  
\$48,082

**Planning &  
Development:**

Bonnie Clemmer  
72 Clinton Street  
Newburgh, NY

Economic Development Specialist  
From Part Time to Full Time  
1/1/13 \$51,890

Acacia Bellamy  
80 Prospect Street  
Newburgh, NY

Intern  
Temporary Appointment  
1/1 – 4/1/13 \$10.00/hr.



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

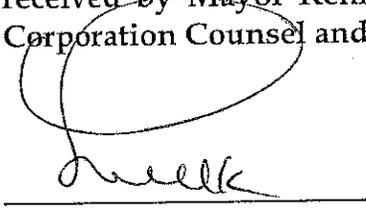
TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Notice of Claim:  
Joseph Belford vs City of Newburgh

DATE: February 11, 2013

Please find attached Notice of Claim regarding the above, which was received by Mayor Kennedy on February 4<sup>th</sup> or 5<sup>th</sup>, 2013 then forwarded to Corporation Counsel and the City Clerk on February 6, 2013.



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Attachment

Cc City Manager ✓  
Mayor & Council

**NOTICE OF CLAIM**



-----  
In the Matter of the Claim of  
JOSEPH BELFORD  
against

THE CITY OF NEWBURGH and POLICE OFFICER JOHN DOE  
-----

**TO: THE CITY OF NEWBURGH, THE CITY OF NEWBURGH POLICE  
DEPARTMENT**

PLEASE TAKE NOTICE that the undersigned claimant hereby makes claim  
and demands against THE CITY OF NEWBURGH and POLICE OFFICER JOHN  
DOE as follows:

**1. The name and post-office address of claimant and claimant's  
attorney is:**

Attorney:  
Aaron David Frishberg  
The Thurgood Marshall Institute  
20 E 1st St # 204  
Mount Vernon, NY 10550  
(914) 699-5034  
LawyerADF@AOL.com

Claimant:  
Joseph Belford  
Newburgh Ministry  
290 Broadway  
Newburgh NY, 12550

**2. The nature of the claim:** Action to recover for wrongful eviction,  
breach of implied covenant of quiet enjoyment, conversion, trespass to property,  
trespass to chattels, retaliatory eviction, interference with Rights of Tenants to Join

or Participate in Tenant's Groups, violation of First Amendment, and violation of the Fourth Amendment.

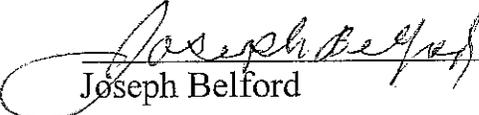
**3. The time when, the place where and the manner in which the claim arose:** The incident occurred on or about October 29, 2012, a Monday, at approximately 11:30 AM through 12:00 PM, while plaintiff JOSEPH BELFORD was at his home located at 10 Farrington Street. Claimant JOSEPH BELFORD was wrongfully evicted from his home by POLICE OFFICER JOHN DOE. Respondent POLICE OFFICER JOHN DOE evicted JOSEPH BELFORD by threatening to arrest him without probable cause that he was illegally squatting in the apt. THE CITY OF NEWBURGH was negligent in the hiring and training of Respondent POLICE OFFICER JOHN DOE.

**4. The items of damage or injuries claimed are (include dollar amounts):** Bed Television, DVD player, DVD Collection, Clothing, Shoes, Bike, Toiletries, Two phones, Camera, Lamp, Heater, Fan, Antique Record Collection the sum of which is \$3,000.00. Additionally, due to the actions and/or negligence of Respondents as aforesaid, the Claimant has suffered emotional distress amounting in at \$200,000.00, and in case of suit, to be determined by a trier of fact.

**TOTAL AMOUNT CLAIMED \$203,000.00**

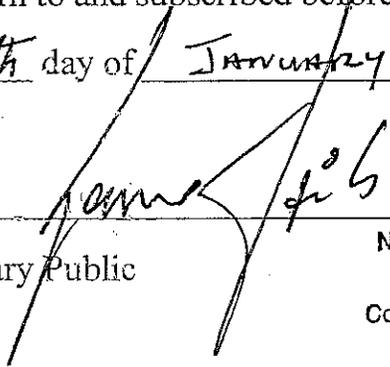
The undersigned claimant therefore presents this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimants intend to commence an action on this claim.

Dated: January 25, 2013

  
Joseph Belford

Sworn to and subscribed before me on this

25<sup>th</sup> day of January, 2013

  
Notary Public

LENNOX HINDS  
Notary Public, State Of New York  
No. 02HI6078222  
Qualified In New York County  
Commission Expires July 29, 2014



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel  
FROM: Katrina Cotten, Deputy City Clerk  
RE: Motion of Intent of Service:  
Larry Gantt vs. City of Newburgh  
DATE: February 6, 2013

Please find attached Motion of Intent of Service regarding the above,  
which was received from the Office of Corporation Counsel on this date.

Attachment

Cc City Manager  
Mayor & Council

+UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT COURT

MOTION OF INTENT  
OF SERVICE

-AGAINST-

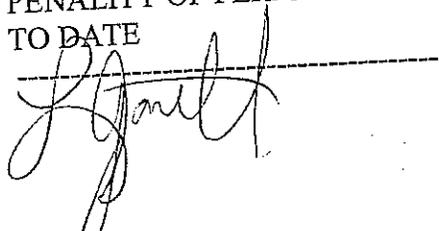
RECEIVED  
FEB 06 2013  
CITY CLERK

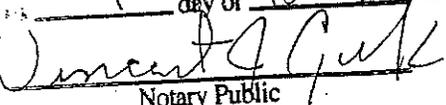
-----X  
THE STATE OF NEW YORK COUNTY  
OF ORANGE, ERIC HENDERSON AND  
OTHER OFFICERS OF THE CITY OF  
NEWBURGH POLICE DEPARTMENT

I LARRY GANTT BEING DULY SWORN DEPOSES AND SAYS TO MAKE  
AFFIRMATION UNDER PENALTIES OF PERJURY

I LARRY GANTT AS PLAINTIFF IN THE ABOVE-ENTITLED ACTION  
RESPECTFULLY MOVE THIS COURT TO ORDER DEFENDANTS TO SHOW  
CAUSE WHY THEY SHOULD NOT BE ENJOINED FROM-TO UNTIL A FINAL  
DISPOSITION ON THE MERITS IN THE ABOVE-ENTITLED ACTION.

I LARRY GANTT WAS JUMPED AND ASSULTED ON 11-3-12 BY  
NUMEROUS UNIDENTIFIED ASSALENTS IN THE CITY OF THE CITY OF  
NEWBURGH;#-ERIC HENDERSON WAS SEEN PUNCHING AND SHAKING  
ME ON OR AROUND THE NECK AREA BY SEVERIAL WITNESSES, WHEN I  
WAS UNCONSCIOUS LYING ON THE GROUND BLEEDING PROFUCELLY  
FROM THE FACE AND BODY INJURIES THAT I OBTAINED THIS NIGH-IN  
QUESTION. AND MULTIPLE STAB WOUNDS # IN TOTAL. ALSO IM  
ENTERING THE SECURITY STAFF OF #90 BROADWAY AND THEIR  
EMPLOYEES FOR NOT ATTEMPTING TO STOP THIS ASSULT WHICH WAS  
do# FEET OF THEIR ESTABLISHMENT. UNDER THIS ORDER IS ISSUED, I  
WILL SUFFER AND IRREPARABLE INJURY LOSS AND DAMAGES IN THIS  
AS CAN BE SEEN FROM THE FOREGOING. I HAVE NO ADEQUATE  
REMAND AT ALL ON PRIOR REQUEST HAS BEEN MADE FOR THE RELIEF  
REQUESTED HERE IN WHEREFORE I RESPECTFULLY REQUEST THAT THE  
COURT GRANT THE WITHIN RELIEF AS WELL AS SUCH OTHER AND  
FURTHER RELIEF THAT MAY BE JUST AND PROPER. I DECLARE UNDER  
PENALITY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT  
TO DATE



described and sworn to before me  
day of Feb 2013  


Notary Public  
VINCENT J. CZUBAK  
Notary Public, State of New York  
No. 01CZ6102072  
Qualified in Sullivan County  
Commission Expires November 24, 2015

McCABE & MACK LLP

(1-25-13)

ATTORNEYS AT LAW

To: the Law office of

DAVID L. POSNER

63 WASHINGTON STREET

Post office Box 509

Re: MR LARRY Gantt of

POUGHKEEPSIE, N.Y. 12602-0509

Orange County Corr Facility

TELEPHONE: (845) 486-6800

10 WELLS FARM ROAD

FAX (845) 486-7621

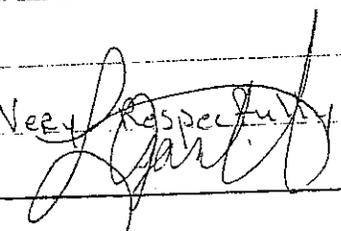
Poughkeepsie, NY 10924

[www.mccm.com](http://www.mccm.com)

December / January

January 25, 2013

The Reason for this letter is to notify your office that I'm sending your office a Motion of Intent To Sue AS Required by Law, this incident took place on 11/3/2012 And AS A Respect and Curtisy I'm Writing To notify you that (ERIC HENDERSON) and other officers of the City of NEWBURGH police Department, My NAME is MR (LARRY Gantt) and this motion will give you A CLEAR understanding of A BRIEF Look into this case so AS to not to be AS A Surprise when the 1983 Federal Law Suit packet Hits.

Very Respectfully yours  
X 



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Katrina Cotten, Deputy City Clerk

RE: Notice of Claim:  
Diasparra vs. City of Newburgh

DATE: February 5, 2013

Please find attached Notice of Claim which was received via the Corporation Counsel office on this date.

Attachment

Cc City Manager  
Mayor & Council

NOTICE OF CLAIM

X-----X  
RICHARD DIASPARRA and LYNDA DIASPARRA

-against-

CITY OF NEWBURGH NY

X-----X



To: City of Newburgh NY, Office of Corporation Counsel, 83 Broadway, 2<sup>nd</sup> Floor, Newburgh NY 12550

PLEASE TAKE NOTICE that the undersigned claimant hereby makes claim and demands against you as follows:

1. Name and post office address of each claimant and claimant's attorney is:

**Claimant:**

RICHARD DIASPARRA  
LYNDA DIASPARRA  
293 Bullet Hole Road  
Patterson, 12563NY

**Attorney for Claimant**

Michael A. Rose  
Hach & Rose, LLP  
185 Madison Avenue, 14<sup>th</sup> Floor  
New York, NY 10016

2. Nature of this Claim:

RICHARD DIASPARRA: Personal injuries due to negligence, and violations of sections 200, 241(6) and 240 of the Labor Law of the State of New York.

3. The time when, the place where and the manner in which the claim arose:

The claim arose on November 26, 2012 at approximately 1:00 pm on an elevated makeshift wooden walkway at the Town of Newburgh Water Supply Chadwick Lake Filter Plant, 343 Route 32 Newburgh, NY 12550, when claimant, RICHARD DIASPARRA, while in the course of his employment for Wilken Construction Corp, was caused to sustain multiple injuries when said wooden planks broke causing him to fall approximately 20 feet. Said accident was caused by unsafe, dangerous, and defective conditions at said Water Supply Chadwick Lake Filter Plant which the City of Newburgh created, maintained and permitted to exist despite the fact that it had actual and constructive notice of same and violations of Labor Law 200, 240 and 241(6). Defendants were careless, reckless and negligent in failing to repair and maintain and/or construction a safe walkway at the aforesaid location; in failing to inspect/repair the walkway at the aforesaid location, in

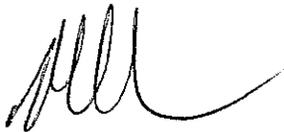
failing to provide the plaintiff with proper and adequate safety equipment to perform his job function including but not limited to fall protection, in failing to provide lifelines, guardrails and safety equipment to allow plaintiff protection from falling 20 feet through broken plywood covering the walkway. In having actual and constructive notice of the aforesaid conditions and carelessly, recklessly and negligently allowing such conditions to exist for an unreasonable period of time. (OSHA investigation information is annexed hereto)

**4. The items of damage or injuries claimed are:**

That as a result of the negligence of The City of Newburgh, the claimant, Richard Diasparra, became, still is and for a long time to come, will be sick, sore, lame, bruised, injured, disabled and wounded in and about the various parts of his body, limbs, blood vessels and surrounding tissues, and has suffered severe and extreme mental shock, anguish and psychic injuries, and that plaintiff was otherwise injured, and upon information and belief, said injuries are permanent. That by reason of the foregoing, the plaintiff was obligated to and did necessarily employ medical aid, hospital services, medicine and medical supplies in an attempt to cure the aforesaid injuries, and has been prevented from his usual duties and will be so prevented for a long time to come.  
Lynda Diasparra-loss of services and consortium

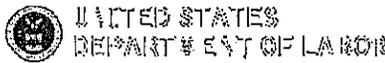
Claimant claims monetary damages in which exceed the jurisdictional limits of all lower courts of the State of New York.

Dated: New York, New York  
January 08, 2013



Hach & Rose, LLP  
Michael A. Rose, Esq.  
185 Madison Avenue, 14<sup>th</sup> Floor  
New York, NY 10016  
212.779.0057

EXHIBIT "A"



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**Note:** The following inspection has not been indicated as closed. Please be aware that the information shown may change, e.g. violations may be added or deleted. For open cases, in which a citation has been issued, the citation information may not be available for 5 days following receipt by the employer.

#### Inspection: 759801.015 - Wilken Construction Corp.

Inspection Information - Office: Albany		
Nr: 759801.015	Report ID:0213100	Open Date: 11/28/2012
Wilken Construction Corp. 118 Lattintown Road Newburgh, NY 12550		
SIC:		Union Status: NonUnion
NAICS: 237110/Water and Sewer Line and Related Structures Construction Mailing: 4 Abbeyfield Road, Brewster, NY 10509		
Inspection Type: Referral	Advanced Notice: N	
Scope: Partial		
Ownership: Private	Close Conference: 11/28/2012	
Safety/Health: Safety	Close Case:	
Emphasis: L:Fall		
Related Activity: Type	ID	Safety Health
Referral 684731 Yes		

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U.S. Department of Labor | Occupational Safety & Health Administration | 200 Constitution Ave., NW, Washington, DC 20210  
Telephone: 800-321-OSHA (6742) | TTY: 877-889-5627

[www.OSHA.gov](http://www.OSHA.gov)

The undersigned claimant(s) therefore present this claim for adjustment and payment. You are hereby notified that unless it is adjusted and paid within the time provided by law from the date of presentation to you, the claimant(s) intend(s) to commence an action on this claim.

Dated: 1/16/13

X *Richard Diasparra*

The name signed must be printed beneath

Richard Diasparra

The name signed must be printed beneath

*[Handwritten Signature]*

Attorney(s) for Claimant(s)  
Office and Post Office Address, Telephone Number

Hach & Rose, LLP  
185 Madison Avenue  
14th Floor  
New York, NY 10016

INDIVIDUAL VERIFICATION

State of New York, County of New York ss.:

being duly sworn, deposes and says that deponent is the claimant in the within action; that he has read the foregoing Notice of Claim and knows the contents thereof; that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

X *Marie Morrow*

Sworn to before me, this 16th day of January 19 2013

MARIE MORROW

NOTARY PUBLIC-STATE OF NEW YORK

No. 01MO6251412

Qualified in Queens County

My Commission Expires November 14, 2015

In the Matter of the Claim of

Notice of Claim Against

Attorney(s) for Claimant(s)  
Office and Post Office Address

CORPORATE VERIFICATION

State of New York, County of ss.:

being duly sworn, deposes and says that deponent is the of corporate claimant named in the within action; that deponent has read the foregoing Notice of Claim and knows the contents thereof, and that the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters deponent believes it to be true.

This verification is made by deponent because said claimant is a corporation, and deponent an officer thereof, to wit:

The grounds of deponent's belief as to all matters not stated upon deponent's knowledge are as follows:

Sworn to before me, this 19 day of 2013



# CITY OF NEWBURGH

CITY CLERK'S OFFICE  
83 BROADWAY  
NEWBURGH, NEW YORK 12550  
PHONE (845)569-7311  
FAX (845)569-7314

LORENE VITEK  
CITY CLERK

KATRINA COTTEN  
LISETTE WILLIAMS  
DEPUTY CLERKS

## MEMORANDUM

TO: Michelle Kelson, Corporation Counsel

FROM: Lorene Vitek, City Clerk

RE: Summons & Complaint:  
Vincent A. Abate and Vincent A Abate, II  
vs Robert Vasta and John Buckley

DATE: February 8, 2013

Please find attached Summons & Complaint regarding the above, which was received by the Police Department, forwarded to Corporation Counsel and then forward to this Office.

Attachment

Cc City Manager ✓  
Mayor & Council

UNITED STATES DISTRICT COURT

Southern

District of

New York

VINCENT A. ABATE and VINCENT A. ABATE, II,

SUMMONS IN A CIVIL ACTION

V.  
ROBERT VASTA and JOHN BUCKLEY,

CASE NUMBER:

RECEIVED  
FEB 08 2013  
CITY CLERK

13 CV 0680

JUDGE BRICCETTI

TO: (Name and address of Defendant)

ROBERT VASTA, c/o City of Newburgh Police Department, 55 Broadway,  
Newburgh, New York, 12550

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

BERGSTEIN & ULLRICH, LLP  
15 Railroad Avenue  
Chester, New York 10918  
(845) 469-1277

an answer to the complaint which is served on you with this summons, within 20 21 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

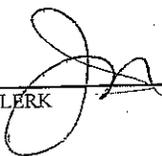
RUBY J. KRAJICK

JAN 30 2013

CLERK

DATE

(By) DEPUTY CLERK



UNITED STATES DISTRICT COURT

Southern

District of

New York

VINCENT A. ABATE and VINCENT A. ABATE, II,

V.

ROBERT VASTA and JOHN BUCKLEY,

SUMMONS IN A CIVIL ACTION

RECEIVED  
FEB 08 2013  
CITY CLERK

CASE NUMBER:

13 CV

0580

JUDGE BRICCETTI

TO: (Name and address of Defendant)

ROBERT VASTA, c/o City of Newburgh Police Department, 55 Broadway,  
Newburgh, New York, 12550

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

BERGSTEIN & ULLRICH, LLP  
15 Railroad Avenue  
Chester, New York 10918  
(845) 469-1277

an answer to the complaint which is served on you with this summons, within 20 21 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

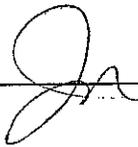
RUBY J. KRAJICK

JAN 30 2013

CLERK

DATE

(By) DEPUTY CLERK



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

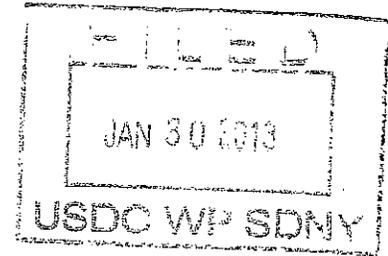
-----X  
VINCENT A. ABATE and VINCENT  
A. ABATE, II,

Plaintiffs,

-vs-

ROBERT VASTA and JOHN BUCKLEY,  
sued in their individual capacities,

Defendants.  
-----X



COMPLAINT  
Jury trial demanded

**13 CV 0680**

JUDGE BRICCETTI

## I INTRODUCTION

1. Plaintiffs are father and son. They bring this action under 42 U.S.C. § 1983, challenging as unconstitutional the excessive force, false arrest and malicious prosecution caused by defendants on February 27, 2012.

## II PARTIES

2. Plaintiff Vincent A. Abate ("Vincent Sr.") is a 56 year-old male who resides in the Town of Blooming Grove, New York, within this judicial district.
3. Plaintiff Vincent A. Abate, II ("Vincent II"), is an 18 year-old male who resides in the Town of Blooming Grove, New York, within this judicial district. He is the son of co-plaintiff Vincent A. Abate, Sr.
4. Defendant Robert Vasta is a police officer employed by the City of Newburgh. This state actor is sued in his individual capacity.
5. Defendant John Buckley is a police officer employed by the City of Newburgh. This state actor is sued in his individual capacity.

the building. Vasta told Vincent Sr., "I don't give a shit" and that plaintiff had to leave immediately.

13. Vincent Sr. asked Vasta if he was under arrest. Vasta said that he was not, but that he had to leave.
14. When Vincent Sr. turned to let his wife know that he was leaving the building, Vasta grabbed him and threatened to spray him with mace if he did not accompany him outside.
15. At this time, Vincent II saw Vasta escort his father out of the gym. Vincent II approached his father.
16. Buckley grabbed Vincent II as he walked down from the bleachers and, without provocation, threw him into a wall and onto the floor, breaking Vincent II's watch and gold chain. This use of force also caused Vincent II to suffer significant pain in his right arm, right shoulder and lower back.
17. Buckley also threatened to spray Vincent II with mace. With Vincent II on the ground, Buckley then pressed his knee into Vincent II's back and placed him in handcuffs.
18. When Vincent Sr. turned to see what had happened to his son, Vasta grabbed Vincent Sr.'s right arm and twisted it behind his back, injuring plaintiff's shoulder. Vasta also hit Vincent Sr. in the face, breaking Vincent Sr.'s glasses.
19. Vasta next brought Vincent Sr. outside the building and accused him of trying to sneak into the building earlier that evening. Vasta told Vincent Sr. that he should have arrested him when he tried to enter the gym without paying. He also told

otherwise.

26. In addition, Vasta arrested Vincent Sr. for disorderly conduct, accusing him of verbally antagonizing people who were fighting outside the gymnasium and acting in a violent manner towards Vasta, causing public alarm. In fact, Vincent Sr. was not disorderly at all, and Vasta lacked probable cause to believe otherwise.
27. Also that evening, Buckley arrested Vincent II for disorderly conduct and obstructing governmental administration, accusing him of shoving Buckley on the left side and again in his chest in an attempt to prevent Buckley from escorting another individual out of the gymnasium. In fact, Vincent II was not disorderly at all, and he did not obstruct governmental administration. Buckley lacked probable cause to believe otherwise.
28. As probable cause did not support either plaintiff's arrest, defendants proceeded with malice, particularly since they subjected both plaintiffs to excessive force in effecting their arrests and Vasta did not have a contemporaneous justification for seizing Vincent Sr.
29. As both plaintiffs had to hire a criminal defense attorney and attend in-person court appearances, their arrests created a post-arraignment deprivation of liberty. Vincent II attended three or four court appearances. Vincent Sr. attended 12 court appearances. Plaintiffs spent \$3,000 in legal fees arising from the criminal charges.
30. The Newburgh City Court judge formally dismissed plaintiffs' arrests in the interests of justice. The charges terminated in plaintiffs' favor because dismissal

Buckley violated the Fourth and Fourteenth Amendments to the U.S. Constitution.  
38. In arresting Vincent II without probable cause and with malicious intent,  
defendant Buckley violated the Fourth and Fourteenth Amendments to the U.S.  
Constitution.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiffs request that this Honorable Court:

- a. accept jurisdiction over this action;
- b. empanel a jury to hear and decide this action;
- c. award to plaintiffs compensatory damages for defendants' excessive use of force,  
false arrest and malicious prosecutions against them;
- d. award to plaintiffs punitive damages for defendants' wanton and outrageous use  
of excessive force, false arrest and malicious prosecutions in violation of federal  
law;
- e. award to plaintiffs reasonable attorneys' fees and costs expended in litigating this  
action; and
- f. award to plaintiffs any other relief deemed just and proper.

**Hon. Vincent L. Briccetti**

**United States District Judge**

The Hon. Charles L. Brieant Jr.  
Federal Building and United States  
Courthouse  
300 Quarropas St.  
White Plains, NY 10601-4150

Courtroom: 620  
Chambers Phone: (914) 390-4166  
Deputy Phone: (914) 390-4167  
Chambers Fax: (914) 390-4170

[Download Contact Info](#)

[Civil Case Discovery Plan and Scheduling Order - March 1st, 2012](#)

[Individual Rules of Practice - March 1st, 2012](#)

[Notice of Initial Conference - March 1st, 2012](#)

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500 Pearl Street, New York, New York 10007-1312 • 300 Quarropas Street, White Plains, New York 10601-4150

RESOLUTION NO.: 30 - 2013

OF

FEBRUARY 25, 2013

**A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO THOMAS M. CURRAN AND BEATRIZ CURRAN  
TO THE PREMISES KNOWN AS 2 PARK PLACE, UNIT C-3D  
(SECTION 57, BLOCK 1, LOT 1.44)**

**WHEREAS**, on July 23, 2004, the City of Newburgh conveyed property located at 2 Park Place, Unit C-3D, being more accurately described on the official Tax Map of the City of Newburgh as Section 57, Block 1, Lot 1.44, to Thomas M. Curran and Beatriz Curran; and

**WHEREAS**, the owners have requested a release of the restrictive covenants contained in said deed; and

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

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

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

RELEASE OF COVENANTS AND  
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 2 Park Place, Unit C-3D, Section 57, Block 1, Lot 1.44 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 July 23, 2004, from THE CITY OF NEWBURGH to THOMAS M. CURRAN and BEATRIZ CURRAN, recorded in the Orange County Clerk's Office on August 3, 2004 in Liber 11571 of Deeds at Page 0650 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: \_\_\_\_\_, 2013

THE CITY OF NEWBURGH

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

RICHARD F. HERBEK,  
City Manager

STATE OF NEW YORK )

)ss.:

COUNTY OF ORANGE )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that 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.

\_\_\_\_\_

RESOLUTION NO.: 31 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF NEWBURGH MEMORIALIZING THEIR  
POSITION REGARDING THE PROPOSED LAWS CONCERNING  
CONTACT INFORMATION FOR VACANT STRUCTURES

WHEREAS, vacant, abandoned and foreclosed homes and structures have proliferated throughout New York State over the last five years; and

WHEREAS, vacant structures that are not maintained for months at a time degrade and depreciate the value of the vacant structure as well as the value of surrounding properties; and

WHEREAS, lending institutions that hold mortgages on said vacant structures do not always provide the contact information of a responsible party; and

WHEREAS, Assembly Bill A.88 and Assembly Bill A.824, currently pending, would make it mandatory for lending institutions to provide contact information of responsible parties regarding vacant structures; and require good faith in obtaining a foreclosure; and

WHEREAS, the City Council of the City of Newburgh supports the passage of said Bills;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Newburgh does hereby support the passage of said Bills and respectfully requests that the State Representatives who represent constituents in the City of Newburgh support the passage of said Bills.

RESOLUTION NO.: 32 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO APPLY FOR, ACCEPT IF AWARDED AND  
ENTER INTO AN INTER-MUNICIPAL AGREEMENT BETWEEN  
THE COUNTY OF ORANGE AND THE CITY OF NEWBURGH IN CONNECTION WITH  
THE 2012 BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM

WHEREAS, the Justice Assistance Grant ("JAG") Program provides funds for various law enforcement agencies throughout the State of New York; and

WHEREAS, the City of Newburgh joined the County of Orange and other local law enforcement agencies in applying for the 2012 Byrne Memorial JAG, which provides funds for various important law enforcement functions as provided by the terms of the award including but not limited to street surveillance cameras, undercover vehicle availability, unmarked patrol vehicles, acquisition of an evidence management system, upgrade to the Live Scan fingerprinting system and related database compilation and access, technology and equipment, record-keeping, training and the enhancement of other important police functions; and

WHEREAS, the County has agreed to set aside \$32,000.00 from the 2012 Local JAG Award for the City of Newburgh to be used to focus additional police presence in high crime areas of the City;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into an inter-municipal agreement between the County of Orange and the City of Newburgh in connection with the 2012 Byrne Memorial JAG Program Award to receive funds through the County of Orange under the terms of the grant program and under the terms and conditions of the agreement, a copy of which is attached hereto, for various important law enforcement functions for the City of Newburgh and other local law enforcement agencies.

**STATE OF NEW YORK  
COUNTY OF ORANGE**

**INTER-LOCAL AGREEMENT BETWEEN  
THE COUNTY OF ORANGE AND CITY OF NEWBURGH, NY  
2012 BYRNE JUSTICE ASSISTANCE GRANT (JAG) PROGRAM AWARD**

**THIS AGREEMENT**, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between the COUNTY OF ORANGE, which is authorized to execute this Inter-local Agreement by virtue of authority granted pursuant to the Orange County Charter, more specifically Section 3.02(m) thereof, to be administered by and through the Orange County Office of Emergency Services, hereinafter referred to as COUNTY, and the CITY OF NEWBURGH, acting by and through its governing body, the NEWBURGH CITY COUNCIL, hereinafter referred to as CITY, both of ORANGE COUNTY and in the STATE OF NEW YORK, witnesseth:

**WHEREAS**, this agreement is made under the authority of Section 99-h of the New York State General Municipal Law; and

**WHEREAS**, each governmental instrumentality, in performing their governmental functions or in paying for the procurement of the governmental functions contemplated hereunder, shall make that performance or the payments for the procurement of such services from current revenues legally available to that party; and

**WHEREAS**, each governmental instrumentality finds that the performance of this Inter-local Agreement is in its best interests and that the undertaking of the obligations as defined and described herein will benefit the public, and that the division of costs fairly compensates the performing party for the services or functions under this Inter-local Agreement; and

**WHEREAS**, the CITY agrees that the COUNTY will receive the full amount of the disparate aware to the County of \$56,098 and will administrator the FY 2012 JAG recovery award and that further, the County will act as the fiscal agent for said funds; and

**WHEREAS**, funds obtained from the 2012 JAG Award will be shared by the County of Orange and the municipalities of the City of Newburgh and the City of Middletown.

**WHEREAS**, the County will receive the 2012 JAG funding in the amount of \$56,098 and act as the fiscal agent and will obtain grant funds and distribute same to the participating municipalities for their individual projects in the agreed allocation amounts.

The COUNTY and the CITY agrees that this disparate award will be allocated as followed:

The City of Newburgh will receive \$32,000 from the FY 2012 JAG award to be used to focus additional police presence in high crime areas of the city;

The City of Middletown will receive \$10,000 to provide for additional police presence in high crime areas of the city;

The County will receive \$14,098 toward the operation cost of maintaining a County Law enforcement vehicle locator dispatching system for police and for grant administration.

**WHEREAS**, the CITY and COUNTY believe it to be in the best interests to allocate the FY 2012 JAG funds accordingly.

**NOW THEREFORE, the COUNTY and CITY agree as follows:**

**Section 1.**

The recitals are hereby incorporated into this agreement as if fully set forth hereto.

**Section 2.**

CITY acknowledges that the COUNTY will receive the total amount of JAG funds.

**Section 3**

COUNTY agrees to set aside \$32,000 for the CITY's portion of the project funding

**Section 4.**

Nothing in the performance of this Inter-local Agreement shall impose any liability for claims against COUNTY other than claims for which liability may be imposed by the General Municipal Law and/or Local Laws.

**Section 5.**

Nothing in the performance of this Agreement shall impose any liability for claims against CITY other than claims for which liability may be imposed by the General Municipal Law and/or Local Laws.

**Section 6.**

Each party to this Agreement will be responsible for its own actions in providing services under this Inter-local Agreement and shall not be liable for any civil liability that may arise from the furnishing of the services by the other party.

**Section 7.**

The parties to this Inter-local Agreement do not intend for any third party to obtain a right by virtue of this Agreement.

**Section 8.**

By entering into this Agreement, the parties do not intend to create any obligations express or implied other than those set out herein; further, this Agreement shall not create any rights in any party not a signatory hereto.

**CITY OF NEWBURGH**

\_\_\_\_\_  
Richard F. Herbek  
City Manager

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

Sworn to before me this \_\_\_\_ day  
of 2013

**COUNTY OF ORANGE**

\_\_\_\_\_  
**EDWARD A. DIANA**  
County Executive

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

Sworn to before me this \_\_\_\_ day  
of 2013

RESOLUTION NO.: 33 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AMENDING RESOLUTION NO.: 200-2012 OF NOVEMBER 13, 2012 WHICH AUTHORIZED THE CITY MANAGER TO APPLY FOR AND ACCEPT A GRANT OFFERED BY THE ORANGE COUNTY YOUTH BUREAU AND TO ENTER INTO CONTRACTS WITH ORANGE COUNTY THROUGH THE ORANGE COUNTY YOUTH BUREAU FOR FUNDING TO PROVIDE RECREATION AND SERVICE PROGRAMS FOR THE CITY OF NEWBURGH YOUTH BUREAU FOR 2013 SERVICE FUNDING

WHEREAS, this Council, by Resolution No.: 200-2012 of November 13, 2012, authorized the City Manager to accept a grant offered by the Orange County Youth Bureau and enter into contracts with Orange County through the Orange County Youth Bureau for funding to provide recreation and service programs for the City of Newburgh Youth Bureau in the amount of \$9,411.00 for 2013 Recreation Funding and \$8,438.00 for 2013 Service Funding; and

WHEREAS, the City of Newburgh has been notified that the grant for the 2013 Service Funding has been reduced by the amount of \$1,399.00 from \$8,438.00 to \$7,039.00; and

WHEREAS, the Orange County Youth Bureau has revised the 2013 municipal contract to reflect the reduced funding; and

WHEREAS, this Council has determined that accepting of such funds 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 is hereby authorized to accept a grant offered by the Orange County Youth Bureau and enter into contracts with Orange County through the Orange County Youth Bureau for funding to provide recreation and service programs for the City of Newburgh Youth Bureau in the amount of \$9,411.00 for 2013 Recreation Funding and \$7,039.00 for 2013 Service Funding; and

BE IT FURTHER RESOLVED, that the City Manager is further authorized to execute the necessary documents as may be appropriate and necessary to accept such funds and administer the program funded thereby.

**Orange County Youth Bureau  
Parks and Recreation Program Funding Agreement**

THIS AGREEMENT, with an effective date of the 1<sup>st</sup> day of January, 2013 by and between the County of Orange ("County"), by and through its Youth Bureau ("Youth Bureau"), with an office address located at 18 Seward Avenue, Suite 102, Middletown, NY 10940, and the City of Newburgh with an office address located at 83 Broadway, City Hall, Newburgh, N.Y. 12550 ("Subrecipient").

WHEREAS, one of the purposes of the Youth Bureau is "devising programs and projects aimed at prevention, controlling and treating delinquency and neglect among youth"; and

WHEREAS, the Subrecipient is a municipality who desires to operate a Recreation or Service program, described in the attached and incorporated Exhibit A ("Program"); and

NOW THEREFORE, it is mutually agreed as follows:

1. **TERM:** The Subrecipient shall operate the Program as detailed in Exhibit A during contract year January 1, 2013 to December 31, 2013, unless earlier terminated.

2. **CONTRACT PRICE AND PAYMENT OF TERMS:** County is contracting with the Subrecipient for a total contract price not to exceed \$9,411.00 (Nine Thousand Four Hundred Eleven and 00/100 U.S. dollars) for Recreation Programs and/or \$7,039.00 (Seven Thousand Thirty Nine and 00/100 U.S. dollars) for Service Programs. Subrecipient understands and agrees that the funds for this Agreement will be furnished through the County based upon anticipated reimbursement in State Aid through the New York State Office of Children and Family Services ("OCFS") 50% match of the Program costs ("State Aid Amount").

At regular intervals, the Subrecipient shall provide to the County, duly authorized proof (in the form of the appropriate completed State forms listing expenditures) that Subrecipient's matching Program funds were expended prior to the receipt of any funds from the County; that is, expenditures equal to double the OCFS State Aid Amount. The Subrecipient will submit the State forms to the County within fifteen (15) days of the end of the calendar year.

3. **SERVICES TO BE PROVIDED:** At all times hereunder, the Subrecipient agrees to conduct the Program as described in Exhibit A, as submitted and approved and in accordance with the established procedures of the Youth Bureau and the OCFS. The County may conduct quarterly on-site monitoring visits to ensure compliance.

4. **REPORTING:** Subrecipient agrees to submit annual narrative program reports as required by the County no later than fifteen (15) days of the end of the calendar year. Subrecipients who do not submit reports by the due date will be subject to automatic waiver of funds back to Orange County.

5. **MEDIA OR PRESS RELEASES:** Subrecipient agrees to credit the "Orange County Youth Bureau" and the "New York State Office of Children and Family Services" in any and all public relations media regarding the Program as providing funding for the Program.

6. **CONFLICT OF INTEREST:** Subrecipient 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 of the Scope of Work. Subrecipient further represents and warrants that in the performance of this Agreement, no person having such conflict of interest or possible conflict of interest shall be employed by it and that no elected official or other officer or employee of County, nor any person whose salary is payable, in whole or in part, by County, or any corporation, partnership, or association in which such official, officer, or employee is directly or indirectly interested shall have any such conflict of interest,

NEW YORK STATE  
 OFFICE OF CHILDREN AND FAMILY SERVICES  
**INDIVIDUAL PROGRAM APPLICATION**  
 Program Information

Exhibit A

Program Title: City of Newburgh Youth Bureau/Playground on Wheels	OYDS ID# (For County Use Only)	Program Year: 2013
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Direct Services will NOT be provided by this program

<b>FUNDING INFORMATION</b>	
Funding Category:	County: Orange County
Funding Type:	Sponsoring County/Municipality: Orange County Youth Bureau

<b>FUND AMOUNTS</b>		<b>AUTHORIZED VOUCHER SIGNEE</b>	
Total Program Amount: \$19,120.00		Last Name: Pittman	
OCFS Funds Requested: \$5,639.00		First Name: Joy	
Youth Bureau Allocated (Youth Bureau ONLY)		Title: Division Manager	
60% State Aid [RHYA Programs ONLY]	% Tax Match	Last Name: Fabanio	
% Agency Cash:	% In Kind	First Name: Karina	
<b>AGENCY/MUNICIPALITY INFORMATION</b>		Title: Data Specialist	
This Agency is: <input checked="" type="checkbox"/> Private, Not for Profit <input type="checkbox"/> Public <input type="checkbox"/> Religious Corporations		<b>CONTACT PERSON FOR AGENCY/MUNICIPALITY</b>	
Federal ID #: 14-06002329	Charities Reg. #:	Last Name: Pittman	First Name: Joy
Agency Website: cityofnewburgh-ny.gov		Title: Division Manager	
Implementing Agency/Municipality: City of Newburgh		Phone Number: (845) 565-1213	Extension: 7016
Mailing Address: 104 South Lander Street		Fax Number: (845) 565-1286	E-Mail: jpittman@ciyofnewburgh-
Address Line 2:		<b>PERIOD OF ACTUAL PROGRAM OPERATION</b>	
City: Newburgh	State: NY	Zip Code: 12550	FROM: 7/1/13
			TO: 8/31/13

<b>EXECUTIVE DIRECTOR FOR AGENCY/MUNICIPALITY</b>		<b>HOURS OF OPERATION</b>	
Last Name: Herbek	First Name: Richard	FROM: 10a.m.	TO: 7p.m.
Title: Acting City Manager		<input checked="" type="checkbox"/> Daily <input type="checkbox"/> Other (Explain) Saturday and Sunday depending on event.	
Phone Number: (845) 565-7301	Extension:		
Fax Number: (845) 569-7370	E-Mail: rherbek@cityofnewburgh-		

Check if:  Joint Program

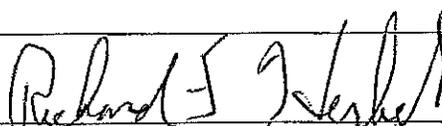
1. Name of participating municipalities: \_\_\_\_\_

2. Name of primary disbursing municipality: \_\_\_\_\_

Check if:  Purchase of Service

1. Agency providing service: \_\_\_\_\_

2. Agency purchasing service: \_\_\_\_\_



EXECUTIVE DIRECTOR/BOARD CHAIRPERSON SIGNATURE

**Disclaimer:** Please note that submission of these forms to the County/Municipal Youth Bureau does NOT guarantee funding will be allocated to your program.

Changes have been submitted on the electronic OCFS-5001, 5002, 5003.



**MUNICIPAL COMPONENT SUMMARY** Attachment A  
 (USE A SEPARATE SHEET FOR EACH DIFFERENT PROGRAM COMPONENT)

MUNICIPALITY: <u>City of Newburgh</u>		PHONE NO: (845) <u>565-3230</u>
PROGRAM TITLE: <u>Playground on Wheels</u>		
COMPONENT NAME: <u>Playground on wheels</u>	OPERATION PERIOD: <u>7/1/13</u> to <u>8/31/13</u>	

**PARTICIPANT OUTCOMES** (measurable):  
 Expected change, benefit or improvement in condition or behavior:  
**To maintain a safe environment in the community.**

**STRATEGIES** (describe steps taken for participants to reach the stated outcomes):  
 How you will create the change, benefit, and condition?  
**To engaged the community in neighborhoods clean and activities that are provided by Playground on Wheels.**

TOTAL # OF YOUTH TO BE SERVED FOR THIS COMPONENT: <u>200+</u>	AGE RANGE: <u>7 to 21</u>	AVERAGE ATTENDANCE PER SESSION: <u>200+</u>
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<b>Gender:</b> Male: <u>125</u> Female: <u>75</u>	<b>Age:</b> 0-4: <u>    </u> 5-9: <u>60</u> 10-14: <u>60</u> 15-17: <u>50</u> 18-20: <u>50</u> 21+: <u>    </u>
--	--

**Ethnicity:**  
 White: 10 Black or African American: 150 Hispanic or Latino: 35  
 American Indian or Alaskan Native:      Asian:      Native Hawaiian or Other Pacific Islander:       
 Two or More Races: 5

**Target Population:** (estimate projected whole numbers of youth for each category)  
 General Youth: 13 Youth aging out of Foster Care:      Children of Incarcerated Parents: 60  
 Youth in Juvenile Justice System who re-enter the community:      Runaway and Homeless Youth: 10

\*Please complete the Municipal Program Logistics Summary (Attachment A-1), to clearly break down each component's schedule(s), location(s) and number of youth expected at each site. This information will be utilized for monitoring purposes.



**MUNICIPAL COMPONENT SUMMARY** - Attachment A  
(USE A SEPARATE SHEET FOR EACH DIFFERENT PROGRAM COMPONENT)

MUNICIPALITY: City of Newburgh PHONE NO: (845) 565-3230

PROGRAM TITLE: Youth Voice

COMPONENT NAME: Youth Voice OPERATION PERIOD: 1/1/13 to 12/31/13

**PARTICIPANT OUTCOMES** (measurable):  
Expected change, benefit or improvement in condition or behavior:  
The Youth Voice Program will continue to provide the necessary resources to empower youth in the City of Newburgh.

**STRATEGIES** (describe steps taken for participants to reach the stated outcomes):  
How you will create the change, benefit, and condition?  
Youth will attend weekly meeting, scheduled workshop and training. Youth will be engaged in implementing programs and events for the City of Newburgh.

TOTAL # OF YOUTH TO BE SERVED FOR THIS COMPONENT: 40 AGE RANGE: 12 to 18 AVERAGE ATTENDANCE PER SESSION: 40+

**Gender:** Male: \_\_\_\_\_ Female: \_\_\_\_\_ **Age:** 0-4: \_\_\_\_\_ 5-9: \_\_\_\_\_ 10-14: \_\_\_\_\_ 15-17: \_\_\_\_\_ 18-20: \_\_\_\_\_ 21+: \_\_\_\_\_

**Ethnicity:**  
White: 4 Black or African American: 20 Hispanic or Latino: 11  
American Indian or Alaskan Native: \_\_\_\_\_ Asian: \_\_\_\_\_ Native Hawaiian or Other Pacific Islander: \_\_\_\_\_  
Two or More Races: 5

**Target Population:** (estimate projected whole numbers of youth for each category)  
General Youth: 36 Youth aging out of Foster Care: \_\_\_\_\_ Children of Incarcerated Parents: 12  
Youth in Juvenile Justice System who re-enter the community: \_\_\_\_\_ Runaway and Homeless Youth: 2

\*Please complete the Municipal Program Logistics Summary (Attachment A-1), to clearly break down each component's schedule(s), location(s) and number of youth expected at each site. This information will be utilized for monitoring purposes.

NEW YORK STATE  
OFFICE OF CHILDREN AND FAMILY SERVICES  
INDIVIDUAL PROGRAM APPLICATION  
Program Information

Program Title: City of Newburgh Youth Bureau/Youth Voice	QYDS ID# (For County Use Only):	Program Year: 2013
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Direct Services will NOT be provided by this program

<b>FUNDING INFORMATION</b>	County: Orange County
Funding Category: YDDP	Sponsoring County/Municipality: Orange County Youth Bureau
Funding Type: SERVICE	

<b>FUND AMOUNTS</b>	<b>AUTHORIZED VOUCHER SIGNEE</b>
Total Program Amount: \$10,743	Last Name: Pittman
OCFS Funds Requested: \$10,743	First Name: Joy
Youth Bureau Allocated (Youth Bureau ONLY): \$8438 7038.00	Title: Division Manager
60% State Aid (RHYA Programs ONLY) % Tax Match	Last Name: Fabanio
% Agency Cash: % In Kind	First Name: Karina
	Title: Data Speacalist

<b>AGENCY/MUNICIPALITY INFORMATION</b>		<b>CONTACT PERSON FOR AGENCY/MUNICIPALITY</b>	
This Agency is: <input checked="" type="checkbox"/> Private, Not for Profit <input type="checkbox"/> Public <input type="checkbox"/> Religious Corporations		Last Name: Pittman	
Federal ID #: 14-6002329	Charities Reg. #:	First Name: Joy	
Agency Website: cityofnewburgh-ny.gov		Title: Division Manager	
Implementing Agency/Municipality: City of Newburgh		Phone Number: (845) 565-1213	Extension: 7016
Mailing Address: 104 South Lander Street		Fax Number: (845) 565-1286	E-Mail: jpittman@ciyofnewburgh-
Address Line 2:		<b>PERIOD OF ACTUAL PROGRAM OPERATION:</b>	
City: Newburgh	State: NY	Zip Code: 12550	FROM: 1/1/13
			TO: 12/31/13

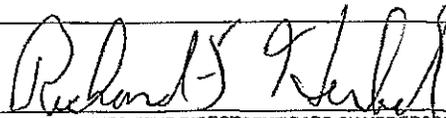
<b>EXECUTIVE DIRECTOR FOR AGENCY/MUNICIPALITY</b>		<b>HOURS OF OPERATION:</b>	
Last Name: Herbek	First Name: Richard	FROM: 4pm	TO: 6pm.
Title: Acting City Manager		<input checked="" type="checkbox"/> Daily <input type="checkbox"/> Other (Explain) Saturday and Sunday depending on event.	
Phone Number: (845) 565-7301	Extension:		
Fax Number: (845) 569-7370	E-Mail: rherbek@cityofnewburgh-		

Check if:  Joint Program

1. Name of participating municipalities: \_\_\_\_\_  
2. Name of primary disbursing municipality: \_\_\_\_\_

Check if:  Purchase of Service

1. Agency providing service: \_\_\_\_\_  
2. Agency purchasing service: \_\_\_\_\_



EXECUTIVE DIRECTOR/BOARD CHAIRPERSON SIGNATURE

Disclaimer: Please note that submission of these forms to the County/Municipal Youth Bureau does NOT guarantee funding will be allocated to your program.

Changes have been submitted on the electronic OCFS-5001, 5002, 5003.

direct or indirect, in this Agreement or in the proceeds thereof, unless such person, (1) if required by the Orange County Ethics Law as amended from time to time, to submit a Disclosure Form to the Orange County Board of Ethics, amends such Disclosure Form to include their interest in this Agreement, or (2) if not required to complete and submit such a Disclosure Form, either voluntarily completes and submits said Disclosure form disclosing their interest in this Agreement or seeks a formal opinion from the Orange County Ethics Board as to whether or not a conflict of interest exists.

For a breach or violation of such representations and warranties, County shall have the right to annul this Agreement without liability, entitling County to recover all monies paid hereunder and Subrecipient 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 County for such falsity or breach, nor shall it constitute a waiver of County'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.

## 7. SECULAR PURPOSE

Performance of the Program under this Agreement is secular in nature and shall be provided or 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. Subrecipient agrees that it will not provide sectarian, partisan or religious services, counseling, proselytizing, instruction, or influence in the performance of the Program under this Agreement.

## 8. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS

Subrecipient certifies and warrants that all wood products to be used under this Agreement (e.g. playground equipment) will be in accordance with, but not limited to, the specifications and provisions of State Finance Law §165. (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 Subrecipient to establish for the approval of the County. In addition, when any portion of this Agreement involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the Subrecipient will indicate and certify in the submitted bid or 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 County; otherwise, the bid or proposal may not be considered responsive.

## 9. INDEPENDENT CONTRACTOR

In performing the Program and incurring expenses under this Agreement, Subrecipient shall operate as, and have the status of, an independent contractor and shall not act as agent, or be an agent, of County. As an independent contractor, Subrecipient shall be solely responsible for determining the means and methods of performing the Scope of Work and shall have complete charge and responsibility for Subrecipient's personnel engaged in the performance of the same.

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

## 10. ASSIGNMENT AND SUBCONTRACTING

Subrecipient shall not assign any of its rights, interests, or obligations under this Agreement, or subcontract any of the Program to be performed by it under this Agreement, without the prior express written consent of the County Executive and the County Youth Bureau Director. Any such subcontract, assignment, transfer, conveyance, or other disposition without such prior consent shall be void and any services or goods provided thereunder will not be compensated. Any subcontract or assignment properly consented to by County shall be subject to all of the terms and conditions of this Agreement. Subrecipient shall remain liable to County even if County consents to any such assignment or subcontract.

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

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

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

## 11. BOOKS AND RECORDS

Subrecipient 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.

## 12. RETENTION OF RECORDS

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

## 13. AUDIT BY THE COUNTY AND OTHERS

All claim forms and invoices presented for payment, and the books, records, and accounts upon which the claim forms or invoices are based, are subject to audit by County. Subrecipient shall submit any and all documentation and justification of costs incurred by Subrecipient in the performance of this Agreement, that County may require to evaluate the reasonableness of the charges. Subrecipient shall make its records available to County upon request. All books, claim forms, invoices, records, reports, cancelled checks, and any and all similar material may be subject to periodic inspection, review, and audit by County, the State of New York, the federal government, or other persons duly authorized by County. Such audits may include examination and review of the source and application of all funds whether from County, the State of New York, the federal government, private sources or otherwise. Subrecipient shall not be entitled to any interim, progress or final payment under this Agreement if any audit requirements or requests have not been satisfactorily met.

## 14. INSURANCE

For the full term of this Agreement as may be extended, renewed or amended, Subrecipient shall

maintain or cause to be maintained in full force and effect, at its expense, Worker's Compensation, Disability, Automobile Liability (including but not limited to bodily injury and property damage) General Liability (including but not limited to contractual liability, bodily injury and property damage), Professional Liability (if available for Subrecipient's profession), and other insurance with stated minimum coverages, all as listed below or otherwise required by County under this Agreement. Such policies are to be in the broadest form available and written by insurers with an A.M. Best rating of A- or better, who have been fully informed as to the nature of the Program to be performed. Additional coverage types or limits may be required by the County if any policy contains a contractual liability exclusion.

Type of Coverage	Min. Coverage
Workers' Compensation	Statutory
Disability	Statutory
Employer's liability	\$500,000 ea accident \$500,000 disease ea employee \$500,000 disease policy limit
Automobile Liability (incl. bodily injury & property damage)	\$1,000,000 per occurrence \$1,000,000 aggregate
Comprehensive General Liability (incl. bodily injury & property damage)	\$1,000,000 per occurrence \$1,000,000 aggregate
Professional Liability (if commercially available for Subrecipient's profession)	\$1,000,000 per claim \$1,000,000 aggregate

Except for Worker's Compensation, Disability and Professional Liability, County 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 Subrecipient and not those of the County.

Notwithstanding anything to the contrary in this Agreement, Subrecipient irrevocably waives all claims against County for all losses, damages, claims, or expenses resulting from risks commercially insurable under the insurance described above. The provisions of insurance by Subrecipient shall not in any way limit Subrecipient's liability under this Agreement.

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 County and (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 County, directed to the Director of the Risk Management Division. County shall have the discretion to pay any necessary premiums to keep such insurance in effect and charge the cost back to Subrecipient.

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 Subrecipient's start of the performance of this Agreement (including subsequent policies purchased as renewals or replacements);

B. If the insurance is terminated for any reason and/or for at least six (6) years following

completion of the Program, Subrecipient will maintain an extended reporting provision and/or similar insurance for the period of performance plus six years from the date of such termination or final acceptance;

C. Immediate notice shall be given to the County through the Director of the Youth Bureau and the County's Risk Management Division of circumstances or incidents that might give rise to future claims with respect to the Program performed under this Agreement.

Subrecipient shall submit certificates of insurance evidencing Subrecipient's compliance with these requirements prior to commencing performance of the Program and, if applicable, current New York State forms evidencing exemption from workers' compensation and/or disability.

## 15. INDEMNIFICATION

Subrecipient agrees to defend, indemnify and hold harmless the County, 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 any negligence, fault, act or omission of Subrecipient, its officers, employees, subcontractors, assignees, agents or other representatives in performance of the Program within or without the scope of this Agreement.

In the event that any claim is made or any action is brought against the County arising out of the negligence, fault, act or omission of an officer, employee, subcontractor, assignee, agent or other representative of Subrecipient; either within or without the duties of officers or scope of employment, subcontract, assignment, agency, or other representation; then the County shall have the right to withhold payments for the purpose of set-off in sufficient sums to cover the claim or action. These rights and remedies of the County shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or this Agreement.

## 16. PROTECTION OF COUNTY PROPERTY

Subrecipient assumes the risk of and shall be responsible for, any loss or damage to County property, (including property and equipment leased by County, used in the performance of this Agreement) and caused, either directly or indirectly, by the acts, conduct, omissions, or lack of good faith of Subrecipient, its officers, directors, members, partners, employees, agents, representatives, consultants, specialists, subcontractors, assignees or any other person or entity engaged by Subrecipient for performance of the Program.

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

Subrecipient agrees to defend, indemnify, and hold the County harmless from any and all liability or claim for loss, cost, damage, or expense (including, without limitation, reasonable attorney fees and costs of litigation, settlement, or both) due to any loss or damage to any County property used in the performance of the Program.

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

## 17. TERMINATION

By written notice to Subrecipient effective upon mailing, County may terminate this Agreement, in whole or in part, at any time, (1) for County's convenience, (2) upon failure of Subrecipient to comply with any of the terms or conditions of this Agreement, or (3) upon Subrecipient becoming insolvent or bankrupt.

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

A. Accounting for and refunding to County, within thirty (30) days from date of termination, any unexpended funds which have been paid to Subrecipient pursuant to this Agreement; and

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

In the event County terminates this Agreement in whole or in part, County may fund, upon such terms and in such manner as deemed appropriate, a substitute Program similar to the one that will not be provided by Subrecipient due to termination, and in the event of partial termination, Subrecipient shall continue the remaining 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 County, the extra cost of any substitute Program funded by the County, will be charged to Subrecipient, set off against any sums due Subrecipient, or both.

## 18. GENERAL RELEASE

By executing this Agreement Subrecipient agrees that the acceptance by Subrecipient or its assignees of the final payment under this Agreement, (including but not limited to by judgment of any court of competent jurisdiction or administrative means), shall constitute and operate as a general release to the County from any and all claims of Subrecipient arising out of the performance of this Agreement.

## 19. SET-OFF RIGHTS

County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but are not limited to, County's right to withhold for the purposes of set-off any monies otherwise due to Subrecipient (i) under this Agreement, (ii) under any other agreement or contract with County, including any agreement or contract for a term commencing prior to or after the term of this Agreement, or (iii) from County by operation of law. County has the right to withhold monies otherwise due under this Agreement for purposes of set-off due to, without limitation: breach of this Agreement, failure to perform at all, or in accordance with the standards herein or breach or violation of any representations or warranties,

County 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 County for any reason whatsoever including, without limitation, tax delinquencies, fee delinquencies, monetary penalties or interest relative thereto.

Set-off, if affected, shall not constitute the sole remedy afforded County for any such breach or falsity, nor shall it constitute a waiver of the County's right to claim damages or otherwise refuse payment or to take any other action provided for by in law or equity or pursuant to this Agreement.

## 20. NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not

be submitted to arbitration unless specifically agreed to in writing by the County Executive. Instead, such disputes shall only be heard in the Supreme Court of the State of New York, with venue in Orange County or, if appropriate, in the Federal District Court with venue in the Southern District of New York, White Plains division.

## 21. GOVERNING LAW

In the event of any conflict of law; this Agreement shall be governed by the laws of the State of New York without giving effect to its choice of law provisions. Subrecipient shall perform under this Agreement in accordance with applicable provisions of all federal, state, and local laws, rules, and regulations as are in effect through the time of performance of the Program.

## 22. CURRENT OR FORMER COUNTY EMPLOYEES

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

## 23. FORCE MAJEURE

Other than the strike, lockout or labor strife or troubles of the Subrecipient or Subrecipient's subcontractors or suppliers; if the performance of either party is prevented, hindered, delayed or otherwise made impossible by reason of war or the effects of war, blockade, revolution, insurrection, civil commotion, riot, mobilization, act of God, plague or other epidemic, fire, flood, obstruction of navigable waters by ice or other obstruction at any port, acts of the public enemy, any unforeseeable material or transportation or utility shortage or curtailment, governmental order, decree or regulation then, each party suffering from such condition may be excused from performance during the continuance of any such contingency and for so long as such contingency shall prevent, hinder or delay such performance. However, in the event said contingency shall continue longer than one (1) year in duration, or sooner upon agreement of the parties, provided that neither party has performed, such parties may be fully excused from performing their obligations hereunder. If one party has performed even partially, they must be made whole as the situation dictates.

## 24. ORDER OF PRECEDENCE

Unless otherwise provided for in an Addendum to this Agreement, signed by both parties, in the event of a conflict in the Contract Documents listed below the following Order of Precedence shall prevail:

- a) New York State Office of Children & Families and Orange County Youth Bureau approved Annual Program Application and related agreement(s), laws and regulations, all applicable terms and conditions of which are incorporated by reference.
- b) This Agreement and any modifications thereto in accordance with the terms of this Agreement
- c) Any solicitation or notice of funding availability issued by the County
- d) Exhibit A

## 25. ENTIRE AGREEMENT

The rights and obligation of the parties and their respective agents, successors, and assignees shall be

subject to and governed by this Agreement and any properly executed Change Orders, Amendments, or Addenda to this Agreement which supersede any other understandings or writings between or among the parties.

**26. MODIFICATION**

No changes, amendments, or modifications of any of the terms and conditions of this Agreement shall be valid unless reduced to writing and signed by both parties. Changes in the Program under this Agreement shall not be binding, and no payment shall be due in connection therewith, without written authorization, evidenced only by a Change Order, Amendment or Addendum to this Agreement executed by the County Executive, after consultation with the Director of the Youth Bureau prior to the performance of any such changes to the Program. Any Change Order, Amendment or Addendum shall specifically set forth the additional scope of the Program, and the amount of compensation and the extension of the time for performance, if any. Unless otherwise specifically provided for in any Change Order, Amendment or Addendum, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Change Order, Amendment or Addendum.

**27. AUTHORITY TO CONDUCT BUSINESS & ACCEPTANCE OF SUBSTITUTED SERVICE:** Subrecipient should be properly registered to do business in the State of New York and furnish applicable certificates of authority/incorporation/partnership/dba, etc. to County. Regardless of the propriety or legality of registration status, or receipt of documentation thereof by the County, as a condition of contract, the Subrecipient shall agree to service of process as follows: In addition to the methods of service allowed by New York's Civil Practice Law and Rules, Subrecipient consents to service of process upon it by registered or certified mail, return receipt requested, to the address indicated in this Agreement. Service shall be complete upon Subrecipient's actual receipt of process, or upon the County's receipt of the return by the United States Postal Service as refused or undeliverable. Subrecipient shall immediately notify the County, in writing, via registered or certified mail, return receipt requested, of each change or address to which service of process can be made. Service by the County to the last known address shall be sufficient.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth below.

**COUNTY OF ORANGE**

**[SUBRECIPIENT'S NAME]**

By: \_\_\_\_\_  
Edward A. Diana  
County Executive

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

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

RESOLUTION NO.: 34 - 2013

OF

FEBRUARY 25, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE  
AN INTERMUNICIPAL AGREEMENT FOR MEMBERSHIP IN  
HISTORIC HUDSON RIVER TOWNS  
WITH AN ANNUAL DUES ASSESSMENT OF \$3,000.00**

**WHEREAS**, Historic Hudson River Towns, Inc. is a consortium of municipalities located along New York's Hudson river from Yorkers to Albany, organized under an Inter-municipal Agreement with non-profit tax exempt status; and

**WHEREAS**, membership in Historic Hudson River Towns, Inc. is open to all riverfront communities along the Hudson River from Yonkers to Albany with an annual dues assessment; and

**WHEREAS**, Historic Hudson River Towns, Inc. is an economic development initiative focused on issues of common concern in the general areas of downtown revitalization, waterfront renewal and tourism development; and

**WHEREAS**, the City Council of the City of Newburgh finds that becoming a member of Historic Hudson River Towns, Inc. will be useful and effective tool for economic development and a way of promoting the City of Newburgh among our residents and visitors; and

**WHEREAS**, this Council has reviewed the attached Inter-municipal Agreement and has determined that becoming a member of Historic Hudson River Towns, Inc. is in the best interests of the City of Newburgh; and

**WHEREAS**, it has been further determined that a budget transfer is necessary to fund the dues assessment.

**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 attached Inter-municipal Agreement with the Historic Hudson River Towns, Inc.; and

BE IT FURTHER RESOLVED, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900.1990. Contingency	\$3,000.00	
A.7550.0463 Celebrations - Riverwalk		\$3,000.00

**HISTORIC HUDSON RIVER TOWNS**  
**Intermunicipal Agreement**

This agreement dated as of January 1, 2007 is made between the New York municipalities along the East and West shorelines of the Hudson River that have agreed to participate according to the terms below:

**WITNESSETH:**

**WHEREAS:** the communities along the Hudson Riverfront share a common history and have many characteristics and concerns in common; and

**WHEREAS:** the Historic River Towns of Westchester has served the interests of the 13 riverfront municipalities from Yonkers to Peekskill in economic development through tourism marketing, riverfront renewal and downtown revitalization since 1994; and

**WHEREAS:** it is now useful to expand the Historic River Towns of Westchester to offer participation to all Hudson Riverfront communities for mutual benefit, collaboration and co-operative tourism marketing; and

**WHEREAS:** this IMA is a continuation of the original IMA with no change other than the name and geographic area; and

**WHEREAS:** representatives of the municipalities herein have recognized the value in joining forces to focus attention on projects and programs that will increase public awareness of all that they and their neighboring river towns have to offer to residents of and visitors to the region;

**NOW THEREFORE BE IT RESOLVED AS FOLLOWS:**

1. The municipalities who sign this Intermunicipal Agreement have joined together under the name "Historic Hudson River Towns," as a successor to and expansion of "Historic River Towns of Westchester" with the intention of working collaboratively on projects of mutual benefit.
2. The governance of this organization shall in all respects be in the hands of the Board of Historic Hudson River Towns, to wit:
  - a. A representative of each signatory of this agreement shall constitute the Board, which shall have no fewer than one regularly scheduled meeting in each year and more frequently as the Board may determine.

- b. At the first official meeting of the Board, the representatives shall select an executive committee consisting of a President, a Vice-President, a Treasurer and a Secretary to serve for the balance of the year and serve as the Executive Committee.
  - c. The President shall develop the agenda and preside over all meetings of the whole and of the Board.
  - d. The Vice-President shall act when the President is unable to do so.
  - e. The Secretary shall maintain minutes of all meetings and proceedings.
  - f. The Treasurer shall prepare an annual budget and financial reports as required.
  - g. A majority of the total number of representatives shall be required for a quorum at any meeting. Each member of the Board shall have one vote.
  - h. The Board may, upon an affirmative vote of the members, approve additional Hudson Riverfront municipalities to become members of Historic Hudson River Towns.
3. The goals of "Historic Hudson River Towns" are as follows:
- a. To promote intermunicipal cooperation by and between the signatories to this agreement.
  - b. To build the local economy of the Hudson riverfront through public-private partnerships.
  - c. To enhance and promote tourism as an economic development initiative along the riverfront.
  - d. To increase public awareness of the features and benefits of local attractions of historical, cultural and environmental value.
  - e. To improve methods of transportation to and through the river towns.
  - f. To develop and implement a comprehensive marketing plan for the river towns.
  - g. To serve as a unified voice on issues particular to riverfront communities.
4. Members of the Historic Hudson River Towns agree to contribute the sum of \$3,000 (three thousand dollars) per year to help with the costs of operating this group. Any increase in this contribution shall require the approval of the governing

body.

5. These funds will be used to retain a consultant to assist the Historic Hudson River Towns in administering the program. The consultant will be responsible for:
  - a. Developing and implementing a marketing and public relations plan.
  - b. Building positive relationships within the group and with relevant external groups and audiences.
  - c. Building membership in the IMA.
  - d. Coordinating activities with the 501c3 non-profit organization.
  - e. Identifying funding sources to support the group's objectives.
6. Historic Hudson River Towns will complement the work that is being done through local Chambers of Commerce and county and regional tourism efforts, and is intended to supplement their efforts.
7. Historic Hudson River Towns (the IMA) will work closely with Historic Hudson River Towns, Inc., a non-profit organization established to seek funding for major projects that will benefit the entire river towns region. The IMA will elect two representatives to sit on the Board of the 501c3 non-profit.
8. Participation in this agreement will automatically be renewed each year unless a participant gives 60 day notice prior to the end of any calendar year of intent to withdraw.

IN WITNESS WHEREOF AND AGREEMENT THERETO, the Chief Elected Official (or duly appointed proxy) of a municipality wishing to participate in this IMA has, by the authority vested in them, signed below:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Position \_\_\_\_\_

Municipality \_\_\_\_\_

RESOLUTION NO.: 35 .2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE ADDITION  
OF ONE (1) CAPTAIN POSITION ON A TEMPORARY BASIS  
IN THE FIRE DEPARTMENT

WHEREAS, due to injuries and retirements, it has become necessary to create an additional position of Fire Department Captain so that there is another individual capable of performing such duties in the Fire Department; and

WHEREAS, the creation of such additional position will be on a temporary basis; and

WHEREAS, the Fire Department has advised the City Manager that its department is in need of one (1) additional individual to perform the duties of "Captain";

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the budget for the fiscal year 2013 be amended, and that there be and hereby is created one (1) additional position in the job title "Captain" in the Fire Department.

RESOLUTION NO.: 36 -2013

OF

FEBRUARY 25, 2013

A RESOLUTION TO SPONSOR THE  
NEWBURGH ILLUMINATED EVENT

BE IT RESOLVED, by the Council of the City of Newburgh, New York hereby supports and sponsors the Newburgh Illuminated Festival as a City-sponsored event.

RESOLUTION NO.: 37 -2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN EQUIPMENT LEASE AGREEMENT WITH BELL COPIERS  
TO ACQUIRE TWO (2) KONICA MINOLTA BIZHUB 363 COPIERS  
FOR USE BY THE CODE COMPLIANCE DEPARTMENT  
AND THE FIRE DEPARTMENT

WHEREAS, the City of Newburgh Code Compliance Department and the Fire Department have requested to lease new copiers to perform their statutory duties, assigned tasks and day-to-day operations; and

WHEREAS, Bell Copiers has submitted a proposal for a bid replacement of two copier systems and after a review of available equipment and systems has identified a Konica Minolta BizHub 363 to be the most appropriate and cost-effective alternative; and

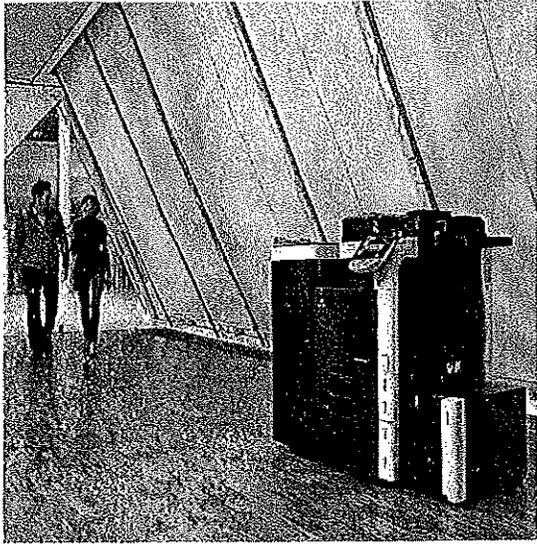
WHEREAS, the cost of the lease for the copier for Code Compliance is \$205.92 per month including 5,000 prints per month with excess copies charged at \$.01/copy, add fax and fax from and to computer for additional \$17.00 per month, includes delivery and installation as copier, network printer, scan to folder, and includes termination of current agreement; and

WHEREAS, the cost of the lease for the copier for the Fire Department is \$146.00 per month, optional stapling collator for an additional \$17.00 per month, maintenance for 24,000 prints per year for \$360.00 or monthly at \$40.00 per month, and includes termination of current lease; and

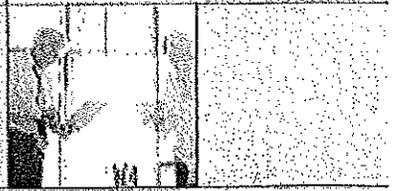
WHEREAS, this Council has reviewed said proposal, a copy of which is attached hereto and made a part of this resolution, and finds it beneficial to the City of Newburgh Code Compliance Department and the Fire Department;

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 and execute a lease agreement, to acquire two (2) Konica Minolta BizHub 363 from Bell Copiers for use by the Code Compliance Department and the Fire Department.

# A Proposal For City of Newburgh Fire Department



**bizhub** 



**bizhub Office  
Printing Solutions**



Easy access key board and large 8.6" color LCD screen make status and function printing simple



**Presented By:**  
Noel Hirsch



**A Proposal By:**  
**BELL DUTCHESS, INC.**  
600 Violet Ave., NY 12538

BELL DUTCHESS, INC.  
600 Violet Ave.  
Hyde Park, NY 12538

4/26/2011

Chief Mike Vatter  
City of Newburgh Fire Department  
22 Grand St.  
Newburgh, NY 12551

Dear Chief Mike Vatter,

Thank you for the opportunity to submit this proposal for your review and consideration.

In our review meeting, you asked for a bid for replacement of two systems:

- 1) KonicaMinolta 363 with Automatic document feeder, fax, and base
- 2) For Code Compliance: KonciaMinolta 363 with Automatic Document Feeder, Fax, stapling collator, and base.

You are familiar with Bell, and the quality of the KonicaMinolta product through our many years of working together. We discussed that the Machinery has performed well, and your service has been good, and response time is very quick.

The KonicaMinolta C224 Multifunctional Printer/copier/scanner/Fax is an up to date product.

These systems *maximize productivity* – and are extremely cost effective:

✚ Scanning –

Allows us to scan to computer and distribute by email – Reduce costs by viewing by email instead of hard copy.

Scan to computer and view on computer: - Lower costs by viewing electronic documents instead of paper docs.

✚ **Production of electronic Documents:**

**Paper documents can be scanned and stored electronically.**

TLC Pediatrics of Poughkeepsie – 483-5844 Jennifer White  
Jennifer is saving 70% of her former costs of archiving documents by utilizing her KonicaMinolta as a scanner. Her costs for retrieving archived documents is also a fraction of the former cost.

✚ **Archiving and Backup:**

Paper documents can be scanned, stored on server, and backed up automatically when server is backed up. Now, if there is a fire, or water damage irreplaceable documents are not lost forever:

\*\* The Village of Washingtonville Village Hall was damaged by the Hurricane of 2012. Almost all of their paper documents were damaged by water, and mold. What they had scanned with their **KonicaMinolta** was backed up and preserved, but thousands of documents that had not been scanned were damaged and are unrecoverable.

**BELL DUTCHESS, INC. Recommendation**

Based on previous contracts, we estimate the Annual Volume for the Fire Department to be 24,000 annually- 2,000 prints per month.

For Code Compliance we estimate an annual volume of 60,000 prints, 5,000 per month.

The utilization of scanning is expected to have an impact on the volume of printing.

Konica Minolta BizHub 363 Digital Document Solution.

**Investment Includes:**

**Fire Department**

1 bizhub 363 - Monochrome Printer/Copier/Color Scan/ Optional Fax –

Copy and Print at 36 pages per minute – single or double sided

**Color Scanning** – up to 70 pages per minute  
100 sheet - Reversing Automatic Document Feeder  
Base

Lease this copier for: \$ 146.00 per month

For optional stapling collator add: \$ 14.00 monthly

Maintenance for 24,000 prints per year = \$ 360.00 Or Monthly at \$ 40.00 per month

Includes termination of current Lease.

**Code Compliance:**

1 bizhub 363 - Monochrome Printer/Copier/Color Scan/ Fax  
Copy and Print at 36 pages per minute – single or double sided

**Color Scanning** – up to 70 pages per minute  
100 sheet - Reversing Automatic Document Feeder  
Fax and fax from Computer {optional}  
Stapling collator  
Base

Lease for: \$ 205.92 including 5,000 prints per month excess copies charged at \$ .01/copy

Add fax and fax from and to computer : Add \$ 17.00 per month

Includes delivery and installation as copier, network printer, scan to folder.

Includes termination of current agreement.

Thank you for your time, and interest.

I will follow up by telephone.

Regards: Noel A. Hirsch.

---

**CONFIDENTIAL**

*A Proposed Solution* is an intellectual property of Bell Copiers and a trade secret of Konica/Minolta Corporation and may not be duplicated or distributed in any format. Proposal may be modified at any time prior to acceptance of signed lease. Proposal is not, and is not intended to be a contract, and is for informational purposes only.



**SPECIFICATIONS**

<b>Print / Copy Speed (Letter, portrait)</b> Monthly Duty Cycle (pages)	B&W: 42 ppm 150,000
<b>COPY</b>	
Warm-up Time / First Copy Time	Less than 30 seconds / Less than 3.6 seconds
Copy Resolution / Copy Quantity	1800 dpi (equivalent) x 600 dpi / 1 - 9,999
Copy Features	Account Track, Auto Duplex, Card Shot, Cover Mode, Form Overlay, Image Preview, Interrupt, Job Skip, Job List, LDAP, Program/Recall Jobs, Proof Copy, Separate Scan, User Authentication, Watermark
<b>PRINT - Emperon Print System with bizhub Extended Solution Technology / Open API</b>	
Processor / Speed / Memory	MPC8533E / 667MHz / 2 GB RAM (shared print, copy, scan and fax memory)
Print Resolution / Grayscale Gradations	1800 dpi (equivalent) x 600 dpi / 256 shades
Interface	10 Base-T/100 Base-TX/1000 Base-T, USB 1.1, USB 2.0, USB Host
HD-516 250 GB Hard Disk Drive	Standard
Page Description Language	PCL5e/c Emulation, PCL XL ver.3.0 Emulation, PostScript 3 Emulation (3016), XPS v.1.0 (XML Paper Specification)
Print Features	Encrypted Network Password Printing, Job Skip, MyTab Driver Feature, Print from USB Memory

<b>SCAN</b>	
Scan Speed with DF-621	Color / B&W: 70 opm (@300 dpi, letter), 42 opm (@600 dpi, letter)
Scan Resolution / Scan File Formats	200 dpi, 300 dpi, 400 dpi, 600 dpi / TIFF, PDF, Compact PDF, JPEG, XPS, Compact XPS
Scan Features	bizhub Send, Separate Scan, Scan-to-Email, Scan-to-FTP, Scan-to-SMB, Scan-to-User Box (HDD), Scan-to-USB Memory, Network TWAIN (via Ethernet TCP/IP), Scan-to-Me and Scan-to-Home, Scan-to-WebDAV

<b>FAX</b>	
Internet Fax	Color / B&W
• FK-508 Fax Kit	Includes Super G3 Fax, IP Address Fax, PC Network Fax Driver
• MK-726 Fax Mount Kit	Required for each FK-508 Installation
• Fax Line / Mode	PSTN (Public Switch Telephone Network), PBX (Private Branch Exchange), Super G3 (Fax line)
• Fax Transmission Speed	Approx. 3 sec (A4, V.34, 33.6kbps, J16)
• Fax Features	Activity Reports, Fax Forward, F-Code, Group Dial, Memory Fax, One-Touch Dial, TSI Routing

<b>PAPER INPUT</b>	
DF-621 Reversing Automatic Document Feeder	Standard: Capacity 100 sheets, Paper Size: 5.5" x 8.5" to 11" x 17", Paper Weight: Single-sided: 9.31 lb. bond to 34 lb. bond (35-128 g/m <sup>2</sup> ), Double-sided or mixed originals: 13.25 lb. bond to 34 lb. bond (50-128 g/m <sup>2</sup> )
Tray 1 & Tray 2 Bypass	500-sheet / 5.5" x 7.16" to 11.69" x 17" (140 x 182 mm to A3) / 16 lb. bond to 24 lb. (60-90 g/m <sup>2</sup> ) 150-sheet / 3.54" x 5.5" to 11.69" x 17" (90 x 140 mm to A3) / 16 lb. to 55.75 lb. (60-210 g/m <sup>2</sup> )
• PC-109 Paper Feed Cabinet/Storage	500-sheet / 5.5" x 7.16" to 11.69" x 17" (140 x 182 mm to A3) / 16 lb. bond to 24 lb. (60-90 g/m <sup>2</sup> )
• PC-208 Paper Feed Cabinet	2 x 500-sheet / 5.5" x 7.16" to 11.69" x 17" (140 x 182 mm to A3) / 16 lb. bond to 24 lb. (60-90 g/m <sup>2</sup> )
• PC-409 Large Capacity Cabinet	2,500-sheet / 8.5" x 11" (A4) (portrait only) / 16 lb. bond to 24 lb. (60-90 g/m <sup>2</sup> )
• DK-508 Copy Desk/Storage	Storage Drawer
Maximum Paper Capacity	3,650 Sheet (total with options)

<b>PAPER OUTPUT</b>	
Standard Output	Inner Output Tray: 250 sheet Capacity
• JS-505 Inner Job Separator	Inner Output Tray 1: 150 Sheet Capacity, Inner Output Tray 2: 50 Sheet Capacity

<b>FINISHING</b>	
• FS-527 Book Finisher	50 sheet stapling Output Tray 1: 200 Sheet Capacity Output Tray 2: 3,000 Sheet Capacity
• JS-603 Additional Output Tray for FS-527	Output Tray 3: 100 Sheet Capacity
• PK-517 Punch Kit for FS-527	2 and 3 Hole Punching
• SD-509 Saddle Stitch Kit for FS-527	60-page Booklet Making Output Booklet Tray: 20 Booklet Capacity
• FS-628 Topper Finisher	50 sheet stapling Output Tray: 300 Sheet Capacity

<b>USER BOX</b>	
User Box Functionality	Standard
Max. User Boxes / Max. Document Storage	1,000 User Boxes for Document Storage, Re-Output, Distribution / Up to 200 Documents per User Box, Up to 3,000 Documents in all User Boxes, Up to 10,000 pages in all User Boxes

<b>APPLICATION SOFTWARE</b>	
Network and Device Management	PageScope Data Administrator, Driver Packaging Utility, HDD Back-Up Utility, Log Management Utility
User Tools / Management Tools	PageScope Web Connection, PageScope Direct Print, PageScope Box Operator, PageScope Print Status Notifier, Font Management Utility, Copy Protect Utility / bizhub vCare support
• Optional Software	PageScope Enterprise Suite: Account Manager, Authentication Manager, MyPanel Manager, MyPrint Manager, PageScope Net Care Device Manager (standard)

<b>OPTION</b>	
• LK-203	1 GB Memory Upgrade Kit: Required to enable any Option, PageScope MyPanel Manager
• LK-101 v2	Enables Web Browsing at Control Panel / Image Panel to create / combine / route documents
• LK-102	Enables Enhanced Scanning Security with advanced digital IDs for AES-128-bit Encrypted PDF
• LK-105	Enables scanning to a searchable PDF (OCR)

<b>EXTERNAL KEYBOARD</b>	
• Keyboard Option / KH-101 Keyboard Holder	External Keyboard / External Keyboard Mounting Kit
• EK-604 USB Kit	Enables USB connection for External Keyboard
• EK-605 USB Kit	Enables USB connection for External Keyboard and Bluetooth Printing

<b>AUTHENTICATION DEVICES</b>	
• AU-102	Biometric Finger Vein Authentication
• AU-201H	HID Proximity Card Authentication
• AU-202H	HID Glass Card Authentication
• AU-211P	CAC/PIN Card Authentication
• WT-506 Working Table	Working Table to support Authentication Devices

<b>SECURITY</b>	
Security Features	ID & Print, IEEE 802.1X Authentication, External Server Authentication, NDS Authentication over TCP/IP, Secure Print Support for SMTP Authentication (POP before SMTP), IP Filtering, Encrypted Communications (SSL, S/MIME, Encrypted PDF), HDD Encryption, HDD Job Overwrite, HDD Sanitizing
SC-607 Copy Guard Kit	Enables Watermark Security to prevent unauthorized copying of documents and Password Copy Feature

<b>POWER &amp; DIMENSIONS</b>	
Power Requirements / Consumption	120V / 60Hz @ 12A (110W) / Less than 1500W (max consumption), Less than 7.6 W (low power / sleep mode)
Dimensions (W x D x H) / Weight	24.5" x 31.2" x 32.2" / 169 lb.

OPTIONAL STANDARD For more detailed specifications see the bizhub 423 Series Specification and Install Guide. \*Available Summer 2010.

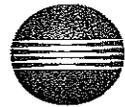


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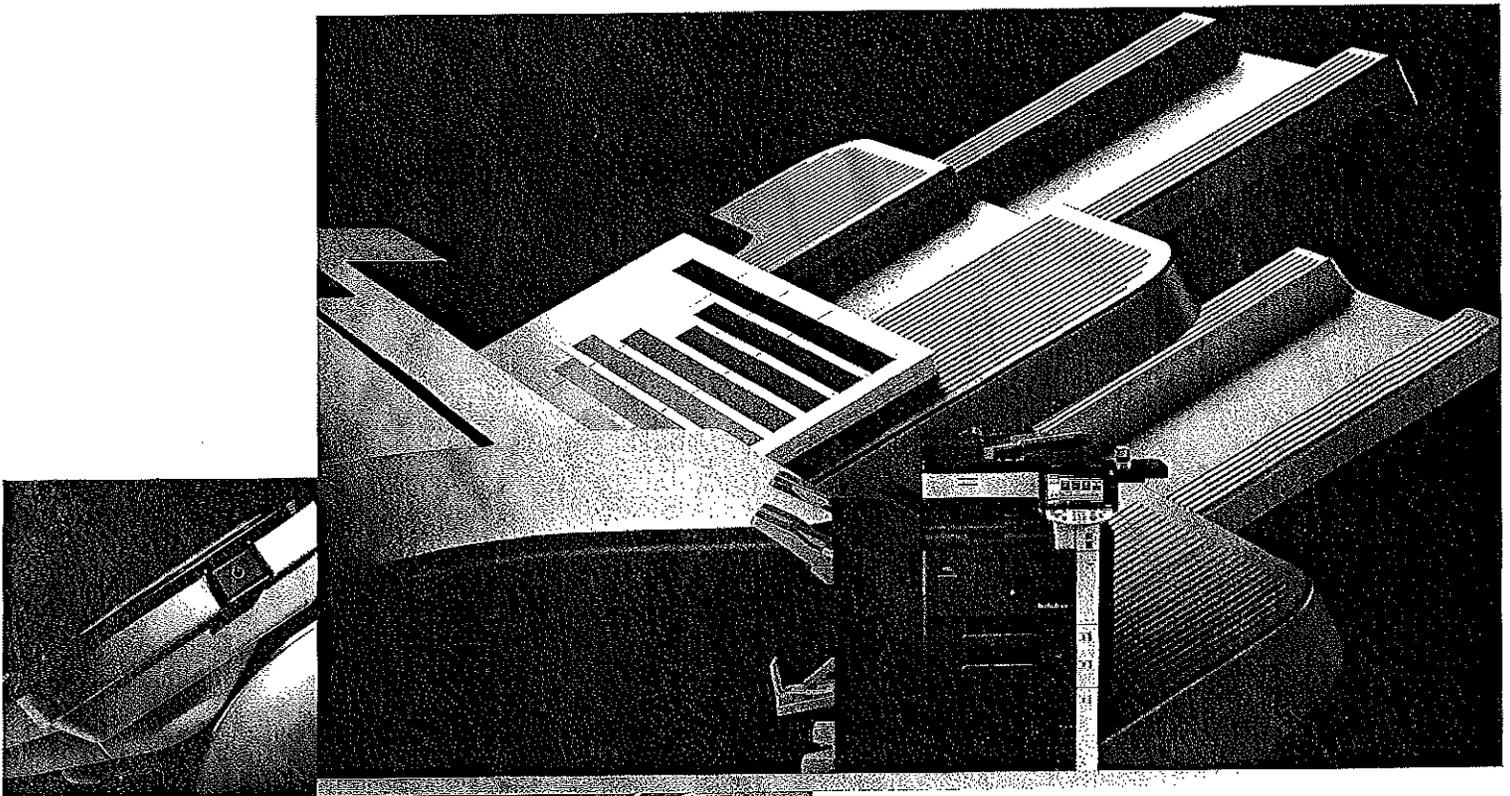




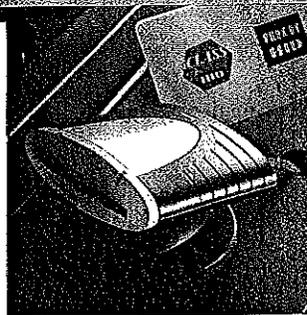
KONICA MINOLTA

Getting the job done, improving your image quality, speeding your workflow and saving you money – that's why you can count on Konica Minolta. For high-volume productivity, the bizhub 423 prints and copies in B&W at up to 42 ppm, scans in color and B&W at up to 70 opm, and scans documents directly to User Box and other destinations for total flexibility. Center-office styling looks great anywhere. A large 8.5" color touch-screen makes operation simple. And with powerful Pagescope® software, i-Option™ function kits, fax and finishing options and security enhancements, you can do more in-house – with value-added performance you can count on.

## high-output, high-value bizhub productivity.



printer/copier/scanner/fax



### **bizhub 423**

- HIGH-SPEED PRINT/COPY OUTPUT AT UP TO 42 PPM
- COLOR SCANNING TO BRING DOCUMENTS INTO YOUR WORKFLOW
- SCAN TO USER BOX, SCAN-TO-ME, SCAN-TO-HOME
- SCAN-TO-EMAIL AND FTP, SCAN TO / FROM USB THUMB DRIVE
- 8.5" COLOR TOUCH-SCREEN WITH THUMBNAIL PREVIEW
- EMPERON® PRINT SYSTEM, PCL6/PS3 EMULATION, NATIVE XPS
- STANDARD 250 GB HDD FOR HIGH-CAPACITY STORAGE
- FINISHING OPTIONS FOR BOOKLETS, STAPLING, 2/3-HOLE PUNCH
- I-OPTION™ KITS: SEARCHABLE PDF, WEB ACCESS, AES 128-BIT PDF ENCRYPTION
- ENHANCED SECURITY FUNCTIONS TO SAFEGUARD INFORMATION
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- OPTIONAL SUPER G3 FAX, IP ADDRESS FAX; STANDARD INTERNET FAX
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COUNT ON KONICA MINOLTA



Konica Minolta has a strong commitment towards a sustainable future. Please visit our website to learn more about our environmental initiatives and our exclusive Clean Planet Program.

[www.konica-minolta.com](http://www.konica-minolta.com)

RESOLUTION NO. 38 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
GRANT AN EXTENSION OF TIME TO REHABILITATE  
THE PREMISES KNOWN AS 110 RENWICK STREET  
(SECTION 45, BLOCK 5, LOT 24)  
IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 110 Renwick Street, more accurately described as Section 45, Lot 5, Block 24 on the Official Tax Map of the City of Newburgh, by deed dated June 16, 2011; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 16, 2012; and

WHEREAS, Fredy Arias, the owner of property located at 110 Renwick Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he hereby is authorized to grant Fredy Arias a one (1) year extension to rehabilitate the premises known as 110 Renwick Street in the City of Newburgh, until February 25, 2014, that being one (1) year from the date of this Resolution.

RESOLUTION NO. 39 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO  
GRANT AN EXTENSION OF TIME TO REHABILITATE  
THE PREMISES KNOWN AS 112 RENWICK STREET  
(SECTION 45, BLOCK 5, LOT 25)  
IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh did convey the premises located at 112 Renwick Street, more accurately described as Section 45, Lot 5, Block 25 on the Official Tax Map of the City of Newburgh, by deed dated June 16, 2011; and

WHEREAS, said deed included a provision requiring rehabilitation of the conveyed premises to be completed on or about December 16, 2012; and

WHEREAS, Jorge Arias, the owner of property located at 112 Renwick Street in the City of Newburgh, has been unable to comply with the deadline, but has attempted a good faith effort and intent to complete the rehabilitation; and

WHEREAS, this Council has determined that it would be in the best interests of the City of Newburgh and its future development to grant said extension;

NOW, THEREFORE, BE IT RESOLVED, that the City Manager be and he hereby is authorized to grant Jorge Arias a one (1) year extension to rehabilitate the premises known as 112 Renwick Street in the City of Newburgh, until February 25, 2014, that being one (1) year from the date of this Resolution.

RESOLUTION NO.: 40-2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO BERND A. STOERCHLE  
TO THE PREMISES KNOWN AS 47 OVERLOOK PLACE  
(SECTION 48, BLOCK 2, LOT 8)

WHEREAS, on June 15, 2011, the City of Newburgh conveyed property located at 47 Overlook Place, being more accurately described on the official Tax Map of the City of Newburgh as Section 48, Block 2, Lot 8 to Bernd A. Stoerchle; and

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

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

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

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

RELEASE OF COVENANTS AND  
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 47 Overlook Place, Section 48, Block 2, Lot 8 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 June 15, 2011, from THE CITY OF NEWBURGH to BERND A. STOERCHLE, recorded in the Orange County Clerk's Office on June 28, 2011 in Liber 13193 of Deeds at Page 443 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: \_\_\_\_\_, 2013

THE CITY OF NEWBURGH

By:

\_\_\_\_\_  
RICHARD F. HERBEK,  
City Manager

STATE OF NEW YORK )

)ss.:

COUNTY OF ORANGE )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_

RESOLUTION NO.: 41-2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO JOSEPH D. PARRELLA  
TO THE PREMISES KNOWN AS 206-208 WEST PARMENTER STREET  
(SECTION 38, BLOCK 1, LOT 21) N/K/A 206 WEST PARMENTER STREET

WHEREAS, on November 14, 1986 the City of Newburgh conveyed property located at 206-208 West Parmenter Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 1, Lot 21, n/k/a 206 West Parmenter Street to Joseph D. Parrella; and

WHEREAS, the current owner, by her attorney, has requested a release of the restrictive covenants contained in said deed; and

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

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

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

RELEASE OF COVENANTS AND  
RIGHT OF RE-ENTRY

KNOWN ALL PERSONS BY THESE PRESENTS, that the City of Newburgh, a municipal corporation organized and existing under the Laws of the State of New York, and having its principal office at City Hall, 83 Broadway, Newburgh, New York 12550, in consideration of TEN (\$10.00) DOLLARS lawful money of the United States and other good and valuable consideration, receipt of which is hereby acknowledged, does hereby release and forever quitclaim the premises described as 206-208 West Parmenter Street, Section 38, Block 1, Lot 21 on the Official Tax Map of the City of Newburgh, n/k/a 206 West Parmenter Street, from those restrictive covenants numbered 1, 2, 3, 4, and 5 in a deed dated November 14, 1986, from THE CITY OF NEWBURGH to JOSEPH D. PARRELLA, recorded in the Orange County Clerk's Office on November 24, 1986 in Liber 2611 of Deeds at Page 299 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: \_\_\_\_\_, 2013

THE CITY OF NEWBURGH

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

RICHARD F. HERBEK,  
City Manager

STATE OF NEW YORK )

)ss.:

COUNTY OF ORANGE )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_

RESOLUTION NO.: 42-2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE EXECUTION  
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY  
FROM A DEED ISSUED TO RAYMOND LaCHANCE AND GISELA LaCHANCE  
TO THE PREMISES KNOWN AS 210 WEST PARMENTER STREET  
(SECTION 38, BLOCK 1, LOT 22)

WHEREAS, on June 13, 1997 the City of Newburgh conveyed property located at 210 West Parmenter Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 38, Block 1, Lot 22, to Raymond LaChance and Gisela LaChance; and

WHEREAS, the current owner, by her attorney, has requested a release of the restrictive covenants contained in said deed; and

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

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the release, annexed hereto and made a part of this resolution, of restrictive covenants numbered 1, 2, 3 and 4 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 210 West Parmenter Street, Section 38, Block 1, Lot 22 on the Official Tax Map of the City of Newburgh, from those restrictive covenants numbered 1, 2, 3, and 4 in a deed dated June 13, 1997, from THE CITY OF NEWBURGH to RAYMOND LaCHANCE and GISELA LaCHANCE, recorded in the Orange County Clerk's Office on October 6, 1997 in Liber 4642 of Deeds at Page 278 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: \_\_\_\_\_, 2013

THE CITY OF NEWBURGH

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

RICHARD F. HERBEK,  
City Manager

STATE OF NEW YORK )

)ss.:

COUNTY OF ORANGE )

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2013, before me, the undersigned, a Commissioner of Deeds in and for said State, personally appeared RICHARD F. HERBEK, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in her capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted; executed the instrument.

\_\_\_\_\_

RESOLUTION NO.: 43 - 2013

OF

FEBRUARY 25, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO  
A LICENSE AGREEMENT WITH THE NEWBURGH COMMUNITY LAND BANK  
FOR A PORTION OF THE FIRST FLOOR OF 123 GRAND STREET  
FOR A TERM OF ONE YEAR**

**WHEREAS**, the City of Newburgh has offered the City-owned premises at 123 Grand Street for rental; and

**WHEREAS**, the Newburgh Community Land Bank Agency (NCLB) has expressed an interest in using a portion of said premises to establish a fixed office for its administrative operations until such time as the properties known as 13 and 15 Chambers Street have received certificates of occupancy, a rehabilitation project for which the NCLB has received grant funds; and

**WHEREAS**, the term of the license shall be one year and which may automatically renew for successive one year terms unless terminated as set forth in the license agreement, a copy of which is annexed hereto and made a part of this resolution; and

**WHEREAS**, this Council has reviewed such license agreement and finds that entering into the same would be in the best interests of the City of Newburgh and the community alike;

**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 attached license agreement with the Newburgh Community Land Bank for the use of a portion of the first floor of 123 Grand Street in substantially the same form and on the terms and conditions contained in the attached license agreement, including such other terms and conditions as may be deemed appropriate and necessary by the City Manager and /or the Corporation Counsel in order to carry out the subject transaction.

## LICENSE AGREEMENT

This Agreement made this \_\_\_\_\_ day of \_\_\_\_\_ 2013, between the CITY OF NEWBURGH, a municipal corporation having its principal offices at City Hall, 83 Broadway, Newburgh, NY 12550 (hereinafter referred to as "LICENSOR" or "CITY) and NEWBURGH COMMUNITY LAND BANK, a corporation organized and existing under the laws of the State of New York, having its principal place of business at PO Box 152, Newburgh NY 12550 (herein referred to as "LICENSEE" or "NCLB").

### WITNESSETH:

**WHEREAS**, LICENSOR owns property known as the Grand Street Courthouse, located at 123 Grand Street, Newburgh, New York, hereinafter referred to as the "Premises"; and

**WHEREAS**, LICENSEE desires the license or privilege of gaining access to a portion of the first floor of the Premises for the purpose of establishing a fixed office for the conduct of operations; and

**WHEREAS**, LICENSOR is willing to give said license or privilege on the following terms and conditions:

**NOW THEREFORE**, in pursuance of said agreement and in consideration of ONE AND NO/100 (\$1.00) DOLLAR paid by each of said parties to each other, receipt of which is hereby acknowledged and of the mutual covenant, agreements, conditions, and stipulations herein contained, it is mutually covenanted, stipulated and agreed by and between the parties hereto as follows:

#### **1. PREMISES:**

LICENSOR does hereby grant unto LICENSEE use and occupancy of a portion of the first floor of the Premises for the purpose of establishing a fixed office for the conduct of its business operations according to the terms and conditions as hereinafter provided.

#### **2. TERM:**

The license granted hereunder shall be for a term of one (1) year, commencing upon the date this Agreement shall be properly executed by both parties, unless earlier terminated by either or both parties as provided herein.

### 3. CONSIDERATION:

The consideration shall be ONE AND No/100 (1.00) DOLLAR payable by each party to the other upon execution of this License Agreement, and all such other covenants, promises and understandings provided herein.

### 4. RENEWAL

This Agreement shall automatically renew for a term of one (1) year unless either party gives notice as specified herein of its intention not to renew this Agreement. Such notice must be given in writing no less than one (1) month prior to the expiration of this Agreement or of any renewal extension hereunder.

For each and every renewal hereunder, each party shall pay to the other the sum of ONE AND No/100 (1.00) DOLLAR.

### 5. LIABILITY/INSURANCE:

A. LICENSOR and LICENSEE each agree to be responsible for the negligent or wrongful acts or omissions of their respective employees arising under this agreement. The parties agree to cooperate in good faith to resolve any claims promptly and wherever appropriate without litigation.

B. LICENSOR and LICENSEE shall at all times during the term of this Agreement maintain and keep in force comprehensive general liability insurance. LICENSOR shall at all times during the term of this Agreement maintain and keep in force property and casualty insurance covering the Premises.

### 6. USE AND OCCUPANCY:

LICENSEE shall use and occupy the Premises in a careful, safe and proper manner, and shall not occupy or use said premises or permit the same to be occupied or used for any purpose or business which is unlawful and shall comply with all lawful requirements of all current laws, ordinances, rules and regulations of all governmental authorities pertaining to the use and occupancy of the Premises.



9. ENFORCEABILITY:

Should any provision of this Agreement be deemed unenforceable for any reason, the remainder of this Agreement shall continue in effect so long as the purpose of this Agreement is not nullified by the absence of such provision.

10. NON-ASSIGNMENT:

LICENSEE shall not have the right to assign this Agreement without prior written approval of LICENSOR.

11. INVALIDITY OF PROVISIONS:

If any term or provision of this Agreement or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons whose circumstances are other than those as to which it is held invalid or unenforceable, shall not be affected thereby.

12. HEADINGS:

It is understood and agreed that the headings are inserted only as a matter of convenience and for reference, and in no way define, limit or describe the scope or intent of this Agreement, or in any way affect this Agreement.

13. ENTIRE AGREEMENT:

This Agreement contains the entire agreement between the parties and any agreement hereafter made shall be ineffective to change, modify or discharge it in whole or part unless such agreement is in writing and signed by both parties.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have signed  
this Agreement below.

\_\_\_\_\_  
(date)

CITY OF NEWBURGH, LICENSOR

By: \_\_\_\_\_  
RICHARD F. HERBEK  
City Manager

\_\_\_\_\_  
(date)

NEWBURGH COMMUNITY LANDBANK  
LICENSEE

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

RESOLUTION NO.: 44 - 2013

OF

FEBRUARY 25, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER  
INTO A SUB-RECIPIENT AGREEMENT WITH THE ARMORY UNITY GROUP, INC.  
FOR THE IMPLEMENTATION OF THE HUDSON RIVER VALLEY COUNCIL  
GREENWAY COMMUNITIES A GRANT TO PURSUE A PLAN  
FOR GREEN URBAN LAND USE IN THE CITY OF NEWBURGH**

WHEREAS, by Resolution No. 22-2011 of January 24, 2011, the City Council of the City of Newburgh authorized the City Manager to apply for a Greenway Communities Grant from the Hudson River Valley Council for the purpose of pursuing a Land Use Planning and Evaluation Process for the Newburgh Food and Urban Gardens Community Planning Project; and

WHEREAS, by Resolution No. 65-2011 of March 28, 2011, the City Council authorized the City Manager to accept the Greenway Communities Grant and execute a sub-recipient grant agreement with PathStone Community Improvement of Newburgh ("PathStone") to coordinate this project; and

WHEREAS, PathStone, acting on behalf of the City of Newburgh, successfully completed "A Plan for Green Urban Land Use in the City of Newburgh" ("the Plan") to the satisfaction of the Hudson River Valley Greenway in connection with this original grant; and

WHEREAS, by Resolution No. 58-2012 of April 23, 2012, the City Council authorized PathStone to prepare and submit a grant application to the Greenway Communities Program in the amount of Ten Thousand (\$10,000) Dollars for the implementation of the next phase of the Plan, and further authorized the City Manager to accept said grant and execute an agreement with the Hudson River Valley Greenway Communities Council under the Greenway Communities Grant Program, for a project known as Green Urban Land Use Plan Implementation ("the Project"); and

WHEREAS, the City of Newburgh has been informed it has been awarded Ten Thousand (\$10,000.00) Dollars to fund the implementation of the Plan and the work associated with the Project; and

WHEREAS, PathStone is unable to continue to coordinate the Project but the Armory Unity Group, Inc. has agreed to coordinate the Project; and

WHEREAS, the City of Newburgh wishes to enter into a sub-recipient agreement with the Armory Unity Group, Inc. to undertake the coordination of the Project and to provide the matching funds of \$10,000.00 for a total project of \$20,000.00; and

**WHEREAS**, this Council has determined that entering into the sub-recipient agreement 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 is hereby authorized to enter into the sub-recipient agreement with the Armory Unity Group, Inc. to coordinate the Project and to provide the matching funds of \$10,000.00 for a total project of \$20,000.00.

## AGREEMENT

**THIS AGREEMENT**, entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2013

BY AND BETWEEN:

NAME:           ARMORY UNITY GROUP, INC.

ADDRESS:  
FEDERAL EMPLOYER ID #: \_\_\_\_\_

a Not-for-Profit Corporation established in accordance with the laws of the State of New York hereinafter referred to as the SUB-GRANTEE, and the CITY OF NEWBURGH, a municipal corporation duly organized under the laws of the State of New York, having its principal office and place of business at 83 Broadway, City Hall, Newburgh, Orange County, New York, hereinafter referred to as the CITY, a public body corporate established under the laws of the State of New York, having its principal office at 83 Broadway, Newburgh, Orange County, New York, hereinafter referred to as "THE CITY".

**WHEREAS**, the City is scheduled to receive a grant from the Hudson River Valley Council on behalf of the Greenway Communities Program in the amount of Ten Thousand (\$10,000.00) Dollars for the purpose of pursuing a Land Use Planning and Evaluation Process for the Newburgh Food & Urban Gardens Community Planning Project ("Grant"), as authorized by Resolution No. \_\_\_\_\_-2013 adopted by the City Council on February 25, 2013; and

and;

**WHEREAS**, the Sub-Grantee has submitted a proposal for funding which states the purpose, specific goals and objectives of their program, which is attached hereto and made a part of this Agreement as Schedule A thereto; and

**WHEREAS**, City wishes to engage the Sub-Grantee to conduct the aforementioned program for the period of such agreement;

**NOW, THEREFORE**, the City, and the Sub-Grantee, for the consideration and under the conditions hereinafter set forth, do agree as follows:

### **ARTICLE I. SCOPE OF SERVICES**

- (1) The Sub-Grantee shall establish and implement a program within the City of Newburgh as set forth on Schedule A attached hereto and assures the City that the Sub-Grantee will employ

personnel and/or consultants who are thoroughly familiar with the procedures and requirements of the said Sub-Grantee to execute their program. When required, it may request pertinent assistance from other agencies.

(2) The Sub-Grantee will continue to maintain adequate office facilities at a suitable location within the designated area and provide essential equipment, supplies and services as needed for the operation of such office. Such office shall provide convenient access and service primarily to existing and prospective residents of the designated area. Such office and services provided are intended to provide assistance principally to existing and prospective residents of the City and to carry out those activities authorized under this agreement.

## **ARTICLE II. TERMS OF CONTRACT**

(1) The services of the Sub-Grantee are to commence upon execution of this Agreement and extend for a period ending one (1) year from the date thereof, or as otherwise provided herein.

(2) This contract may be terminated at any time by either party on ten (10) days notice in writing to the other party for any breach of the agreement

## **ARTICLE III. SERVICES TO BE PROVIDED BY THE THE CITY**

(1) Upon request by the Sub-Grantee, the THE CITY may provide such technical and/or advisory assistance as is requested, based upon requirements and availability of staff. Approval of such requests is at the sole discretion of the City Manager of the City.

(2) If, in the opinion of the City, technical assistance is required from New York State, a request may be initiated by the City for such assistance.

## **ARTICLE IV. PROGRAM DOCUMENTATION**

(1) The Sub-Grantee hereby agrees to maintain confidential documentation for all activities sponsored in the conduct of the aforesaid program. These confidential records will be subject to and made available for periodic site review by the City. For each such review, the representative of the City will prepare a written report containing comments on overall program performance and effectiveness.

(2) The Sub-Grantee hereby agrees to maintain separate and complete accounting for all funds received from the City under this agreement. Complete and accurate time and attendance records will be maintained for all personnel receiving funds under this grant.

(3) Certified yearly audits of the Sub-Grantee will be provided to the City for review by the City's CPA when requested..

## **ARTICLE V. COMPENSATION**

(1) Notwithstanding anything to the contrary herein, it is understood and agreed by the parties to this agreement that the agreement of the City to fund the Sub-Grantee shall be deemed executory to the extent that Grant monies are available to it for the purpose of carrying out the terms of this contract and that no liability shall be incurred by the City should the Grant monies not be available for such purposes. No general or other funds of the City shall be used by the City for the funding of this agreement.

(2) Total payment under this Contract shall not exceed TEN THOUSAND (\$10,000.00) DOLLARS as full payment for all services rendered by the Sub-Grantee during the period of this agreement. The adopted budget of the Sub-Grantee is annexed hereto as Schedule B.

(3) The City may withhold any payment whenever the Sub-Grantee fails to illustrate proper expenditure of requested funds.. Unless otherwise specified, goals are considered the pro rata share for the period of billing, e.g. monthly, quarterly, semi-annually, based on the total goals set forth for the life of the contract.

(4) Sub-Grantee shall provide the matching funds of Ten Thousand (\$10,000.00) Dollars required under the Grant, including, but not limited to, in-kind donations of professional and other services from other organizations and Sub-Grantee's volunteers.

#### **ARTICLE VI. METHOD OF PAYMENT**

(1) Within thirty (30) days of the execution of this Agreement, and on a bimonthly

basis, thereafter, for the term of this Agreement, the City shall pay, and the Sub-Grantee agrees to accept as full compensation for such services and in conformity with the approved budget attached hereto, the following amounts under this Agreement:

(a) For each bimonthly period, payments will be made based upon vouchers submitted which reflect actual authorized expenses per budget for the period and contain documentation for all expenditures. Vouchers documenting expenditures for the billing period must be submitted on or before the 15<sup>th</sup> of the month. In no event shall such expenditures exceed Ten Thousand (\$10,000.00) Dollars in the aggregate.

(b) Payment for services shall cease upon termination of the contract or upon the payment of the amount stated in Article V above, whichever occurs first. All payments for services are to be made from the Grant. The City shall not be obligated by this agreement to make any payments from the General Fund or any other funds.

#### **ARTICLE VII. EQUAL EMPLOYMENT OPPORTUNITY**

(1) In carrying out the obligation of this Contract, the Sub-Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability. The Sub-Grantee shall take affirmative action to ensure that applicants for employment and employees of the Sub-Grantee are treated without regard to their race, color, religion, sex,

national origin or disability. Such actions shall include, but are not limited to the following: Employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship.

(2) The Sub-Grantee shall post, in conspicuous places available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Sub-Grantee shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or disability.

(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 VIII. ASSIGNMENT BY THE SUB-GRANTEE**

The Sub-Grantee represents that its rights, obligations and duties under this Agreement shall not be assigned, in whole or in part, without prior written approval of the City Manager of the City.

#### **ARTICLE IX. RECORDS AND REPORTS**

(1) The Sub-Grantee shall maintain accounts and records, including personnel, property and financial records, adequate to identify the account for all costs pertaining to its performance under this Agreement, and such other records as may be deemed necessary by the Sub-Grantee, the City, Hudson River Valley Council, and/or New York State to assure proper accounting for project funds, both Grant and non-Grant shares. The Sub-Grantee agrees that such records shall be open for inspection by any authorized representative of the City, or its assignee under this Agreement.

(2) The Sub-Grantee shall submit quarterly reports to the City identifying prescribed activities funded under this Agreement, together with a record of expenses incurred by Sub-Grantee during each such bi-monthly period..

#### **ARTICLE X. AUDITS**

(2) The Sub-Grantee shall maintain records of all details with respect to work and services to be performed under this Agreement and income, expenses, liabilities and assets. These records will be made available for audit purposes in accordance with OMB Circular A-133 to the City, New York State Hudson River Valley Greenway, State of New York or any authorized representative and will be retained for such periods of time as may be required by State and local statutes, but in any event, not less than six (6) years.

#### **ARTICLE XI. CONFIDENTIALITY**

With the exception of specific identifiers, such as individual names of persons and addresses, all reports, information, data, etc., prepared or assembled by the Sub-Grantee in performing the services set forth in the funding proposal and pursuant to this Agreement, are public documents.

The Sub-Grantee hereby agrees that they shall be available to any individual, organization or corporation in accordance with the Freedom of Information Law of the State of New York.

#### **ARTICLE XII. FACILITIES AND PERSONNEL**

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

#### **ARTICLE XIII. INTEREST OF SUB-GRANTEE, ITS OFFICERS, EMPLOYEES, AGENTS AND SUBCONTRACTORS**

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

#### **ARTICLE XIV. INTEREST OF MEMBERS, OFFICERS OR EMPLOYEES OF THE CITY; MEMBERS OF THE CITY COUNCIL, OR OTHER PUBLIC OFFICIALS**

- (1) No member, officer or employee of the City or its designees or agents, no member of the City 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, during his/her tenure in office or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed under this Agreement.
- (2) The Sub-Grantee shall incorporate, or cause to be incorporated, in all subcontracts, a provision prohibiting such interest as prohibited by this Article.

#### **ARTICLE XV. Reserved.**

#### **ARTICLE XVI. SOLICITATION OR PROCUREMENT OF AGREEMENT**

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

#### **ARTICLE XVII. CHANGES AND MODIFICATIONS**

The City, with written consent of Sub-Grantee and New York State Hudson River Valley GreenwaySub-Grantee, may modify the scope or quantity of services and work to be furnished under this Agreement. If such changes cause an increase or decrease in the amount of services to be provided by the Sub-Grantee or in the time required for their performance, an equitable adjustment shall be made in the provisions of this Agreement for payments to the Sub-Grantee or for the time and performance of the services, or for both, as may be agreed upon by the parties in writing.

#### **ARTICLE XVIII. EFFECT OF TERMINATION OF AGREEMENT**

(1) In the event of termination as herein provided, any completed reports prepared by the Sub-Grantee under this Agreement and any material gathered in the preparation of reports under this Agreement, whether such reports are completed or not, shall become the property of the City and shall be submitted to it.

(2) In the event of termination, the Sub-Grantee shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. However, if termination is affected by the City because of default or breach on the part of the Sub-Grantee, the City may withhold from any payments due the Sub-Grantee for the purpose of set-off, such amount as the City reasonably determines to be the damages due it by the Sub-Grantee.

#### **ARTICLE XIX. INDEMNIFICATION**

(1) The Sub-Grantee hereby assumes entire responsibility for any and all damage or injury of any kind, name or nature (including death resulting therefrom) to all persons, including third parties, and for all property damage when such personal and/or property damage is caused by, results from, arises out of or occurs in connection with any act, or failure to act, of the Sub-Grantee 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, the Sub-Grantee hereby agrees to defend, indemnify, and save harmless the City from and against any and all loss, expense, damage or injury whatsoever arising out of this Agreement.

(3) The Sub-Grantee shall procure and maintain at its own expense until final completion of this Contract, insurance which must name the City of Newburgh as additional insured for liability for damages imposed by law of the kinds and in the amounts hereinafter stated, by an accredited insurance company as may be approved by the City Manager.

Certificates of Insurance acceptable to the City shall be filed with the City. These Certificates shall contain a provision that coverage afforded under the policies will not be cancelled unless at least thirty (30) days prior written notice has been given to the City as evidenced by Return Receipt of Registered or Certified letter. Renewal Certificates covering renewal of all policies expiring during the life of the Contract shall be filed with the City not less than thirty (30) days before the expiration of such policies.

(A) The Sub-Grantee shall provide Worker's Compensation Insurance in accordance with the statutes of the State of New York.

(B) The Sub-Grantee shall carry Liability and Property Damage Insurance with limits of not less than:

**BODILY INJURY LIABILITY**

Each Person  
\$1,000,000

Each Occurrence  
\$2,000,000

**PROPERTY DAMAGE LIABILITY**

Each Occurrence  
\$1,000,000

**PERSONAL INJURY LIABILITY**

Each Person  
\$1,000,000

Occurrence  
\$2,000,000

**ARTICLE XX. MODIFICATION**

This Agreement may not be modified orally. It may only be modified by written agreement signed by the parties hereto.

**IN WITNESS WHEREOF**, the **Sub-Grantee and City** have executed this Agreement the day and year herein mentioned.

ARMORY UNITY GROUP, INC.

By \_\_\_\_\_

Title \_\_\_\_\_

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

CITY OF NEWBURGH

By \_\_\_\_\_  
Richard F. Herbek  
City Manager

Date \_\_\_\_\_

APPROVED AS TO FORM BY:

APPROVED BY:

\_\_\_\_\_  
Corporation Counsel

\_\_\_\_\_  
Director of Finance/Comptroller

RESOLUTION NO.: 45 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN AGREEMENT WITH THE COUNTY OF ORANGE  
TO PROVIDE FOR REIMBURSEMENT OF FUNDS TO  
THE CITY OF NEWBURGH WITH RESPECT TO CERTAIN  
URBAN RENEWAL PROJECTS FOR THE PERIOD  
OF JANUARY 1, 2013 TO DECEMBER 31, 2013  
IN THE AMOUNT OF TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS

WHEREAS, the Orange County Department of Public Works (hereinafter "County") has provided the City of Newburgh (hereinafter "City") with an agreement, a copy of which is attached hereto and made a part hereof, to provide for the funding of certain urban renewal projects within the City for the year 2013; and

WHEREAS, the County shall provide the City a total annual sum not to exceed Twenty Five Thousand (\$25,000.00) Dollars for the completion of certain urban renewal projects; and

WHEREAS, such funds shall be used exclusively for the acquisition, rehabilitation, improvements and otherwise implementing and completion of urban renewal projects within the City's limits; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute the attached agreement with the County of Orange to provide for a total annual sum not to exceed Twenty Five Thousand (\$25,000.00) Dollars in order to obtain the available funding for certain urban renewal projects.

**AGREEMENT  
BETWEEN THE  
COUNTY OF ORANGE  
AND  
THE CITY OF NEWBURGH  
FOR THE FUNDING OF CERTAIN  
URBAN RENEWAL PROJECTS, AS FURTHER DEFINED HEREIN**

This **Agreement** for funding certain Urban Renewal Projects, hereinafter "**Agreement**," represents the entire understanding between the parties hereto the **County of Orange**, a municipal corporation organized and existing under the laws of the State of New York, with its principle offices at 255 – 275 Main Street, Goshen, New York 10924, hereinafter referred to as the "**County**" and, the **City of Newburgh** with its principle offices at 83 Broadway, City Hall, Newburgh, New York 12550, hereinafter referred to as the "**City**." Further, the parties hereto agree as follows:

**WHEREAS**, the **County** and the **City** share a commitment to the rehabilitation and revitalization efforts in Orange County, and

**WHEREAS**, the **County** shall provide to the **City** a total annual sum of **TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS**, for completing the activities enumerated in this **Agreement** and performed during the period of **January 1, 2013 to December 31, 2013**. These funds shall be used exclusively for the acquisition, rehabilitation, improvements, and otherwise implementing and completion of urban renewal projects within the **City's** limits and as described herein (Exhibit A). The **County** shall have no obligation to the **City** beyond the payment of these monies in accordance with the terms and conditions of this **Agreement**, and

**NOW, THEREFORE**, it is mutually agreed by and between the **County** and the **City** that:

1. The **County** will pay to the **City**, for the Capital Improvements, an annual amount, not-to-exceed **TWENTY FIVE THOUSAND (\$25,000.00) DOLLARS**. The **City** shall submit any and all documentation in support of such expenditures or the **County** may require fees under this **Agreement** as so that it may evaluate the reasonableness of the charges. All such requests shall be reasonable in time and scope; and
2. Proceeds shall be paid to the **City** for eligible costs based upon approved requests for payments. All requests for payments shall be directed to the Orange County Department of Public Works. Each request for payment shall include an itemization of all monies due for eligible costs, labor performed and/or materials supplied for the period covered by the request, a statement describing the eligible expenses, work that was performed using such labor and material, and a release of liens by subcontractors, laborers or material suppliers. Other appropriate receipts, invoices, bills or other documentation evidencing the expenditures to be reimbursed shall be appended to the request forms. As a condition of receiving payment, the **City** shall deliver to the **County** complete releases from all

relevant contractor's, laborers, or suppliers. Once the releases have been obtained and the Department of Public Works has certified that all work has been completed or that the total sum made available from the **County** has been expended payment may be made to the **City**. The **County** will not withhold a payment, without cause, for more than **THIRTY (30) DAYS** after a request for payment but, the **County** shall not be restricted from withholding payment for cause, as determined by the Department of Public Works including but not limited to that in the judgement of the Department of Public Works, after consultation with the Orange County Department of Law and the County Executive, the funds available, from all sources whatsoever, to complete the project, are insufficient to do so. The **County** will use its best efforts to make all payments due the **City** within 15 business days of receiving an approved payment request.

3. The **City** 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**. The **City** agrees to retain all books, records, and other documents relevant to this **Agreement** for six (6) years after the payment or termination of this **Agreement**, whichever occurs later. **County**, State and/or Federal auditors, and any other persons duly authorized by the **County**, shall have full access and the right to examine any of said materials during said period; and
4. All provisions of Federal, State and local laws, rules, regulations and ordinances governing non-discriminatory practices; warranties against collusion; solicitation or procurement; warranties against conflicts of interest and compliance with applicable ethics laws; confidentiality; fair practices and other legally imposed safeguards shall apply; and
5. This **Agreement** shall be subject to such further agreements or amendments, as the parties deem appropriate and necessary. Neither party shall assign or subcontract its duties, practices or responsibilities to a third party without the express written permission of the other. Neither party shall be a subrogee of the other, nor be responsible to defend, indemnify or hold harmless the other as to third parties but for their own errors, acts and omissions which causes the other party to suffer a loss; and
6. The **County** shall have the right to terminate this **Agreement** at any time without recourse and, upon thirty- (30) days written notice to the other. Should the **County** terminate this **Agreement** prior to its expiration date for reasons other than **City's** default, the **County** shall pay unto the **City** the earned portion of the total contract **Agreement**; and
7. The **County** shall have no liability under this **Agreement** to the **City** or, to anyone, beyond funds appropriated and available for this **Agreement**; and
8. The **City** shall provide proof of Workers' Compensation and Disability Coverage's as required by the New York State Worker's Compensation Board and same shall be attached to this **Agreement**; and

9. This **Agreement** shall be governed by the laws of the State of New York. The **City** shall render all services under this **Agreement** in accordance with all applicable provisions of all federal, state and local laws, rules and regulations as are in effect at the time such services are rendered; and
10. The rights and obligations of the parties, and their respective agents, successors and assigns, if any, shall be subject to and governed by this **Agreement** as well as any amendments or attachments thereto; and
11. The acceptance by the **City** or its assignees of the payment under this **Agreement**, whether by invoice, judgement of any court of competent jurisdiction, or administrative means, shall constitute as a general release to the **County** from any and all claims of the **City** out of the performance of this **Agreement**.

**IN WITNESS WHEREOF**, the **COUNTY** has caused this **Agreement** to be signed by its County Executive, and the **City** has caused the same to be executed by its Council, pursuant to Resolution of its **City** Council, adopted \_\_\_\_\_.

**CITY OF NEWBURGH:**

**COUNTY OF ORANGE:**

\_\_\_\_\_  
**Richard F. Herbek**  
**City Manager**

\_\_\_\_\_  
**Edward A. Diana**  
**County Executive**

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

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

Please Update

STATE OF NEW YORK WORKERS' COMPENSATION BOARD

**CERTIFICATE OF PARTICIPATION IN WORKERS' COMPENSATION GROUP  
SELF-INSURANCE**

<b>1a. Legal Name and Address of Business Participating in Group Self-Insurance (Use Street Address Only)</b>  City of Newburgh 83 Broadway Newburgh, NY 12550	<b>1d. Business Telephone Number of Business referenced in box "1a"</b>  845-569-7303
<b>1b. Effective Date of Membership in the Group</b> <u>03/01/2008</u>	<b>1e. NYS Unemployment Insurance Employer Registration Number of Business referenced in box "1a"</b>
<b>1c. The Proprietor, Partners or Executive Officers are</b>  <input type="checkbox"/> included (only check box if all partners/officers included) <input type="checkbox"/> all excluded or certain partners/officers excluded	<b>1f. Federal Employer Identification Number of Business referenced in Box "1a"</b>
<b>2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as Certificate Holder)</b>  County of Orange 255 Main Street Goshen, NY 10924	<b>3. Name and Address of Group Self-Insurer</b>  NEW YORK STATE MUNICIPAL WORKERS' COMPENSATION ALLIANCE CLAIMS ADMINISTERED BY: WRIGHT RISK MANAGEMENT 333 EARLE OVINGTON BLVD., SUITE 505 UNIONDALE, NY 11553-3524

This certifies that the business referenced above in box "1a" is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law as a participating member of the Group Self-Insurer listed above in box "3" and participation in such group self-insurance is still in force. The Group Self-Insurer's Administrator will send this Certificate of Participation to the entity listed above as the certificate holder in box "2". The Group Self-Insurer's Administrator will notify the above certificate holder within 10 days IF the membership of the participant listed in box "1a" is terminated. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for a maximum of one year from the date certified by the group self-insurer.

*If this certificate is no longer valid according to the above guidelines and the business referenced in box "1a" continues to be named on a permit, license or contract issued by the certificate holder, the business must provide the certificate holder either with a new certificate or other authorized proof the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.*

Under penalty of perjury, I certify that I am an authorized representative of the Group Self-Insurer referenced above and that the business referenced in box "1a" has the coverage as depicted on this form.

Certified by: Eric Hartcom 07/01/2011 - 06/30/2012  
(Print name of authorized representative of the Group Self-Insurer) Date

Certified by:   
(Signature)

Title: PROGRAM MANAGER

Telephone Number 516-750-9409



**Certificate of Attestation of Exemption  
From New York State Workers' Compensation  
and/or Disability Benefits Insurance Coverage**

**\*\*This form cannot be used to waive the workers' compensation rights or obligations of any party.\*\***

The applicant may use this Certificate of Attestation of Exemption **ONLY** to show a government entity that New York State specific workers' compensation and/or disability benefits insurance is not required. The applicant may **NOT** use this form to show another business or that business's insurance carrier that such insurance is not required.

Please provide this form to the government entity from which you are requesting a permit, license or contract. This Certificate will not be accepted by government officials one year after the date printed on the form.

<p align="center"><b>In the Application of (Legal Entity Name and Address):</b></p> <p>CITY OF NEWBURGH CITY HALL 83 BROADWAY NEWBURGH, NY 12550 PHONE: 845-569-7340 FEIN: XXXXX2329</p>	<p align="center"><b>Business Applying For: Contract with Government Agency</b></p> <p>From: ORANGE COUNTY</p>
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**Workers' Compensation Exemption Statement:**

The applicant is NOT applying for a workers' compensation certificate of attestation of exemption and will show a separate certificate of NYS workers' compensation insurance coverage.

**Disability Benefits Exemption Statement:**

The above named business is certifying that it is **NOT REQUIRED TO OBTAIN NEW YORK STATE STATUTORY  
DISABILITY BENEFITS INSURANCE COVERAGE** for the following reason:

The applicant is a political subdivision that is legally exempt from providing statutory disability benefits coverage.

I, RICHARD F. HERBEK, am the CITY MANAGER with the above-named legal entity. I affirm that due to my position with the above-named business I have the knowledge, information and authority to make this Certificate of Attestation of Exemption. I hereby affirm that the statements made herein are true, that I have not made any materially false statements and I make this Certificate of Attestation of Exemption under the penalties of perjury. I further affirm that I understand that any false statement, representation or concealment will subject me to felony criminal prosecution, including jail and civil liability in accordance with the Workers' Compensation Law and all other New York State laws. By submitting this Certificate of Attestation of Exemption to the government entity listed above I also hereby affirm that if circumstances change so that workers' compensation insurance and/or disability benefits coverage is required, the above-named legal entity will immediately acquire appropriate New York State specific workers' compensation insurance and/or disability benefits coverage and also immediately furnish proof of that coverage on forms approved by the Chair of the Workers' Compensation Board to the government entity listed above.

<b>SIGN HERE</b>	Signature:	Date:
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**Exemption Certificate Number  
2012-036699**

**Received  
June 22, 2012  
NYS Workers' Compensation Board**

RESOLUTION NO.: 40-2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE APPLICATION TO  
NEW YORK STATE ARCHIVES FOR A LOCAL GOVERNMENT  
RECORDS MANAGEMENT IMPROVEMENT FUND (LGRMIF) GRANT  
WITH NO REQUIRED CITY MATCH FOR THE PURPOSE OF CONVERTING  
THE 2,338 ACTIVE CODE COMPLIANCE PROPERTY FILES FOR THE EAST END  
HISTORIC DISTRICT TO ELECTRONIC FORMAT

WHEREAS, the City has invested in the electronic document scanning and filing system "Laserfiche" through General Code as a result of a prior NYS Local Government Records Improvement Fund (LGRMIF) grant for Code Compliance and the City Clerk; and

WHEREAS, the "Laserfiche" system provides standardization of document and electronic record filing, as well as thorough key-word searching and expedited retrieval; and

WHEREAS, the City is interested in the most effective management of its paper documents and electronic records; and

WHEREAS, N.Y.S. Archives provides a grant for conversion of paper documents to electronic imaging through the Local Government Records Management Improvement Fund (LGRMIF) and in 2012-2013 funded the conversion of 1,963 Code Compliance property files currently in the Records Center that were culled from the active files due to space constraint; and

WHEREAS, three New York State firms that do document conversion and entry into the Laserfiche document management system are providing quotes, the lowest responsible of which will be used for the application, and the preparation of the files again will be done by local temporary skilled clerks on site here in Newburgh; and

WHEREAS, this grant does not require a match;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the application be submitted to the New York State Archives Local Government Records Management Improvement Fund, with no required City match, for the purpose of converting the 2,338 active Code Compliance property files for the East End Historic District to electronic format, and if awarded, the City Manager be hereby authorized to accept said grant if awarded and execute an agreement with New York State Archives.

RESOLUTION NO.: 47 - 2013

OF

FEBRUARY 25, 2013

RESOLUTION AMENDING RESOLUTION NO: 223-2012,  
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO TRANSFER \$4,000.00 FROM CONTINGENCY TO  
RECORDS MANAGEMENT IN CONNECTION WITH THE SCOPE OF WORK  
UNDER THE NYS LGRMIF GRANT FOR THE CITY OF NEWBURGH  
CODE COMPLIANCE BUREAU AND EXPENSES INCURRED FROM  
MOVING FLAT FILES FROM THE FRANKLIN DELANO ROOSEVELT LIBRARY  
TO THE CITY RECORDS CENTER

BE IT RESOLVED, by the Council of the City of Newburgh, that Resolution No: 223-2012, the 2013 Budget of the City of Newburgh, is hereby amended as follows:

	<u>Decrease</u>	<u>Increase</u>
A.1900.1990. Contingency	\$4,000.00	
A.1460.0448. Records Management		\$4,000.00

RESOLUTION NO.: 48 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER  
INTO AN AGREEMENT FOR PROFESSIONAL  
ENGINEERING SERVICES WITH CLOUGH HARBOR ASSOCIATES  
IN CONNECTION WITH THE INSTALLATION OF A TRAFFIC SIGNAL FOR THE  
INTERSECTION OF FOURTH STREET AND REV. DR. MARTIN LUTHER KING JR.  
BOULEVARD IN THE CITY OF NEWBURGH

WHEREAS, the City of Newburgh solicited proposals for professional engineering services for the design of a traffic signal to be installed at the intersection of Fourth Street and Rev. Dr. Martin Luther King, Jr. Boulevard in the City of Newburgh; and

WHEREAS, Clough Harbor Associates has submitted a proposal to design the traffic signal and to prepare contract plans, bid documents and a construction estimate; and

WHEREAS, based on their experience, references and project history, Clough Harbor Associates is best qualified to provide such services; and

WHEREAS, the cost for such project shall be in an amount not to exceed Seventeen Thousand Four Hundred and 00/100 (\$17,400.00) Dollars; and

WHEREAS, funding for such project shall be derived from Engineering Line A.1440.0455, Consulting Services; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that the City Manager is hereby authorized to enter into an agreement with Clough Harbor Associates for professional engineering services for the design of a traffic signal to be installed at the intersection of Fourth Street and Rev. Dr. Martin Luther King, Jr. Boulevard in the City of Newburgh.



February 1, 2013

Mr. Craig Marti, P.E.  
City Engineer  
123 Grand Street  
Newburgh, NY 12550

**RE: Professional Engineering Services, Traffic Signal Design  
Rev. Dr. Martin Luther King Boulevard & Colden Street/4<sup>th</sup> Street,  
City of Newburgh, NY  
CHA Proposal No.: X37032**

Dear Mr. Marti:

The following scope of work is proposed to provide contract documents for the installation of a traffic signal at the intersection of Rev. Dr. Martin Luther King Boulevard (MLK Blvd) & Colden Street/4<sup>th</sup> Street. This work will include the preparation of contract plans, bid documents and engineers estimate.

## **I. SCOPE OF WORK**

### **Task 1: Development of Advance Detail Plans**

We will attend a project kick-off meeting with the City to confirm project information, including design elements (such as layout and equipment specifications) and to review the project schedule and deliverables. We will conduct a site visit to familiarize ourselves with the physical conditions of the project location.

We will develop Advance Detail Plans (ADPs) for the new traffic signal with sidewalk ramp and pavement marking modifications. These plans will represent approximately 75% completion of the plans and will include a Preliminary Engineer's Estimate. The Preliminary Engineer's Estimate will provide an approximate cost for the project, and will be an item/quantity estimate to the extent possible. If quantities cannot be determined for all items, the cost will be based on the best information available at the time.

- The ADP submission is anticipated to include the following:
  - Cover Sheet
  - Legend, Notes, Tables and Details
  - General Plan to include sidewalk ramp modifications
  - Traffic Signal Plan, to include the following:
    - ✓ Location and size of traffic signal poles

- ✓ Location and type of traffic signal heads
- ✓ Table of Operations to illustrate the sequence of the required signal phases
- ✓ Table of Clearances
- ✓ Location and type of vehicle detectors to be installed
- ✓ Location and type of pedestrian crossing devices (signals, pushbuttons, etc.) to be installed
- ✓ Location of conduit and pullboxes to be installed
- ✓ Wiring diagram to illustrate the wiring required outside of the controller assembly including wiring to a power source
- ✓ Location and type of signal controller
- ✓ Overhead and pole-mounted traffic signal signs
- ✓ Table of Items and Quantities
- Signing and Striping Plan
- Traffic Control Plan for Construction

We will coordinate with the local utility company to identify the location/source and logistics for providing power service to the signal equipment.

We will submit two (2) printed copies of the ADPs to the City for review, and submit two (2) printed copies to NYSDOT for their review.

#### **Task 2: Development of Final Plans, Specifications and Estimate**

We will attend a meeting with the City to review comments on the ADPs and discuss the scope of work to include in the contract documents. We will modify the ADPs, Specifications and Engineer's Estimate based on feedback from the City, as appropriate, and submit the Final Plans, Specifications and Estimate (PS&E).

We will prepare a complete package of bid-ready contract documents (i.e. Project Manual). The package will include:

- Instructions to bidders
- Bid requirements
- Contract language, including applicable federal provisions and prevailing wage rates
- Special notes
- Specifications
- Other pertinent information

We will provide one (1) set of the PS&E package to the City and six (6) copies on compact disk (CD). CHA shall retain a copy of the Final PS&E and Bid Document as prepared for record purposes.

CHA will also prepare the necessary Highway Work Permit and submit it to NYSDOT for approval.



**Task 3: Traffic Signal Timings**

CHA will utilize the traffic volumes used by the City and/or NYSDOT for the traffic signal warrant study to develop traffic signal timings for the intersection. The tabulated signal input timings will be provided to the City and Contractor.

**II. CONDITIONS AND ASSUMPTIONS**

1. Topographic survey and Base Mapping was compiled under PIN 8239.16 Robinson Avenue and will be used for the design and plan preparation. Additional survey for signal design base mapping will not be required.
2. Project plans will be prepared using Microstation and be formatted to NYSDOT standard 11" x 17" sheet size.
3. The plans will be developed in accordance with City of Newburgh requirements and NYSDOT standards. The information provided on the plan sheets will be sufficient for the development of a detailed construction cost estimate by prospective contractors by including an item listing and quantity estimates.
4. Materials and equipment specifications will be based on NYSDOT standard Specifications. Special or non-standard materials or equipment specifications shall not be required.
5. This proposal does not include the preparation of any R.O.W. acquisition maps or utility easements.
6. Conducting hazardous waste or asbestos assessments or soil borings are not included in this proposal.
7. Signal warrant analysis and design justification studies are not included.
8. It is assumed that a street lighting analysis is not required.
9. It is assumed that the design will not include communication/interconnect to adjacent traffic signals.
10. It is assumed that there will be no drainage system modifications or improvements required as part of the proposed work.

**III. SCHEDULE**

It is anticipated that the ADPs will be submitted to the City within eight weeks of Notice to Proceed. Preparation of final plans will be discussed with the City at the Task 2 meeting.



**IV. FEE**

Our fee for the scope included in this proposal will not exceed \$17,400. We will bill the City on an hourly rate basis plus expenses.

Thank you for considering CHA for your engineering services. We look forward to working with you and your staff on this project. Please contact me at (518) 453-3984 to discuss this proposal.

Sincerely,



Lee Ecker, P.E.  
Project Manager

CLD\mjp

V:\CHA200\_Proposals\TR\Proposal\_13\Traffic\X37032 Rev Dr MLK Blvd & Colden St-4th St\Newburgh Water St Scope of Work.docx



RESOLUTION NO. 49 - 2013

OF

FEBRUARY 25, 2013

RESOLUTION OF THE CITY OF NEWBURGH ACKNOWLEDGING PARTICIPATION  
IN THE MID-HUDSON REGIONAL SUSTAINABILITY PLAN AND ENDORSEMENT OF  
VISION AND IMPLEMENTATION STRATEGIES OF THIS PLAN AS PREPARED FOR  
CLEANER, GREENER COMMUNITIES PROGRAM OF THE NEW YORK STATE  
ENERGY RESEARCH AND DEVELOPMENT AUTHORITY.

WHEREAS, Governor Cuomo announced in his 2011 State of the State address a \$100 million competitive grant program (Cleaner, Greener Communities program) to encourage communities to develop regional sustainable growth strategies; and

WHEREAS, the Regional Sustainability Planning program is the first stage of the Cleaner, Greener Communities program and is intended to provide the necessary resources for each region in New York State, as defined by the boundaries of the Regional Economic Development Councils (REDCs), to develop a comprehensive sustainability plan; and

WHEREAS, engaging counties and municipalities in the planning process will allow each region to develop its vision, goals, and objectives for a sustainable future and to identify the activities or types of projects needed to achieve that future; and

WHEREAS, in stage two of the Cleaner, Greener Communities program - the Implementation Grant stage - funding will be provided on a competitive basis for implementation of specific projects that provide the greatest opportunities for achieving carbon reductions, energy efficiency savings, and renewable energy deployment consistent with a region's sustainability and REDC strategic plans; and

WHEREAS, the Mid-Hudson Region of New York State consists of the seven counties located immediately north of New York City (NYC): Westchester County, Rockland County, Orange County, Putnam County, Dutchess County, Ulster County, and Sullivan County and covers just over 4,500 square miles and contains 198 municipalities; and

WHEREAS, the Mid-Hudson Regional Sustainability Plan (the "Plan") purpose is to inform county and municipal sustainability and land use policies, serve as a basis for local government infrastructure decision making, guide infrastructure investment of both public and private resources, outline specific and tangible actions to reduce greenhouse gas emissions consistent with New York State's goal of 80% carbon reduction below 1990 levels by the year 2050, and identify strategies for adapting to the effects of climate change; and

**WHEREAS**, these objectives are paired with implementation strategies to provide a common framework for the Region's sustainable development and the Plan provides a common, uniting framework, each resident, municipality, and organization in the Region remains able to chart their own course toward achieving this vision, either individually or collectively; and

**WHEREAS**, the resulting Plan sets out a vision for sustainable development that builds on the Region's unique social, cultural, and natural history, with the goal of promoting economic development, environmental sustainability, and enhancing quality of life for the more than two million residents that call the Region home; and

**WHEREAS**, the Plan is non-binding and provides information and guidance, and is intended for use as a common reference tool by local government and non-governmental organizations (including for-profit businesses); and

**WHEREAS**, the Plan identifies five (5) deeply interconnected building blocks for sustainable development present in the Region: the diverse natural environment, a vibrant economy, strong transportation accessibility and connectivity, numerous existing centers, and an exceptional quality of life; and

**WHEREAS**, the Plan provides project ideas, best practices, objectives and targets, as well as baseline information that can be incorporated into comprehensive plans, management plans, zoning, and other planning and strategy documents; and

**WHEREAS**, the Plan provides local entities with a regional framework for planning and action that is intended to help coordinate efforts and decision-making with the goal of promoting regional-scale sustainable development.

**WHEREAS**, the Plan provides a platform to address inter-municipal issues, such as water management, economic development, revitalization of aging and historic infrastructure, biodiversity conservation, environmental remediation, and other issues that transcend individual municipal or county borders; and

**WHEREAS**, the Plan facilitates sharing of resources that help local governments achieve economies of scale, saving money and potentially allowing for coordination of educational programs and technical assistance to localities within the Region that have similar assets and issues; and

**WHEREAS**, the Plan positions the Region for more funding opportunities, many of which require grantees to demonstrate regional-scale impacts; and

**WHEREAS**, the Plan enables networking so that individuals, organizations, and municipalities can share ideas and best practices that identify opportunities for collaboration; and

**WHEREAS**, the Plan assists in creating consistent regional definitions and data sets that can help identify larger-scale trends and targets for investment; and

**WHEREAS**, in addition to individual focus-area initiatives, which constitute the backbone of the Plan's implementation strategy, a series of regional strategic priorities have been identified; and

**WHEREAS**, these strategic priorities include efforts which will impact multiple focus areas or have transformative potential at the regional scale; and

**WHEREAS**, the Plan includes recommendations to sustain and strengthen regional-scale planning, coordination, and action, which is intended to help ensure accountability and facilitate Plan implementation at the local, organizational, and individual level; and

**WHEREAS**, if objectives for sustainable development are to be achieved in the Mid-Hudson region; and

**WHEREAS**, a premise of this process, the Plan provides for a regional approach that is essential for effectively addressing the societal challenges the area faces in this century; and

**WHEREAS**, the City of Newburgh acknowledges active participation in the work effort of the Plan's consortium of counties, municipalities, nongovernmental organizations, private businesses, nonprofits and residents that have joined together to give input and help produce the Plan; and

**NOW, THEREFORE, BE IT RESOLVED**, that the Council of the City of Newburgh hereby endorses the Mid-Hudson Sustainability Plan as a concept document, and acknowledges the Plan's vision and objectives that are paired with implementation strategies to provide a common framework for counties, municipalities, nongovernmental organizations, private businesses, nonprofits and residents to help implement sustainable development in the Mid-Hudson region.

**BE IT FURTHER RESOLVED**, the Plan provides a common, uniting framework, each resident, municipality, and organization in the Region remains able to chart their own course toward achieving this vision, either individually or collectively and the City of Newburgh will to the best of its ability help the Mid-Hudson region reduce greenhouse gas emissions consistent with New York State's goal of 80% carbon reduction below 1990 levels by the year 2050 and create jobs that, where possible, align with the Mid-Hudson Regional Economic Development Council's goals.

ORDINANCE NO.: 1 - 2013

OF

FEBRUARY 25, 2013

AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN  
CHAPTER 212, NOISE, OF THE CODE OF ORDINANCES AND AMENDING  
CHAPTER 212, NOISE IN ITS ENTIRETY

BE IT ORDAINED, by the Council of the City of Newburgh, New York that  
Section 212, Noise, be and is hereby amended as follows:

**§ 212-1. Statement of policy.**

It is hereby declared to be the policy of the City of Newburgh to prevent excessive, unnecessary or unusually loud noise which may jeopardize the well-being, public health, comfort, convenience, safety and welfare of its citizens and the peace and quiet of its inhabitants. The provisions and prohibitions hereinafter contained shall not be utilized or construed in any manner so as to deny or limit any right or privilege granted and recognized by the First Amendment of the Constitution of the United States.

**§ 212-2. Unreasonable public noise prohibited.**

No person shall, with intent to cause public inconvenience, annoyance or alarm, or recklessly create a risk thereof, make any unreasonable noise.

**§ 212-3. Definitions.**

Unless otherwise indicated by context, the following terms and phrases shall have the following meanings:

**DECIBEL(dB)**

A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of 20 micronewtons per square meter.

**HOLIDAYS**

New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

**SOUND LEVEL**

The sound-pressure level measured in decibels with a sound-level meter set to a weighting expressed in dB(A).

**SOUND-LEVEL METER**

An instrument for the measurement of sound levels which conforms to Type 1 or Type 2 standards under ANSI Specifications S1.4-1971 or the latest approved revision thereof.

**UNREASONABLY INTRUSIVE**

Any sound which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of a reasonable person of normal sensitivities under the circumstances.

**§ 212-4. Standards for determination.**

The standard or standards to be considered in determining whether a noise is an unreasonably intrusive noise which constitutes a prohibited noise shall include, but not be limited to, one or more of the following:

- A. The volume of the noise.
- B. The intensity of the noise.
- C. Whether the nature of the noise is usual or unusual.
- D. Whether the origin of the noise is natural or unnatural.
- E. The volume and intensity of the background noise, if any.
- F. The proximity of the noise to residential sleeping facilities.
- G. The nature and the zoning district of the area within which the noise emanates.
- H. The time of day or night the noise occurs.
- I. The time duration of the noise.
- J. Whether the noise is temporary.
- K. Whether the noise is continuous or impulsive.
- L. The presence of discrete tones.

**§ 212-5. Enumeration of prohibited noises.**

The following acts, among others, are declared to be noises in violation of this chapter, but said enumeration shall not be deemed to be exclusive:

- A. The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a warning signal pursuant to the provisions of the Vehicle and Traffic Law of the State of New York.
- B. Playing, using, operating or permitting to be played, used or operated any radio, television, phonograph, musical instrument or instruments, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound so as to create an unreasonably intrusive noise.
- C. Playing, using, operating or permitting to be played, used or operated any radio, television, phonograph, musical instrument or instruments, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound exceeding 65 dB(A) at any time within a residential district or within any other district exceeding 70 dB(A) between the hours of 10:00 p.m. and 8:00 a.m. Sunday through Saturday or exceeding 65 dB(A) between the hours of 11:00 p.m. Saturday and 10:00 a.m. Sunday or exceeding 65 dB(A) between the hours of 12:01 a.m. and 11:59 p.m. on holidays as defined in this chapter.
- D. The keeping or harboring of any animal, fowl or bird which, by causing frequent or long-continued noise, shall disturb the comfort or repose of any person residing in the vicinity.
- E. The blowing of any whistle attached to any stationary boiler, except to give notice of the time to begin work or stop work or as a warning of danger.
- F. The discharge into the open air of the exhaust of any steam engine, stationary internal-combustion engine, air compressor, motorcycle engine or motor vehicle engine, except through a muffler or other device which effectively prevents loud, unusual or explosive noise so as to create unreasonably intrusive noise.
- G. Construction work, including but not limited to building, repairing, blasting, grading, leveling and excavating, between the hours of 8:00 p.m. and 8:00 a.m. Sunday through Saturday and between the hours of 8:00 p.m. Saturday and 10:00 a.m. Sunday.
- H. The operation of power lawn mowers, rakers or leaf blowers or other motor-driven lawn or garden equipment between the hours of 6:00 p.m. Sunday and 8:00 a.m. Monday, between the hours of 8:00 p.m. and 8:00 a.m. Monday through Friday,

between the hours of 8:00 p.m. Friday and 9:00 a.m. Saturday, and between the hours of 6:00 p.m. Saturday and 10:00 a.m. Sunday.

- I. Playing, using, operating or permitting to be played, used or operated any radio, phonograph, musical instrument, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets or other public places for advertising, soliciting or sales purposes.
- J. The use of any drum, bell, loudspeaker or other instrument or device for the purpose of attracting attention to any solicitation, performance, show or sale or display of merchandise by the creation of noise, except bells sounded by licensed mobile vendors, provided that the sound thereof is not audible more than 300 feet from said vehicle.
- K. The making, continuing, causing or permitting to be made, verbally or mechanically, any unreasonable intrusive noise.
- L. No person shall operate a blower or power fan unless any noise resulting therefrom is properly muffled.
- M. No person shall operate an internal-combustion engine unless the noise resulting therefrom is properly muffled.
- N. No person shall carry or use upon any vehicle any gong or siren whistle similar to that use on ambulances or vehicles of the Police or Fire Department.

**§ 212-6. Transportation of metal.**

All rails, pillars or columns of iron, steel or other material which are being transported over and along streets or other public places upon carts, drays, cars, trucks or in any other manner shall be so loaded as to avoid causing any loud noises or disturbing the peace and quiet of such streets or other public places.

**§ 212-7. Chains on motor vehicles.**

No person shall drive or propel any motor vehicle in any street or public place with chains fastened to the wheels in such a manner that they or any part of them will strike any other part of the vehicle on the revolution of the wheels or with any other part of such vehicle so loose or out of repair as to create any loud or unnecessary noise.

**§ 212-8. Designation of quiet zones.**

A. Neighborhood of St. Luke's Hospital. The territory included within the following bounds is created as a hospital or quiet zone: the north side of Third Street, the south side of First Street the west side of Dubois Street and the east side of Johnson Street. No person shall create an unreasonable noise within such zone.

B. Prohibited acts. The following are specifically forbidden within such zone:

(1) The operation of any radio, radio device, device for the playing of prerecorded music or sound, playing of a mechanical or electronic musical instrument, or the operation of a loudspeaker, amplifier or mechanical or electronic instrument or sound-producing device of any kind, except as may be specifically permitted by ordinance or law, which is so placed and operated that the sounds coming therefrom can be heard to the annoyance or inconvenience of a reasonable person within such zone. This section shall apply to any sound originating from within a premises or from within or on a motor vehicle.

(2) The calling of wares for sale.

C. Scope of section. Such specific enumeration shall not be construed as limiting the general restrictions contained in Subsection A.

#### **§ 212-9. Temporary quiet zones.**

Temporary quiet zones may be established in residential zones by the City Manager, for a period of no longer than 90 consecutive days, in instances where the health, safety or well-being of persons in such zones may be aided thereby. All activities prohibited by § 212-5 of this chapter shall be prohibited in such temporary quiet zones together with any additional activities as the City Manager may, in his discretion, also deem necessary, under all facts and circumstances, to prohibit during such temporary time period.

#### **§ 212-10. Methods of measurement.**

The measurement of any sound or noise shall be made with a sound-level meter using an A-scale decibel level. The measurement shall be conducted at or within ten (10) feet of the property line of the property on which such noise is generated.

#### **§ 212-11. Penalties for offenses.**

Any person violating any provision of this chapter shall, upon conviction, be punished up to \$250 per day, for each violation. Each day that a violation shall continue shall constitute a separate offense.

#### **§ 212-12. Exceptions.**

- A. Nothing in this chapter shall be construed to prevent the production of music in connection with any military or civic parade, funeral procession or religious service or the use of any bell, chimes or other instrument, apparatus or device by any church or synagogue, or school licensed or chartered by the State of New York, provided that such production or use does not occur between the hours of 10:00 p.m. and 8:00 a.m. of the following day.
- B. Sounds created by any governmental agency or railroad agency by the use of public warning devices are exempted from the limitations of this chapter.
- C. Sounds created by public utilities in carrying out the operations of their franchise are exempted from the limitations of this chapter.
- D. Sounds connected with organized sporting events of any public or private school or with City of Newburgh Recreation Department sponsored or permitted special events or sports programs or other community sporting activities conducted on school or Village-owned playing fields are exempted from the limitations of this chapter.
- E. Sounds connected with activities and equipment of the City of Newburgh Department of Public Works are exempted from the limitations of this chapter.

**§ 212-13. Effect of other provisions.**

The provisions of this chapter shall in no case remove or render less restrictive limitations on noise generated or other conditions imposed for specific properties by actions of the City of Newburgh Planning Board or by the actions of the City of Newburgh Zoning Board of Appeals or required under other applicable laws or regulations.

**§ 212-14. Enforcement.**

The provisions of this chapter shall be enforced by the Police Department of the City of Newburgh, Code Enforcement Officers of the City of Newburgh, the Fire Department of the City of Newburgh, or other officials designated by the City Manager.

**§212- 15. Severability.**

The provisions of this ordinance shall be deemed severable. The finding of the invalidity, illegality or unenforceability of any one or more provisions hereof shall not be deemed to affect the validity of the other sections or provisions of this ordinance, as long as the sense thereof remains.

THIS ORDINANCE SHALL TAKE EFFECT immediately as provided under the terms of the Municipal Home Rule and other applicable laws.

ORDINANCE NO.: 2 - 2013

OF

FEBRUARY 25, 2013

AN ORDINANCE AMENDING CHAPTER 223  
OF THE CODE OF ORDINANCES  
ENTITLED "PEDDLERS, VENDORS AND SOLICITORS"

BE IT ORDAINED, by the Council of the City of Newburgh, New York that:

Section 1. Chapter 223 of the City Code of Ordinances entitled "Vendors, Peddlers and Solicitors" be and is hereby amended as follows:

**§ 223-1. Activities requiring license.**

It shall be unlawful for any person or organization who has not been issued a license as a peddler under this chapter to engage in business as a street vendor, peddler, canvasser or solicitor, selling wares or services from or by means of a vehicle, trailer, cart, pushcart, wagon, mobile platform, table or other means of carrying, displaying, offering or serving same; or using public streets or sidewalks or other public property or calling at residences without the previous consent of the occupant or owner for the purpose of soliciting orders, sales, subscriptions or business of any kind or seeking donations to or alms for any church, charity or private institution whatsoever or selling or distributing any ticket or chance whatsoever without first having obtained a license of a peddler under this chapter; or calling at commercial, manufacturing or industrial places of business without the previous consent of the owner or occupant for the purpose of seeking donations to or alms for any church, charity or private institution or selling or distributing any ticket or chance whatsoever without first having obtained a license as a peddler this chapter; provided that any home solicitation by charitable or political organizations, or other activity subject to regulation hereunder, as those activities are defined by law and/or described herein, shall be exempt from the provisions of this chapter so long as they shall meet all other lawful requirements and be exempted herefrom by force or authority of superior law, rule or regulation, including but not limited to the Constitution of the United States and the Constitution of the State of New York.

**§ 223-2. Permit and license required; licensing officer.**

A. It shall be unlawful for any person to engage in the business of vendor or peddler as defined in §§ 223-1 and 223-3 of this chapter within the corporate limits of the City of Newburgh without

first obtaining a valid permit and license therefor as provided herein. No invalid, expired, suspended, revoked, altered or counterfeit licenses shall be possessed, used, represented or displayed by any person, or purported to be valid for any reason, whether in connection with peddling and soliciting or otherwise.

B. The City Clerk shall be the licensing officer and commissioner of licenses as provided in the General Business Law of the State of New York and shall keep a record of all licenses and the status thereof.

**§ 223-3. Definitions; word usage.**

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

**CITY**

The City of Newburgh of the State of New York, unless otherwise specified.

**FALSE, FRAUDULENT, MISREPRESENTATION, INACCURATE or MISLEADING**

(1) Representations that goods have manufacture, sponsorship, approval, accessories, characteristics, ingredients, uses, benefits or quantities that they do not have; the supplier or manufacturer has a sponsorship, approval, status, affiliation or connection that he does not have; goods are original or new if they are deteriorated, altered, reconditioned, reclaimed or secondhand; or goods are of particular standard, quality, grade, style or model if they are of another; and/or

(2) The use, in any oral or written representation, of exaggeration, innuendo or ambiguity as to a material fact if such use deceives or tends to deceive; and/or

(3) Disparaging the goods, services or business of another by false or misleading representations of material facts; and/or

(4) Offering goods with intent not to sell them as offered; and/or

(5) Making false or misleading representations of fact concerning the reasons for, existence of or amount of price reductions, or price in comparison to prices of competitors or one's own prices at a past or future time; and/or

(6) Falsely stating the reasons for offering or supplying goods at sale or discount prices.

**FOOD**

Any raw, cooked or processed edible substances, beverages, ingredients, condiments, ice or water used or intended for use or for sale in whole or in part for human consumption.

**PUBLIC SPACE and PUBLIC STREETS**

All publicly owned property between the private property lines on a street as such property lines are shown on City records, including, but not limited to, a park, plaza, roadway

shoulder, tree space, sidewalk or parking space between such property lines. It shall also include, but not be limited to, publicly owned or leased land, buildings, piers, wharfs, stadiums and terminals.

#### **VENDOR or PEDDLER**

Includes any person traveling by foot, wagon, automotive vehicle or any other type of conveyance from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, clothing, products, items for sale, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, cart, pushcart, table, platform, automotive vehicle, ~~trailer~~, railroad car or other vehicle or conveyance or other stationery location on a public street, sidewalk or other location on City-owned property normally used for public accommodation or travel, and further provided that one who solicits orders and as a separate transaction makes deliveries to purchasers as a part of a scheme or design to evade the provisions of this chapter shall be deemed a vendor or peddler, subject to the provisions of this chapter. The word "peddler" shall include the words "vendor," "street vendor," "hawker" and "huckster" and other such words carrying or conveying the same meaning and understanding and addressing the same activities described thereby.

#### **CANVASS OR SOLICIT**

To make or seek to make personal contact wit another, either on the highways or streets of this city or on public or private property other than his own, for the purpose of raising funds for, supportinggoals of or recruiting new members into a religious, charitableeducational, or political organization or participating in a political campaign on behalf of any candidate for public office.

#### **PERSONAL CONTACT**

The face-to-face canvassing or solicitation of a person by another. Mail and telephone contact does not require registration or wearing an identification badge under this Article.

#### **POLITICAL ORGANIZATION**

An organization, a substantial part of the acitivites of which is carrying on propaganda or otherwise, attempting to influence legislation or participating in any political campaign on behalf of any candidate for public office.

#### **RELIGIOUS OR CHARITABLE OR EDUCATIONAL ORGANIZATION**

An organization granted tax exemption by the Internal Revenue Service of the United States Treasury Department.

**DECIBEL(dB)**

A unit for measuring the volume of sound, equal to 20 times the logarithm to the base 10 of the ratio of the sound pressure of 20 micro-Newton's per square meter.

B. The use of any pronoun shall be deemed to include both the masculine and the feminine, and the singular and plural, as the sense and meaning thereof shall appropriately require.

**§ 223-4. Application for permit or license; health regulations; fee.**

A. Applicants for permits and licenses under this chapter must file with the City Clerk a sworn application, in writing, in duplicate, on a form to be furnished by the City Clerk, which shall give and provide the following information:

- (1) The name and a description of the applicant and date of birth.
- (2) The applicant's legal permanent and local business and residence addresses, telephone number(s) for home and business and cellular telephones, and e-mail and other means of electronic communications.
- (3) A description of the nature of the business and the goods to be sold and, in the case of products of farm or orchard, whether produced or grown by the applicant and, if not, the name, address and telephone number of the producer or grower.
- (4) If employed by another, the name and address and telephone number and other information specified in Subsection A(2) hereinabove of the employer, together with credentials establishing the exact relationship.
- (5) The length of time for which the right to do business is desired.
- (6) If a wagon, cart, platform, trailer, vehicle or other method or device is to be used, a description of the same, together with license number or other means of identification thereof.
- (7) If a source of power or energy is to be used in the conduct of the vending, a description of same; and a document from the City Code Compliance Department and/or Fire Department indicating its review and approval of same, pursuant to § 223-13.

- (8) Two identical photographs of the applicant, taken within 60 days immediately prior to the date of the filing of the application, which picture shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner. One such photograph shall remain on file with the application in the records of the City Clerk and one shall be permanently affixed to the permit issued by the City.
  - (9) The fingerprints of the applicant.
  - (10) A statement as to whether or not the applicant has been convicted of or pleaded guilty to any crime, misdemeanor or violation of any federal, state or municipal ordinance, the date(s) of any and all such convictions, the nature of the offense and the punishment or penalty assessed therefor.
  - (11) A statement whether any license similar to or like that provided in this chapter was issued or denied to the applicant within the current or any prior year, whether in the City of Newburgh or elsewhere, and, if issued, whether such license had been revoked or suspended, setting forth the reasons for said revocation or suspension.
  - (12) If the applicant is applying for a renewal of a license issued in the year immediately preceding the year of such application, or if the applicant has ever been licensed by the City within the past five years of such application by the City as a vendor or peddler, the applicant shall submit with such application records showing the following: proof of payment of New York State sales tax for the most recent prior such year for which the applicant was licensed by the City.
- B. If the applicant is offering food for sale under this chapter, he shall file with his application a statement by a ~~reputable~~ physician licensed by the State of New York, dated not more than 10 days prior to submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease.
- C. At the time of filing the application, a nonrefundable application fee as set forth in Chapter 163, Fees, of this Code shall be paid to the City Clerk to cover the cost of investigation and other City administrative costs relating to same.
- D. If the applicant and the activity regulated hereunder is also subject to the Health and Sanitary Code administered by the Orange County Department of Health, or of any other applicable law, code, rule, regulation or permit condition, he must submit satisfactory proof of compliance with all such, including but not limited to the proper issuance of any permits required, copies of which shall be provided to the City as part of the application required hereunder.
- E. Whenever any information provided on the application for a license or for a renewal thereof has changed, the applicant and/or licensee shall notify the City Clerk of all such changes within 10 days thereof. Each licensed vendor shall notify the City Clerk within 10 days if:

- (1) He has committed or been found by a court to have committed ~~four~~ one or more violations of any of the provisions of this chapter on separate occasions; or
  - (2) He has failed to answer a summons, appear for a hearing or pay a fine imposed by a court for violation of this chapter within 30 days of its due date.
- F. The applicant shall submit proof of a valid current certificate of authority from the New York State Department of Taxation and Finance to collect sales tax on all sales subject thereto by law.
- G. The applicant shall provide proof of certification and approval by the County Sealer of Weights and Measures of all scales and measuring devices used by the applicant in the conduct of business.

**§ 223-5. Investigation; disapproval or approval by Chief of Police and/or Fire Chief.**

- A. Upon receipt of such application, the original shall be referred to the Chief of Police, and the Fire Chief, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good.
- B. If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police and/or the Fire Chief shall endorse on such application his disapproval and his reasons for the same and return the application to the City Clerk, who shall notify the applicant that his application is disapproved and that no permit and license will be issued. The applicant shall be entitled to receive, upon request, a copy of such disapproval.
- C. If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Fire Chief may endorse the application and forward same to the Chief of Police, who may shall endorse on the application his approval, execute a permit addressed to the applicant for the carrying on of the business applied for and return said permit, along with the application, to the City Clerk, who shall, upon payment of the prescribed license fee, deliver to the applicant his permit and issue a license. Such license shall contain the signature and seal of the issuing officer and shall show the name, address and photograph of said licensee, the class of license issued and the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle used in such peddling. The Clerk shall keep a permanent record of all licenses issued.

**§ 223-6. Fees; term of license.**

- A. Fees shall be computed and assessed as set forth in Chapter 163, Fees, of this Code.
- B. Basis for fees. For the purpose of this chapter, the full yearly or seasonal amount will be due during any period of time during the course of a calendar year; ~~There shall be no prorated partial year fees, any period of seven calendar days or less shall be considered one week, any period of more than seven calendar days and not more than 30 calendar days shall be~~

~~considered one month; any period of more than 30 calendar days and not more than one calendar year shall be treated as a year. The annual fees herein provided for shall be assessed on a calendar year basis, and on and after July 1 of any year the amount of the fee for such annual licenses shall be 1/2 the amount stipulated for the remainder of the year.~~

C. Any and all licenses issued hereunder shall expire on December 31 of the year in which same was issued.

D. Any person canvassing or soliciting under § 223-7 (A.) (c) shall pay a fee of \$20 for an identification badge as set forth in Chapter 163, Fees, of this Code.

**§ 223-7. Exceptions and exemptions.**

A. The following activities are excepted and/or exempt from the provisions of this chapter related to licensing and fees:

- (1) The sale of farm or garden produce by the actual farmer or grower.
- (2) The door-to-door delivery or sale of newspapers, milk, bakery goods, eggs and cream along a regularly established route.
- (3) The activities of nonprofit, charitable or other organizations or individuals who are holding fairs or other similar functions on City property with the permission of the City Manager for a definite short period of time and/or as same may be authorized by the City under the terms of a special event or permit and/or as authorized under the provisions of the City Code. For purposes of this regulation, a nonprofit association shall be deemed to be any governmental agency; any charitable, educational, religious or political organization or any association incorporated in accordance with or subject to the provisions of the New York Not-For-Profit Corporation Law; or any other organization or association which does not exist for purposes of pecuniary profit or financial gain and no part of the assets, income or profit of which is distributable to its members, directors or officers.
- (4) Persons with a bona fide affiliation with a street fair, block party or festival (hereafter "street fair"). For purposes of this regulation, a street fair is any event in a public space for which all permits required by law in order for the event to be held have been obtained from the appropriate City agencies by the association sponsoring same. A "bona fide affiliation" shall be deemed to mean residence on the block on which the fair is taking place, in the case of a fair sponsored by a block association; or membership in the association, where the association does not have as its sole function the sponsorship of street fairs. Any nonprofit association as defined herein holding a street fair, and any person who operates as a general vendor at such street fair, is exempted from the provisions of this chapter relating to licensing and fees, as long as:

(a) The person has a bona fide affiliation with the sponsor of the street fair, is not acting as a general vendor other than at a street fair and is making a contribution to the sponsoring association through participation in the street fair; or

(b) The person who sells or offers to sell goods or services has a location during the fair on the street or sidewalk in front of a store normally maintained by that person. The sponsoring association must submit to the City Clerk, Police, Fire, and Code Enforcement Offices a copy of any permits required by the Orange County Department of Health under the Health and Sanitary code; and a certification, which shall include the name and address of each person qualifying for the exemption prior to the opening of the street fair.

(5) Any activity which is exempt to such extent or degree from the provisions of this chapter by the terms, force or effect of superior law, rule, regulation or authority, including but not limited to the Constitution of the United States and the Constitution of the State of New York.

B. No exception provided for hereunder shall be deemed to be an exception or waiver of any other requirement or condition imposed by any other provision of any law, code, rule or regulation of the City or of any other agency with jurisdiction thereover.

C. Registration and identification badge required. Any person who wishes to canvass or solicit for a religious, charitable, educational or political organization or on behalf of any candidate for public office, either in public or private property within the City, must first register with the City Clerk and must thereafter wear an identification badge when canvassing or soliciting.

#### § 223-8. Nontransferability; assistants.

A. No license issued under the provisions of this chapter shall be used at any time by any person other than the one to whom it was issued and whose picture appears thereon, nor shall any vendor or peddler allow any other person to carry on or conduct the business of vending from, of or with the goods, vehicle, pushcart or stand used by or belonging to such licensee.

B. Each vendor licensed hereunder shall be allowed to employ up to two assistants to assist such vendor in his operations. The license issued to such vendor shall allow such assistants to assist in such vendor's operations; such assistants shall not be required to be separately and individually licensed. Such licensed vendor shall be fully and completely responsible for all acts of such assistants, and the acts of such assistants shall be considered the acts of the licensee for the purposes of enforcement of this chapter. While acting as assistant to the licensed vendor, such person shall remain no farther than 15 feet from the location of such vendor.

#### § 223-9. Food vendors.

Each licensed food-vendor and mobile food unit licensee shall:

Underlining denotes additions

~~Strikethrough~~ denotes deletions

- A. Permit regular inspections by any authorized City law, Fire or Code Enforcement Officer of any mobile food unit used in the operation of his business, or any premises under his control in which food is intended to be sold, offered for sale, distributed or given away by him as a food vendor, is prepared, processed or stored, and present such mobile food unit for inspection at such place and time as may be designated by the City Code Enforcement, Fire Department or Police Department.
- B. Provide to the Code Enforcement or Police Department, or any other authorized officer or employee of the City, the names and home and business addresses of the owners of such service rooms, commissaries, depots or distributors from whom such licensee received his food supply and where his mobile food unit and food supply are stored when not in use for sale or distribution.
- C. Have in his possession and make available for inspection satisfactory proof or documentation detailing the source of all foods being held, stored, offered for sale, distributed or given away.
- D. Not use or permit anyone else to use the mobile food unit for vending, distributing or giving away any foods other than those authorized, in writing, by the license issued to such vendor.
- E. Refrain from acting as a food vendor or operating a mobile food unit after the expiration of his license or permit and during any period of suspension or revocation of same.
- F. Surrender his license, permit, badge and insignia promptly to the City Clerk upon revocation, suspension, termination or expiration of his license or permit.
- G. Not sell, lend, lease or in any manner transfer his license, permit, badge or insignia unless otherwise specifically provided by law or by rule or regulation prescribed by this Code.
- H. Comply with all laws, codes, rules and regulations applicable to all vendors provided herein, and all laws, codes, rules and regulations applicable to the sale or provision of food and drink to the general public.
- I. Vendors are hereby prohibited from using tangible city property meant for public use to enhance their business, such city property includes but is not limited to picnic tables and garbage cans.

§ 223-10. Noise.

All peddlers and vendors must adhere to and comply with Chapter 212, Noise, of the Newburgh City Code.

~~A. No vendor or peddler nor any person on his behalf or in his employ or engaged in such activity with him shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any loudspeaking radio or sound-amplifying system upon any of the streets, alleys, parks or other public places of said City or upon any private premises in said City where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon~~

~~the streets, avenues, alleys, parks or other public places for the purpose of attracting attention to any goods, wares or merchandise which such licensee proposes to sell, if same shall cause a nuisance or disorder or disturb the peace and quiet of the City or of any public or private area therein, nor shall such sounds be employed while any vendor or peddler, and/or his vehicle or platform from which his wares are offered for sale, is located in a stationary location for any length of time. Such sounds may be employed if the vendor or peddler is in a vehicle in motion and the route taken by such vehicle is continuous and not repetitive and if such sounds do not at any time cause a nuisance or disorder or disturb the peace and quiet of any area or part of the City.~~

~~B. The reasonable judgment of any police officer or other officer charged with enforcing this chapter shall be determinative of whether such sounds cause a nuisance or disorder or disturb the peace and quiet of any area or part of the City. Upon such determination, such officer shall give verbal notice to such vendor or peddler and such vendor or peddler shall immediately cease making or causing such sounds. The failure of a vendor or peddler to immediately cease making or causing such sounds after receiving such notice shall constitute a violation of this chapter.~~

**§ 223-11. Use of public space, streets and certain property restricted.**

- A. No vendor or peddler shall have any exclusive right to any location in the public streets, nor shall one be permitted a specified stationary location, nor shall he be permitted to operate in any congested area where his operations reasonably would or might impede or inconvenience the public or cause congestion or public disorder or block or impede the free flow of pedestrian or vehicular traffic. For the purpose of this chapter, the judgment of a police officer or other City officer or official charged with the duty or possessing the authority to enforce the City Code and any applicable laws, rules or regulations, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public is impeded or inconvenienced or the use made by the vendor or peddler is contrary to the provisions hereof. Such officer or official shall have the authority to compel any vendor(s) or peddler(s) to move to a different location in order to relieve congestion or otherwise resolve any disputes and restore calm and order at any public location.
- B. No vendor or peddler shall engage in any vending business on any sidewalk unless such sidewalk has at least an eight-foot-wide clear pedestrian path to be measured from the boundary of any private property to any obstructions in or on the sidewalk or, if there are no obstructions, to the curb. In no event shall any pushcart or stand be placed on any part of a sidewalk other than that which abuts the curb.
- C. No vendor or peddler shall occupy more than ~~40~~ 25 linear feet of public space parallel to the curb in the operation of a vending business and, in addition, no vendor or peddler operating any vending business on any sidewalk shall occupy more than four linear feet to be measured from the curb toward the property line.

- D. No vending vehicle, trailer, pushcart, stand, goods or any other item related to the operation of a vending business shall touch, lean against or be affixed permanently or temporarily to any building or structure, including but not limited to lampposts, parking meters, mailboxes, traffic signal stanchions, fire hydrants, tree boxes, benches, bus shelters, refuse baskets or traffic barriers.
- E. A vendor or peddler shall not place a vehicle, trailer, pushcart or stand, or conduct a general vending business, at a location in the roadway where stopping, standing or parking is prohibited or during a time period when stopping, standing or parking is restricted.
- F. A vendor or peddler shall not place a vehicle, trailer, pushcart or stand, or conduct a general vending business, in the roadway in a metered parking space unless such vendor has complied with the coin requirements of such meter. A vendor or peddler shall not remain in a metered parking space for a period of time in excess of the maximum time permitted at such space. A vendor or peddler shall not allow any vehicle, stand, platform or other device used to display or carry wares, food, merchandise or other products for sale to extend beyond the delineated limits of such parking space.
- G. A vendor or peddler shall not place a vehicle, trailer, pushcart or stand or conduct a general vending business in the roadway within 15 feet of a fire hydrant or within a safety zone.
- H. No vending pushcart, trailer, stand or goods shall be located against display windows of fixed location businesses, nor shall they be within 20 feet from an entranceway to any building, store, theater, movie house, sports arena or other place of public assembly.
- I. No vendor or peddler shall vend within any bus stop or taxi stand, or on the sidewalk immediately adjacent thereto, or within 10 feet of a crosswalk at any intersection or within 10 feet of any driveway.
- J. Each vendor or peddler vending from a pushcart, trailer or stand in a street or roadway shall obey all traffic and parking laws, rules and regulations as now exist or as may be promulgated, but in no case shall a vendor or peddler vend so as to restrict the continued maintenance of a clear passageway for vehicles.
- ~~K. Unless otherwise allowed by law, rule, regulation or permit, no vendor shall operate within 20 feet of any other vendor whose location can be determined to have been previously and continuously established.~~
- L.K. Where exigent circumstances exist and a police officer, or other officer or employee of any City agency authorized to enforce this chapter, gives notice to a vendor or peddler to temporarily move from any location such vendor or peddler shall not vend from such location.
- (1) For the purposes of this subsection, "exigent circumstances" shall include, but not be limited to, unusually heavy pedestrian or vehicular traffic, existence of any obstructions in the public

space, an accident, fire or other emergency situation, a parade, demonstration or other such event or occurrence at or near such location.

- (2) When a vendor or peddler has received notice to temporarily move from any location where exigent circumstances exist, such vendor or peddler shall immediately stop all vending business and, within one minute, begin to and as quickly as possible move his goods, vehicle, pushcart or stand from the entire area in which the exigent circumstances exist as determined and stated by a police officer or other authorized person giving such notice to move. A vendor or peddler shall not return to the area of the exigent circumstances while such condition continues to exist. In the absence of a statement to the contrary by an authorized person, it shall be presumed that the exigent circumstances will continue to exist in such area for a period of two hours from the time notice to move was given to the vendor or peddler.

M.L. No vendor or peddler licensed under this chapter shall leave any items, wares, goods, merchandise, vehicles, trailer(s), -pushcart(s), stand(s), platform(s), boxes, bales, containers, trash or other equipment or material on any City or other public property or on private property without the permission of the owner thereof overnight, but must remove same to a private secured location at close of business.

N.M. No vendor or peddler shall trespass upon private property where the owner or proprietor thereof shall have prohibited such activity thereon.

~~O.~~ No vendor or peddler shall vend, sell or give away any product or merchandise within a radius of 1,000 feet of any business, store or permanent building or facility where the same category or type of product or merchandise is offered for sale.

#### § 223-12. Restrictions on use of parks.

No person, whether holding a license or not, shall sell, offer or expose for sale any foodstuffs, items or merchandise within Delano-Hitch Recreation Park or within Downing Park or upon or along any street or public place which forms a boundary of said parks or within one block of either park in any direction. This section shall not apply to operators of food stands at Delano-Hitch Recreation Park who have been granted franchises pursuant to Chapter 13, Sale or Lease of City Real Property, of this Code, or to any separate contract or agreement or special events or other permits authorized or issued by the City providing therefor.

#### § 223-13. Restrictions on use of generators.

No vendor or peddler shall employ a generator or other independent source of power while vending in the City limits, unless such generator is pre-approved by the fire Chief and/or Code Enforcement and conforms to the City Noise Ordinance, Chapter 212 of the Newburgh City Code, and does not exceed a maximum noise output of Eighty decibels (80db), and is subject to

~~inspection of same. in any other City park or recreational facility where vending is not otherwise prohibited by this chapter, unless otherwise permitted or authorized by the City, including the inspection and approval thereof by the code enforcement and fire officials with jurisdiction to inspect same and enforce all codes, rules and regulations.~~

**§ 223-14. Garbage and waste materials.**

Garbage and waste materials generated in the course of business, whether generated by the vendor or peddler or the customers thereof, shall not be permitted to accumulate or to become a nuisance, but shall be placed in separate secure and sanitary containers provided for such purpose by the vendor or peddler. The garbage receptacles and their contents shall be properly removed by the vendor or peddler whenever necessary to prevent spillage and accumulation of trash, and at the close of each business day. Vendors and peddlers shall not use public trash receptacles or storm or sewer lines, mains or systems for disposal of such containers and trash, or other organic or inorganic waste, but shall take such containers and trash away with them and dispose of same privately and lawfully at their own expense. Vendors and peddlers shall remain responsible for keeping the area immediately surrounding their location of operation, within fifteen-foot radius, clean and free of all trash and debris at all times.

**§ 223-15. Restrictions on vending near schools.**

Vendors shall not sell any foodstuffs, confectionery, drink or ice cream on the grounds of any school or on the public streets bordering any school or within one block of any school in any direction between the hours of 8:00 a.m. and 4:00 p.m. on days when school is in session.

**§ 223-16. Weighing and measuring appliances.**

Any vendor carrying, keeping or using scales, measures or other appliances for weighing or measuring shall first have the same inspected by the Sealer of Weights and Measures or other municipal official with authority over same, and, if the latter shall find such appliances correct and true, his certificate to that effect shall be affixed to said scales, measures or other appliances in a conspicuous place. No vendor shall carry or use any such appliance which is not correct and true and does not record and give the weight and quantity accurately and as claimed by said vendor.

**§ 223-17. Display and exhibition of license.**

Vendors and peddlers are required to display all of their permits and/or their licenses visibly and prominently on their person, or at the location where they are operating, and produce same at the request of any citizen or City official or officer.

**§ 223-18. Display of prices; receipts.**

Underlining denotes additions  
~~Strikethrough~~ denotes deletions

- A. No vendor shall make, portray or communicate any misrepresentations or false, fraudulently inaccurate or misleading information concerning any merchandise. All items sold or offered for sale by general vendors shall have conspicuously displayed, at the point of offering for sale, the total selling price, exclusive of tax by means of:
- (1) A stamp, tag or label attached to the item; or
  - (2) A sign at the point of display which indicates the item to which the price refers, provided that this information is plainly visible at the point of display for sale of the items so indicated.
- B. Each general vendor shall offer a consumer a serially numbered receipt for any purchase. The receipt must include:
- (1) The name and home address of the general vendor;
  - (2) The date of the purchase;
  - (3) The total amount of money and tax paid for the purchase;
  - (4) A description of the item purchased; and
  - (5) The license number of the vendor.
- C. Each general vendor shall retain a duplicate copy of each receipt which shall be produced for inspection upon request by Police or other Code Enforcement personnel. The receipts shall be presented for review to any City enforcement officer by the general vendor upon request.

**§ 223-19. Enforcement; confiscation and return of property.**

- A. It shall be the duty of any police officer or other authorized law or code enforcement officer of the City of Newburgh to require any person seen peddling and who is not known by such officer to be duly licensed to produce his peddler's license and to enforce the provisions of this chapter against any person found to be violating the same.
- B. Any City police or code enforcement officer who determines that a vendor has committed or is committing one or more violations of this chapter relating to vending without a valid license, failure to pay fees or fines, improper use of streets, improper management of waste, inaccurate weighing and measuring, or false and misleading misrepresentations to consumers may confiscate by taking physical custody and possession the goods, merchandise and wares of such vendor and any platform or vehicle used for such vending.
- C. A vendor who has had any goods, or any vehicle, platform, pushcart or stand, removed under the provisions of this section may serve notice of a request for the return of such property. The City may return said goods and/or vehicle before or after a judicial determination of the charges. Unless the judicial proceeding has terminated in favor of the vendor, the owner or

other person lawfully entitled to the possession of such vehicle, pushcart, stand or goods which have been removed under the provisions of this section, such person(s) may be charged with the reasonable costs as set forth in Chapter 297, Wreckers and Towers, of the Code of Ordinances for the removal and storage of such goods, platform, pushcart, ~~trailer~~, stand and/or vehicle, payable prior to the release of such goods, platform, vehicle, pushcart or stand.

**§ 223-20. Recordkeeping.**

A. The Chief of Police and/or Director of Code Compliance and the Corporation Counsel shall report to the City Clerk all convictions for any and all violations of this chapter, and the City Clerk shall maintain a record for each license issued and record the reports of violations therein.

B. Each licensee shall keep and maintain accurate and complete records as follows:

(1) Each vendor shall keep written records of daily gross sales, purchases and expenses, including receipts for expenditures, and any other business-related records as the Chief of Police or Director of Code Compliance may require, and shall make such records available for inspection by any authorized official or employee of the City at all reasonable times upon demand, including daily gross sales receipts from vending in a format that includes the month and year, the date, the daily sales, sales tax collected and the total sales for the date. Such records shall be kept in the following format:

Date:

Item Sold:

Sales Tax Collected:

Total Price:

(2) This shall be in addition to the requirement to keep and maintain duplicate receipts and such other records which are required under this chapter and under other laws, rules and requirements. All records shall be made available to police and code enforcement personnel, upon request, at the department's offices.

**§ 223-21. Suspension or revocation of license.**

A. Any license or permit issued under the provisions of this chapter may be suspended or revoked by the Police Chief and/or the City Manager of the City of Newburgh after notice and hearing for any of the following causes:

(1) Fraud, misrepresentation or false statement contained in the application for license.

- (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as a peddler.
- (3) Any violation of this chapter.
- (4) Conviction of any crime or misdemeanor involving moral turpitude or misconduct arising out of commercial dealing or the conduct of business or any conviction of violation of this Section.
- (5) Conducting the business of vending or peddling in violation of any provision of this chapter or in any unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (6) Nonpayment or being in arrears in paying any debt, judgment, taxes, charges, fees, fines or other moneys due and owing to the City or other municipal or government agency.

B. Notice of the hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at his last known address at least five days prior to the date set for hearing.

C. Any permit issued under this chapter shall be promptly surrendered to the City Clerk upon its suspension or revocation.

**§ 223-22. Appeals.**

Any person aggrieved by the action of the Chief of Police or the Fire Chief or the City Clerk or the City Manager in the denial or revocation or suspension of an application for permit or license as provided in this chapter or in the decision with reference to the revocation of a license as provided in this chapter shall have the right of appeal to the Council of the City of Newburgh. Such appeal shall be taken by filing with the Council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant, in writing, addressed to the address provided by the applicant for notice of hearing on denial, suspension or revocation. The decision and order of the Council on such appeal shall be final and conclusive.

**§ 223-23. Penalties for offenses.**

In addition to all other penalties provided under this chapter or of any provision of the City Code or of any other law, rule or regulation of the state or other municipality or agency with jurisdiction over the subject, the following schedule of penalties shall apply for each separate violation of this chapter.

Offense (within the same calendar year)	Penalty Amount
First conviction	\$ <del>50</del> <u>250</u>
Second conviction	\$ <del>100</del> <u>500</u> , and <u>revocation of the license as provided under § 223-21</u>
<del>Third conviction</del>	<del>\$250</del>
<del>Fourth and for each subsequent conviction</del>	<del>\$500, and suspension or revocation of the license as provided under § <u>223-21</u></del>

**§ 223-24. Loss of license; duplicate license fee.**

The holder of any license issued hereunder shall promptly report the loss, mutilation or destruction thereof, in writing, to the City Clerk, who, if satisfied as to the facts establishing or concerning same, may issue a duplicate license only to the individual to whom the original was issued. Such duplicate license shall have plainly marked upon the face thereof the word "DUPLICATE." The fee to be charged for the issuance of each duplicate license shall be as set forth in Chapter 163, Fees, of this Code. \$50~~100~~.

**§ 223-25. License in addition to county, state and other licenses.**

Notwithstanding the issuance of a license pursuant to the provisions of § 32 of the General Business Law or other laws, codes, rules or regulations of any municipal agency or of the State of New York, no person obtaining such a license shall be permitted to carry on the business of a vendor or peddler upon the streets and highways of the City of Newburgh without first obtaining a license pursuant to this chapter.

**§ 223-26. Provisions cumulative with other laws.**

The provisions of this chapter shall be in addition to and not instead of the provisions of any other laws, codes, rules or regulations of the federal, state, county or City government applicable to the subject.

**§ 223-27. Severability.**

If any of the provisions of this chapter shall be held invalid, the remainder shall remain valid and enforceable as provided by law.

THIS ORDINANCE SHALL TAKE EFFECT immediately as provided under the terms of the Municipal Home Rule and other applicable laws

ORDINANCE NO.: 3 -2013

OF

FEBRUARY 25, 2013

AN ORDINANCE AMENDING CHAPTER 163  
ENTITLED "FEES" OF THE CODE  
OF THE CITY OF NEWBURGH

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 223, Peddlers, Vendors and Solicitors		
§ 223-6	Peddler's license	
	Nonrefundable application fee	<del>\$75</del> <u>100.00</u>
	<u>Renewal application</u>	<u>Application fee waived if renewal made within 30 days of expiration</u>
	License fees:	<u>\$250.00 annually</u>
		<u>\$150.00 seasonal</u> <u>April 15 through</u> <u>October 15</u>
	<del>Peddling on foot</del>	<del>Per week: \$10</del> <del>Per month: \$25</del> <del>Per year: \$100</del>

Underlining denotes additions

~~Strikethrough~~ denotes deletions

~~Peddling with handcart or pushcart~~ Per week: \$25  
Per month: \$50  
Per year: \$200

~~Peddling with vehicle (1 person)~~ Per week: \$25  
Per month: \$50  
Per year: \$200

~~Each helper to person peddling with a vehicle~~ Per week: \$5  
Per month: \$40  
Per year: \$50

Identification badge for canvassing and/or  
soliciting under §223-7(A) \$20.00

§223-24 Duplicate license fee \$100.00

Section 2. This ordinance shall take effect immediately.

Underlining denotes additions  
~~Strikethrough~~ denotes deletions

RESOLUTION NO.: 50 -2013

OF

FEBRUARY 25, 2013

A RESOLUTION APPROVING THE CONSENT JUDGMENT AND AUTHORIZING THE CITY MANAGER TO SIGN SUCH CONSENT JUDGMENT IN CONNECTION WITH THE TAX CERTIORARI PROCEEDINGS AGAINST THE CITY OF NEWBURGH IN THE ORANGE COUNTY SUPREME COURT BEARING ORANGE COUNTY INDEX NOS. 7400-2011 AND 6110-2012, INVOLVING SECTION 41, BLOCK 2, LOT 16 (CORWIN MANAGEMENT, LLC)

WHEREAS, Corwin Management, LLC has commenced tax certiorari proceedings against the City of Newburgh in the Supreme Court of the State of New York, County of Orange for the 2011-2012 and 2012-2013 tax assessment years bearing Orange County Index Nos. 7400-2011 and 6110-2012; and

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

WHEREAS, Corwin Management, LLC is willing to settle these proceedings without interest, costs or disbursements, in the following manner:

- 1- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2011-2012 as tax map number 41-2-16 be reduced to a market value of \$ 1,950,000.
- 2- That the real property of Petitioner described on the City of Newburgh tax roll for the tax year 2012-2013 as tax map number 41-2-16 be reduced to a market value of \$ 1,950,000.

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

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

SUPREME COURT – STATE OF NEW YORK  
COUNTY OF ORANGE

-----X  
CORWIN MANAGEMENT, L.L.C.,

Petitioner,

- against -

FERNANDO GONZALEZ, AS ASSESSOR OF  
THE CITY OF NEWBURGH and the CITY OF  
NEWBURGH,

Respondents.  
-----X

CORWIN MANAGEMENT, L.L.C.,

Petitioner,

- against -

JOANNE MAJEWSKI, AS ASSESSOR OF  
THE CITY OF NEWBURGH and the CITY OF  
NEWBURGH,

Respondents.  
-----X

**PRESENT: HON. CATHERINE M. BARTLETT**

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

**ORDERED**, that the real property of Petitioner described on the City of Newburgh tax rolls for the tax years 2011-2012 and 2012-2013 as follows:

Tax Map No. 41-2-16

be reduced in market value from \$2,170,100.00 and \$2,125,400.00, respectively to a market value of \$1,950,000.00 and \$1,950,000.00, respectively, prior to the application of any real property tax exemptions, if any; and it is further,

**ORDERED**, that the Petitioner's real property taxes on said parcel above described for the 2011-2012 and 2012-2013 School, County and City taxes be adjusted accordingly and that any overpayment by Petitioner be refunded upon the entering of this Consent Judgment with the Orange County Clerk's Office; and it is further,

**CONSENT JUDGMENT**

**Index Nos. 2011-7400  
2012-6110**

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

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

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

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

**ORDERED**, that there shall be no interest paid or credited in connection with this Consent Judgment; and it is further,

**ORDERED**, that in the event that the refunds are made within sixty (60) sixty days after service of the Order with notice of entry, there shall be no interest, otherwise, interest shall be paid in accordance with the applicable statute, and it is further; **ORDERED**, that these proceedings are settled without costs or disbursements to either party as against the other.

Signed: February\_\_\_\_, 2013  
Goshen, New York

**ENTER:**

\_\_\_\_\_  
HON. CATHERINE M. BARTLETT  
SUPREME COURT JUSTICE

**ON CONSENT:**

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HON. RICHARD F. HERBEK  
Acting City Manager  
Dated:

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RONALD S. KOSSAR, ESQ.  
Attorney for the Petitioner  
Dated:

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HON. JOANNE MAJEWSKI  
Assessor  
Dated:

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

RESOLUTION NO.: 51 - 2013

OF

FEBRUARY 25, 2013

A RESOLUTION TO AUTHORIZE THE CONVEYANCE OF  
REAL PROPERTY KNOWN AS  
296 GRAND STREET (SECTION 10, BLOCK 2, LOT 27)  
AT PRIVATE SALE TO RAYNARD SHORTER AND SHANIQUA WILLIAMS  
FOR THE AMOUNT OF \$25,000.00

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 296 Grand Street, being more accurately described as Section 10, Block 2, Lot 27, on the official tax map of the City of Newburgh; and

WHEREAS, the prospective buyers have offered to purchase this property at private sale; and

WHEREAS, the prospective buyers are relatives of the former owner and reside within the subject property; 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 buyers for the sum as outlined below;

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 purchasers be and hereby is confirmed and the City Manager is authorized and directed to execute and deliver a quitclaim deed to said purchasers upon receipt of upon receipt of the purchase price of \$25,000.00; and that said purchase price must be paid no later than April 18, 2013, and in accordance with said terms and conditions; and

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

1. City of Newburgh acquired title to the property known as 296 Grand Street, more accurately described as Section 10, Block 2, Lot 27 on the official tax map of the City of Newburgh, (hereinafter referred to as "the parcel") 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. The parcel, 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; and (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 closing.
3. The purchaser shall continue to be responsible for all water, sewer and sanitation charges.
4. The purchase price of the property is \$25,000.00. The purchaser shall pay to the City the purchase price as follows:

A down payment in the amount of \$15,000.00 shall be due on or before April 18, 2013. The down payment shall be payable to the City of Newburgh by **certified check, bank check or money order.**

The City, as seller, agrees to take back and hold and the purchaser agrees to execute and deliver to the seller a Purchase Money First Mortgage and Note for the balance of the purchase price. The Purchase Money Note and Mortgage shall be self-amortizing and be in the sum of \$10,000.00 for a term of two years, payable in equal monthly installments of \$416.67 per month. The Purchase Money Mortgage shall contain a late charge for overdue payment. The Note and Mortgage shall provide, among other things, that it may be prepaid in whole or in part without penalty, that it shall be immediately due and payable upon the sale of the mortgaged premises or in the event that the purchase enters into a land sale contract or in the event that purchaser files a voluntary petition in bankruptcy or assigns the premises for the benefit of creditors.

The mortgage tax imposed by law and the recording fee for this Purchase Money Mortgage shall be paid by the purchaser. Seller's attorney shall prepare the Purchase Money Note and Mortgage.

All payments due hereunder shall be payable to the City of Newburgh by **bank check, certified check or money order.**

5. Purchaser is 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 purchaser, any and all claims with respect to title to the premises are merged in the deed and do not survive.
6. No personal property is included in the sale of any of the parcels owned by City of Newburgh, unless the former owner or occupant has abandoned same. The disposition of any personal property located on any parcel sold shall be the sole responsibility of the purchaser following the closing of sale.
7. All informational tools, such as slides, tax maps, deeds, photos, property record cards, etc., are for identification purposes only and are neither a guarantee nor a warranty as to location, dimensions, parcel use and/or size, or anything else. **THE CITY MAKES NO WARRANTY EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SALE.**
8. The City makes no representation, express or implied, as to the condition of any property, warranty of title, or as to the suitability of any for any particular use or occupancy. Properties may contain paint or other similar surface coating material containing lead. Purchaser shall be responsible for the correction of such conditions when required by applicable law. Properties also may contain other environmental hazards. Purchasers shall be responsible for ascertaining and investigating such conditions prior to bidding. Purchasers shall be responsible for investigating and ascertaining from the City Building Inspector's records the legal permitted use of any property prior to closing. Purchaser acknowledges receivership of the pamphlet entitled "Protecting Your Family From Lead in Your Home." Purchaser also acknowledges that 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.
9. Notice is hereby given that the parcel lies within the East End Historic District as designated upon the zoning or tax map. This parcel is being sold subject to all provisions of law applicable thereto and it is the sole responsibility of the purchaser to redevelop such parcel so designated in accordance with same.
10. All recording costs, mortgage tax and transfer taxes shall be paid by the purchaser. Such recording costs shall be payable to the "Orange County Clerk" **by bank check, certified check or money order.**
11. The down payment and all closing costs/fees must be paid by guaranteed funds to the City of Newburgh Comptroller's Office on or before April 18, 2013. **The City is not required to send notice of acceptance to a purchaser. If the purchaser fails to pay the balance of the purchase price as herein provided, the down payment shall be forfeited.** The City Manager

may, in his sole discretion and for good cause shown, grant one extension of time to close title of up to, but not to exceed, sixty (60) additional days. No request shall be entertained unless in writing, stating the reasons therefore, and unless accompanied by a fee of \$250.00 per parcel for which a request is submitted. The fee shall be in addition to all other fees and deposits and shall not be credited against the purchase price and shall not be returnable. In addition, should the purchaser fail to close within the time set forth above, the entire deposit shall be forfeited to the City as liquidated damages without further notice to the purchaser. Any additional request made thereafter shall be made in writing and placed before the City Council for their consideration.

12. The purchaser warrants that they are in possession of the parcel and shall remain in possession until such time as the payments set forth herein have been paid. Purchaser shall be responsible for all property maintenance during his continued possession of the parcel.
13. If the purchaser fails to close title by the close of business on April 18, 2013, then, the City may, but is not obligated to offer the parcel to another purchaser.
14. 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 with interest, but not to any payment of rent. Purchaser agrees that she shall not be entitled to special or consequential damages, attorney's fees, reimbursement for any expenses incurred as a result of ownership, improvements of property, or for taxes paid during period of ownership, and this agreement by the purchaser is a material condition of the sale. However, if purchaser fails to close title in accordance with the terms and conditions set forth herein, she shall be entitled to reimbursement for expenses incurred to bring said parcel into compliance with applicable building and maintenance codes made during her possession as tenant, and as required as a condition of sale, upon presentation of proof that such expenses were incurred in a form that is satisfactory to the City.
15. The sale shall be final, absolute and without recourse once title has closed and the deed has been recorded. In no event, shall City of Newburgh be or become liable for any defects in title for any cause whatsoever, and no claim, demand or suit of any nature shall exist in favor of the purchaser, its heirs, success or assigns, against City of Newburgh arising from this sale.
16. Conveyance shall be by quitclaim deed only, containing a description of the property as it appeared on the tax roll for the year upon which the City acquired title or as corrected up to date of deed. The deed will be recorded by the City upon payment in full of the purchase price and closing fees/costs. Purchaser and tenant remain in possession of property the deed is recorded conveying title to the purchaser. **Title vests upon recording of deed.**

17. 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.
18. The description of the property shall be from the City of Newburgh Tax Map reference or a survey description certified to the City of Newburgh and provided to the City Corporation Counsel by the purchaser at least thirty (30) days in advance of closing title and approved by the City's Engineer.
19. By acknowledging and executing these Terms & Conditions, the purchaser certifies that he is 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 nor his assigns shall convey the property until after the date of the deed conveying title to the purchaser. If such conveyance in violation of these terms and conditions, the purchaser understands that he may be found to have committed fraud, and/or intent to defraud, and will be liable for damages to the City of Newburgh.

\_\_\_\_\_  
RAYNARD SHORTER

\_\_\_\_\_  
SHANIQUA WILLIAMS

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

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