



City of Newburgh Council Work Session
6:00 pm
September 22, 2011

AGENDA

1. Procedural Items related to the City Council meeting on September 26, 2011:
 - a. Minutes of the meeting of September 12, 2011
 - b. Monthly reports
 - c. Notices of Claim
 - d. A public hearing regarding a local law regarding the City Marshal residency

2. Finance Department:
 - a. Cash Report
 - b. (Res. 188) Acceptance of a grant from Factory Mutual Insurance Company in the amount of \$2,500 to provide funding for various pieces of equipment necessary to the Fire Department's Fire Investigation team
 - c. (Res. 189) Authorization to apply for and accept if awarded a \$750,000.00 Assistance to Firefighters grant from the US Dept. of Homeland Security for the purchase of protective equipment and a triple combination pumper
 - d. (Res. 190) Acceptance of a renewal of the Enforcing Underage Drinking Law grant from the NYS Office of Alcoholism and Substance Abuse in the amount of \$9,500.00 with no match required.
 - e. (Res. 191) \$2,720,000 bond resolution –Water Tank Reconstruction/SCADA System/Sanitation Truck
 - f. (Res. 192) \$1,340,000 bond resolution – Fire, DPW and Police vehicles and equipment

3. Planning and Development/Real Estate:
 - a. Section 3 Plan amendment (See memo, plan and slides)
 - b. (Res. 193) 98 Carter Street - Release of Restrictive Covenants

4. Engineering:
 - a. Browns Pond Raw Water Transmission System:
 - (Res. 194) Authorization to amend the 2011 Budget by transferring \$10,000 from Ponds and Reservoirs/Other Services to Engineering/Consultants

- (Res. 195) Agreement with Barton and Loguidice for startup assistance and contract close out engineering assistance related to the Browns Pond Raw Water Transmission System project.

5. Discussion Items:

a. Collateral Loan Brokers:

- (Res. 187) Scheduling a public hearing for October 11, 2011 (see proposed local law and ordinance attached)

6. Review of 2012 Tentative Budget

7. Executive Session:

a. Pending Litigation

Public HEARING

LOCAL LAW NO.: _____ - 2011 Sept. 26

OF

A LOCAL LAW AMENDING CITY CHARTER SECTION C3.00 ENTITLED "MUNICIPAL OFFICERS ENUMERATED" OF THE CODE OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Amending Charter Section C 3.00 entitled "Municipal officers enumerated" of the Code of the City of Newburgh"

SECTION 2 - AMENDMENT

City Charter Section C 3.00 entitled "Municipal officers enumerated" of the Code of the City of Newburgh is hereby amended to read as follows:

§ C3.00. Municipal officers enumerated. The officers of the City or municipality shall be as follows:

D. The provisions of this section or of § 3 of the Public Officers Law of the State of New York or of any other provisions of law requiring a person to be a resident of the political subdivision or municipal corporation of the state for which he shall be chosen or within which his official functions are required to be exercised shall not apply to the appointment of the officers of the City of Newburgh enumerated in Subsections B and C of this section and the City Marshal, except the City Manager; the Plumbing Inspector, as to whom preference shall be given to City residents, but if, after due diligence, no such qualified candidate is found, then such Plumbing Inspector may reside within 25 miles of the City of Newburgh; and the members of the Civil Service Commission, provided that such appointed officers reside within 25 miles of the City of Newburgh or within the County of Orange.

SECTION 3 - VALIDITY

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

Underlining denotes additions

SECTION 4 - EFFECTIVE DATE

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

DRAFT

RESOLUTION NO.: 187 -2011

OF

SEPTEMBER 26, 2011

RESOLUTION SCHEDULING A PUBLIC HEARING
FOR OCTOBER 11, 2011 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW ADDING CHAPTER 137 ENTITLED
"COLLATERAL LOAN BROKERS" TO THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Adding Chapter 137 entitled 'Collateral Loan Brokers' to the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 11th day of October, 2011, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

LOCAL LAW NO.: _____ - 2011

OF

A LOCAL LAW ADDING CHAPTER 137 ENTITLED
"COLLATERAL LOAN BROKERS"
TO THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Chapter 137 entitled 'Collateral Loan Brokers' to the Code of Ordinances of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to promote the public health, safety and welfare of the City of Newburgh by regulating and collateral loan brokers to protect the property rights of its residents and to assist law enforcement in the recovery of stolen property and the identification of suspects.

SECTION 3 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to add new Chapter 137 entitled "Collateral Loan Brokers" to read as follows:

"CHAPTER 137, COLLATERAL LOAN BROKERS

§137-1 Definitions.

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

COLLATERAL LOAN BROKER - Any person loaning money on deposit or pledge of personal property, other than securities or printed evidences of indebtedness; dealing in the purchase of personal property on condition of selling back at a stipulated price; or designated or doing business as furniture storage warehousemen, and loaning and advancing money upon goods, wares or merchandise pledged or deposited as collateral security; a pawnbroker.

PERSON – an individual, corporation, limited liability company, partnership, association, agency, trust, estate, or other entity capable of being sued.

§137-2 License Required.

No person, either as principal, agent or employee, shall within the limits of the City of Newburgh, establish, engage in or carry on the business of collateral loan broker, either separately or in connection with some other business, without first having obtained and paid for and having in full force and effect a license as herein provided.

§137-3 Application for License; application fee.

A. Every person desiring to procure a license under this chapter shall file with the City Clerk a written application upon a blank form prepared and furnished by the City which shall provide the following information:

1. The name of the collateral loan broker.
2. The address of the principal office of such collateral loan broker, if any, wherever situated, and the address or addresses of the principal office of such collateral within New York State, if any.
3. The names, residences and business addresses of the principal officers if the applicant is an individual, partnership or firm, or the names, residences and business addresses of the principal officers if the applicant is an association or corporation.
4. A certificate of incorporation and certificate of Good Standing, if the applicant is a corporation, and if the applicant is a foreign corporation, an application for authority to business in New York State.
5. A description of the character of the business in which the applicant desires to engage.
6. The length of time such applicant or applicants, if an individual, firm or partnership, or the manager or person in charge, if the applicant is a firm, partnership, corporation or association, has or have resided in the State of New York; his/her or their place of previous residences and employment whether he/she or they or any of them have ever been convicted of a felony or misdemeanor and, if so, what offense, when and in what court.
7. The street address where such business is to be located or carried on.
8. Whether the applicant or applicants or manager have, either alone or with someone else, ever engaged in the business of collateral loan broker.

B. The Application shall be signed and acknowledged before a notary public.

C. The Application shall be accompanied by a non-refundable application fee as set forth in Chapter 163, "Fees" of the Code of Ordinances of the City of Newburgh.

§173-4 Bond Required.

The license application shall be accompanied by a bond to the City of Newburgh, approved as to form by Corporation Counsel, in the penal sum of \$10,000.00, with two responsible sureties or sufficient collateral security, conditioned on the faithful performance of the duties and obligations pertaining to the business so licensed, the due observance during the term of the license of any and all ordinances and laws which are now in force or may be hereafter be adopted or enacted respecting the business of collateral loan broker as defined in Section 173-1 of this Chapter, and the accounting for and paying over of all moneys which the licensee shall be liable to pay as such collateral loan broker to the City of Newburgh.

§ 173-5 Issuance or Denial of License; contents; reapplication after rejection.

A. Upon the filing of the application, bond and information as provided in this Chapter, the City Manager may, upon his/her approval of such application and bond as to the sufficiency of the sureties or collateral securities, and upon the payment to the city of the license fee hereinafter provided, direct the City Clerk to issue to the applicant a license to engage in the business as provided in Section 173-2 of this Chapter. No license shall be denied except for specific reason and for the protection of the public safety or welfare.

B. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the place of business in which the person receiving such license shall be authorized to establish, engage in and carry on the business; the kind of business, the dates of issuance and expiration of the license, the fees paid and the name and address of the licensee.

C. No applicant to whom a license has been denied shall make further or additional application until a period of at least six months shall have elapsed since the last previous denial, unless he/she can demonstrate that the reason for such denial no longer exists.

§ 173-6 License fee; renewal new licenses; non-transferability; duplicate licenses.

A. Every collateral loan broker shall pay an annual license fee as set forth in Chapter 163, "Fees" of the Code of Ordinances of the City of Newburgh.

B. All renewal licenses shall be issued as of January 1 and shall continue in force until the following December 31, unless otherwise revoked by the City Manager in accordance with this Chapter.

C. New licenses shall be issued as of the date of the approval by the City Manager, to be effective until the next succeeding December 31, and the annual fee shall be paid to cover the period of the new license.

D. No license shall be used by any person other than the original licensee; and any holder of such license who permits it to be used by any other person, and any person who uses such license granted to any other person, shall be guilty of a violation of this Chapter.

E. Whenever a license shall be lost or destroyed without fault on the part of the holder or his/her agent or employee, a duplicate license in lieu thereof under the original application and bond may be issued by the City Manager in his/her discretion, upon the filing with it an affidavit by the licensee, setting forth the circumstances of the loss and what, if any, search has been made for its recovery, along with a replacement fee as set forth in Chapter 163, "Fees" of the Code of Ordinances of the City of Newburgh. No person shall destroy, deface or injure a license in any manner, or change the name, number or dates therein.

§ 173-7 Revocation of License.

The City Manager may, at any time, after investigation and hearing before the City Manager or his/her designee at which the licensee may be heard, for violation of this Chapter or for any other proper cause, revoke any license granted under the provisions of this Chapter. Whenever any license shall be revoked, no refund of any unearned portion thereof shall be made, and no license shall be granted to any person whose license has been revoked within a period of one year from the date of such revocation. Notice of such revocation and the reason therefor in writing shall be served by the City Manager upon the person named in the application by personal service or by mailing the same to the address given in the application and upon filing of a copy with the City Clerk.

§ 173-8 Change in Location of Business.

If any licensee shall move his place of business from the location designated in the license, he shall immediately give notice to the City Clerk and have the same endorsed on the license.

§ 173-9 Record of Loans.

No collateral loan broker shall accept any pledge until the person pawning such pledge shall have adequately proved his/her identity or shall have adequately proved ownership of the article pawned. Every licensed collateral loan broker shall keep in a substantially bound book, which shall be legibly written in ink and in English at the time of making a loan, an account and description of the goods, articles or things pawned or pledged, including the number or numbers and any monogram, inscription or other marks of identification that may appear thereon, the amount loaned thereon, the time and day of the loan and its maturity, the rate of interest paid on such loan and the named, general description and residence of the person pawning or pledging such goods, articles or things and a record of the means of identification of the pledger or of the proof of ownership by the pledger. Such book and all articles pawned or pledged shall at all reasonable times be open to inspection by any police officer, the City Manager, or any person duly authorized in writing for such purpose by the City Manager or Police Chief, who shall exhibit such written authority to the collateral loan broker and to all persons authorized by Section 45 of the

General Business Law of the State of New York. No entry in such book shall be erased, obliterated, altered or defaced.

§ 173-10 Report to City of Newburgh Police Department.

Every collateral loan broker shall, at such times as the Police Chief may prescribe in a written notice, to be served upon such collateral loan broker by a sworn member of the Police Department, report to the Police Department, on blank forms to be furnished by the Police Department, a description of all goods, articles or things, or the identity or proof of ownership of pledgers, such as is required to be kept under Section 173-9 of this Chapter, which have been pawned or pledged in the course of business of the collateral loan broker during the days specified in such notice and, if such notice from the Chief of Police so prescribes, such collateral loan broker shall, at that time and until he/she is so notified to discontinue so doing, keep and furnish on such blank forms such information, as well as a general description of every person depositing such pledge.

§ 173-11 Note Required for Redemption.

Every licensed collateral loan broker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things a memorandum or note signed by him/her containing his/her address and the substance of the entry required to be made or received by any collateral loan broker for any such entry, memorandum or note. The holder of such memorandum or note shall be presumed to be the person entitled to redeem the pledge, and the collateral loan broker shall deliver such article to the person so presenting such memorandum or note upon payment of principal and interest; should such memorandum or note be lost or mislaid, the pawner shall at once apply to the collateral loan broker, in which case it shall be the duty of the collateral loan broker to permit such person to examine his/her books, and upon finding the entry for such memorandum or note so lost and upon giving to the collateral loan broker an exact description of the article pawned, the collateral loan broker shall issue a second or stop ticket for the same. In case such pawner neglects to so apply and examine such books and receive such memorandum or note in the manner above stated, the collateral loan broker shall be bound to deliver the pledge to any person producing such memorandum or note for redemption thereof. This section is not to be construed as in any manner limiting or affecting such collateral loan broker's common-law liability in cases where goods are stolen or other legal defects of title exist in the pledge.

§ 173-12. Rate of Interest.

A. No collateral loan broker shall ask, demand or receive any greater rate of interest than four per centum per month, or any fraction of a month, and a notice containing a list of such rates of interest as herein provided and in accordance with the Act of Congress entitled, "Truth in Lending Act" (15 U.S.C. 1601 et seq.) and the regulations thereunder, as such Act and regulations may from time to time be amended, shall be conspicuously displayed within the premises of such collateral loan broker. A minimum interest charge of \$0.25 per month may be made on any loan.

B. No collateral loan broker shall receive or be entitled to any interest or charges as provided by this section on any loan for any period of time exceeding 15 months from the date of the making of such loan, provided, however, that where a loan is extended at the direct request of the pledger, the collateral loan broker may receive and be entitled to any interest or charges provided by this article on such loan for any period of time not to exceed 15 months from the date of such extension.

C. No such collateral loan broker shall make any charge for packing, storing, keeping or caring for any article, goods or things pledged or upon which a loan has been made.

§ 173-13 Sale of Unclaimed Pledge.

No licensed collateral loan broker shall sell or otherwise dispose of any pawn or pledge unless the interest shall be six months or more in arrears, and all such sales shall be at public auction and shall be conducted by auctioneers licensed with the State of New York. All bids for the purchase of any defaulted pledge offered at such sale shall be expressed in dollars and cents without the use of any special signs, signals or motions if less than 11 people attend such sale.

§ 173-14 Notice of Sale.

Notice of every such public sale shall be published for at least six days previous thereto in the official newspapers of the City of Newburgh as set forth in Chapter 20 of the Code of Ordinances of the City of Newburgh, and such notice shall specify the time and place at which such public sale is to take place and a description of the goods or articles to be sold. Every collateral loan broker shall enter in a book kept for that purpose a true account of the sale of all goods sold by him/her at auction or otherwise, stating the day of the month when pledged, the name of the person pledging, the day when and the amount for which each pledge was sold and the name of the auctioneer. Any person who shall have pledged any unredeemed goods, or his/her assigns, administrators and executors, shall at all reasonable times be permitted to inspect such entry book of sale. Every collateral loan broker shall give notice of the expiration of the six months from the date of the loan after which a public sale of the article pledged may take place, by letter directed to the borrower at his/her last known residence at least 10 days and not more than 20 days after the expiration of such six months.

§ 173-15. Disposition of Proceeds of Sale.

A. The surplus money, if any, arising from any such sale, after deducting the amount of the loan, the interest then due on the same and the expense of advertising and sale shall be paid over by the collateral loan broker to the person who would be entitled to redeem the pledge in case no such sale had taken place, provided that demand therefor is made within one year after such sale shall have taken place.

B. In the event that there is any surplus money due to a pledger after such sale, the collateral loan broker shall give the pledger written notice thereof, by mailing to such pledger, directed to him/her at the address given at the time of pledging or in the event such pledger has notified the

collateral loan broker, in writing, of a change of address, to such new address, within 30 days after such sale, a notice which shall state the name and address of the collateral loan broker, the number of the pledge, the date of sale and the amount of any surplus.

§ 173-16 Posting of Rates.

Every licensee shall cause to be posted in a conspicuous part of his/her office or place where the collateral loan broker business is carried on, so as to be visible to all persons pledging goods, a printed card or table of the rates of interest authorized by this chapter, printed in large type and in both the English and Spanish languages.

§ 173-17 Prohibited Acts.

A. No collateral loan broker shall:

1. Permit the redemption of any article received by him/her in pawn until 48 hours after the same has been received by him/her in pawn.
2. Fail to deliver to the borrower a plain and complete receipt for all payments on account at the time such payments are made.
3. Carry on business at any other place than the one designated in his/her license.
4. Continue to carry on business after his/her license is revoked or shall have expired.
5. Display signage containing the words "pawn," "pawnbroker" or "pawnshop."
6. Operate his/her/its collateral loan business except in conjunction with a retail sales component that comprises at least 75% of the combined retail/collateral loan business.

B. No collateral loan broker or person in the employ of a collateral loan broker shall receive or purchase any goods, chattels, wares or merchandise from, or make any loan or advance or permit to be loaned or advanced to, any child, actually or apparently under the age of 18 years, any money, or in any manner directly or indirectly receive any goods, chattels, wares or merchandise from any such child in pledge for loans made or to be made to it or to any other person or otherwise howsoever. It shall be no defense to a prosecution for a violation of this section that in the transaction upon which the prosecution is based the child acted as the agent or representative of another or that the defendant dealt with such child as the agent or representative of another.

§ 173-18. Transfer of License.

No license issued under this chapter may be assigned, sold or transferred.

§ 173-19 Penalties for Offenses.

A. Any person who, himself or by his/her clerk, agent or employee, shall establish, engage in or carry on the business of collateral loan broker or shall violate any of the provisions of this chapter, or who, having had his/her license revoked, shall continue to engage in or carry on the business of collateral loan broker, shall be guilty, upon conviction, of an offense punishable by a fine of not less than \$250 nor more than \$1,000 or by imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment.

B. In addition to the penalty imposed, the license of the person violating the same shall be canceled or revoked, and the bond upon such license shall be forfeited. Upon such forfeiture, the amount of the bond shall thereupon become due and payable to the City of Newburgh, and the amount thereof may be recovered in a civil action based upon such forfeiture.

SECTION 4 - VALIDITY

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

SECTION 5 - EFFECTIVE DATE

This Local Law shall be effective when it is filed in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

ORDINANCE NO.: _____ - 2011

OF

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:

§ 137-3 Collateral Loan Broker License Application Fee \$200.00 Non-refundable

§ 137-6 Collateral Loan Broker License Annual Fee \$200.00

Collateral Loan Broker Replacement License Fee \$100.00

Section 2. This ordinance shall take effect upon the filing of Local Law No. -2011 of _____, 2011 in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

Underlining ____ denotes additions.
Brackets [] denote deletions.

RESOLUTION NO.: 188 - 2011

OF

SEPTEMBER 26, 2011

RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A GRANT FROM FACTORY MUTUAL INSURANCE COMPANY
IN THE AMOUNT OF \$2,500.00 TO PROVIDE FUNDING FOR VARIOUS
EQUIPMENT NEEDS FOR THE CITY OF NEWBURGH
FIRE DEPARTMENT'S FIRE INVESTIGATION TEAM

WHEREAS, the City of Newburgh Fire Department has applied for an FM Global fire prevention grant; and

WHEREAS, the Department has been notified that the Factory Mutual Insurance Company ("FM Global") will be funding Two Thousand Five Hundred (\$2,500.00) Dollars towards the purchase of various equipment needs for the City of Newburgh's Fire Investigation Team; and

WHEREAS, such grant is at no cost to the City of Newburgh; and

WHEREAS, this Council has determined that accepting such grant is in the best interests of the City of Newburgh and its citizens;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and is hereby authorized to accept a grant from Factory Mutual Insurance Company in the amount of Two Thousand Five Hundred (\$2,500.00) Dollars to provide funding for various equipment needs for the City of Newburgh Fire Department's Fire Investigation Team.

RESOLUTION NO.: 189 - 2011

OF

SEPTEMBER 26, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT
UNDER THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
ASSISTANCE TO FIREFIGHTERS GRANT
IN THE AMOUNT OF \$750,000.00 FOR UTILIZATION
BY THE CITY OF NEWBURGH FIRE DEPARTMENT

WHEREAS, the City of Newburgh Fire Department has expressed interest in applying for a grant under the United States Department of Homeland Security Assistance to Firefighters Grant in the amount of Seven Hundred Fifty (\$750,000.00) Dollars; and

WHEREAS, such grant funds, if awarded, shall be utilized for the purchase of personal protective equipment, self-contained breathing apparatus and a triple combination pumper; and

WHEREAS, such grant shall require a ten (10%) percent match by the City of Newburgh; and

WHEREAS, this Council has determined that making an application for such grant funds would be in the best interests of the City of Newburgh, and the safety of its firefighters and residents 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 apply for and accept if awarded a grant under the United States Department of Homeland Security Assistance to Firefighters Grant in the amount of \$750,000.00 for utilization by the City of Newburgh Fire Department.

RESOLUTION NO.: 189 - 2011

OF

SEPTEMBER 26, 2011

A RESOLUTION AUTHORIZING THE CITY MANAGER
TO APPLY FOR AND ACCEPT IF AWARDED A GRANT
UNDER THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY
ASSISTANCE TO FIREFIGHTERS GRANT
IN THE AMOUNT OF \$750,000.00 FOR UTILIZATION
BY THE CITY OF NEWBURGH FIRE DEPARTMENT

WHEREAS, the City of Newburgh Fire Department has expressed interest in applying for a grant under the United States Department of Homeland Security Assistance to Firefighters Grant in the amount of Seven Hundred Fifty (\$750,000.00) Dollars; and

WHEREAS, such grant funds, if awarded, shall be utilized for the purchase of personal protective equipment, self-contained breathing apparatus and a triple combination pumper; and

WHEREAS, such grant shall require a ten (10%) percent match by the City of Newburgh; and

WHEREAS, this Council has determined that making an application for such grant funds would be in the best interests of the City of Newburgh, and the safety of its firefighters and residents 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 apply for and accept if awarded a grant under the United States Department of Homeland Security Assistance to Firefighters Grant in the amount of \$750,000.00 for utilization by the City of Newburgh Fire Department.

RESOLUTION NO.: 190 - 2011

OF

SEPTEMBER 26, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO ACCEPT A RENEWAL OF THE ENFORCING UNDERAGE DRINKING LAWS
("EUDL") GRANT FROM THE NEW YORK STATE OFFICE OF ALCOHOLISM
AND SUBSTANCE ABUSE ADMINISTERED
THROUGH CATHOLIC CHARITIES IN THE AMOUNT OF \$9,500.00**

WHEREAS, this Council, by Resolution No.: 95-2010 of April 26, 2010, authorized the City Manager to accept certain Police Grants; and

WHEREAS, the Police Department has been notified that there are funds available under the Enforcing Underage Drinking Laws ("EUDL") Grant; and

WHEREAS, the Police Department wishes to renew said grant in the amount of Nine Thousand Five Hundred (\$9,500.00) Dollars; and

WHEREAS, such Police Grants are reimbursable grants which require the City to first expend monies to obtain reimbursement; and

WHEREAS, a copy of the invoice generated for reimbursement is attached hereto; and

WHEREAS, this Council has determined that authorizing the acceptance and renewal of said grant is in the best interests of the City of Newburgh and the safety of its citizens;

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 renewal of the Enforcing Underage Drinking Laws ("EUDL") Grant from the New York State Office of Alcoholism and Substance Abuse administered through Catholic Charities in the amount of Nine Thousand Five Hundred (\$9,500.00) Dollars.

RESOLUTION NO. 191 -2011

191

OF

SEPTEMBER 26, 2011

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED SEPTEMBER 26, 2011, AUTHORIZING VARIOUS PURPOSES IN AND FOR THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS \$2,720,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$2,720,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. The City of Newburgh, in the County of Orange, New York (herein called the "City"), is hereby authorized to construct, acquire or undertake the various projects as described in column A of Schedule I attached hereto and hereby made a part hereof, at the estimated maximum costs indicated in column B of such Schedule I. The estimated total cost of such projects, including preliminary costs and costs incidental thereto and to the financing thereof, is \$2,720,000 and said amount is hereby appropriated therefor. The plan of financing includes the issuance of not to exceed \$2,720,000 bonds of the City to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to

pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the aggregate principal amount of not to exceed \$2,720,000 are hereby authorized to be issued in the principal amounts indicated in column C of Schedule I for each of the respective objects or purposes indicated in column A of such Schedule I, pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance the appropriation referred to herein.

Section 3. The respective periods of probable usefulness of the specific objects or purposes and classes of objects or purposes for which said bonds are authorized are to be issued, within the limitations of §11.00 a. of the Law as referenced in column E of the attached Schedule I, are set forth in column D of the attached Schedule I.

Section 4. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose or purposes for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City. The faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and

interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller/Director of Finance, the chief fiscal officer of the City.

Section 7. Pursuant to the provisions of section 16 of Chapter 223 of the New York Laws of 2010; the City is authorized to include in this resolution the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 16:

“The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the city during the effective period of this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the city to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations until such bonds, notes or other obligations together with the interest thereon and all costs and

expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged.”

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 9. This Bond Resolution shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing resolution, in full, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in “*The Sentinel*,” “*The Mid Hudson Times*,” and “*The Hudson Valley Press*,” three newspapers each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

The adoption of the foregoing resolution was seconded by

_____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

Schedule I

2011 Capital Improvement Plan

<u>A</u>	<u>B</u>	<u>C</u>	<u>D</u>	<u>E</u>
<u>Project Description (object or purpose)</u>	<u>Estimated Maximum Cost</u>	<u>Amount of Bonds Authorized</u>	<u>Period of Probable Usefulness</u>	<u>PPU Section 11.00 a. Reference</u>
Water Tank Reconstruction	2,200,000	2,200,000	40	1
SCADA System - Water System	300,000	300,000	40	1
Garbage Truck	220,000	220,000	15	28
Totals:	<u>2,720,000</u>	<u>\$2,720,000</u>		

CERTIFICATE

I, LORENE VITEK, City Clerk of the City of Newburgh, in the County of Orange, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the City Council of said City of Newburgh duly called and held on September 26, 2011, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said City Council and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Newburgh this _____ day of September, 2011.

(SEAL)

City Clerk

(THE FOLLOWING NOTICE IS TO BE ATTACHED TO AND
TO BE PUBLISHED
WITH RESOLUTION AFTER ADOPTION)

NOTICE

The resolution published herewith, has been adopted on September 26, 2011, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the CITY OF NEWBURGH, in the County of Orange, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

LORENE VITEK
City Clerk

RESOLUTION NO.: 192 - 2011

OF

192

SEPTEMBER 26, 2011

BOND RESOLUTION OF THE CITY OF NEWBURGH, NEW YORK, ADOPTED SEPTEMBER 26, 2011, AUTHORIZING VARIOUS PURPOSES IN AND FOR THE CITY, STATING THE ESTIMATED TOTAL COST THEREOF IS \$1,340,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$1,340,000 BONDS OF SAID CITY TO FINANCE SAID APPROPRIATION.

THE CITY COUNCIL OF THE CITY OF NEWBURGH, IN THE COUNTY OF ORANGE, NEW YORK, HEREBY RESOLVES (by the favorable vote of not less than two-thirds of all the members of said City Council) AS FOLLOWS:

Section 1. The City of Newburgh, in the County of Orange, New York (herein called the "City"), is hereby authorized to construct, acquire or undertake the various projects as described in column A of Schedule I attached hereto and hereby made a part hereof, at the estimated maximum costs indicated in column B of such Schedule I. The estimated total cost of such projects, including preliminary costs and costs incidental thereto and to the financing thereof, is \$1,340,000 and said amount is hereby appropriated therefor. The plan of financing

includes the issuance of not to exceed \$1,340,000 bonds of the City to finance said appropriation, and the levy and collection of taxes on all the taxable real property in the City to pay the principal of said bonds and the interest thereon as the same shall become due and payable.

Section 2. Bonds of the City in the aggregate principal amount of not to exceed \$1,340,000 are hereby authorized to be issued in the principal amounts indicated in column C of Schedule I for each of the respective objects or purposes indicated in column A of such Schedule I, pursuant to the provisions of the Local Finance Law, constituting Chapter 33-a of the Consolidated Laws of the State of New York (herein called "Law"), to finance the appropriation referred to herein.

Section 3. The respective periods of probable usefulness of the specific objects or purposes and classes of objects or purposes for which said bonds are authorized are to be issued, within the limitations of §11.00 a. of the Law as referenced in column E of the attached Schedule I, are set forth in column D of the attached Schedule I.

Section 4. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose or purposes for which said bonds are authorized. The foregoing statement of intent with respect to reimbursement is made in conformity with Treasury Regulation Section 1.150-2 of the United States Treasury Department.

Section 5. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of the sale of said bonds shall contain the recital of validity as prescribed by Section 52.00 of the Law and said bonds and any notes issued in anticipation of said bonds shall be general obligations of the City, payable as to both principal and interest by general tax upon all the taxable real property within the City. The faith and credit

of the City are hereby irrevocably pledged to the punctual payment of the principal of and interest on said bonds and any notes issued in anticipation of the sale of said bonds and provision shall be made annually in the budget of the City by appropriation for (a) the amortization and redemption of the bonds and any notes in anticipation thereof to mature in such year and (b) the payment of interest to be due and payable in such year.

Section 6. Subject to the provisions of this resolution and of the Law and pursuant to the provisions of Section 21.00 relative to the authorization of the issuance of bonds with substantially level or declining annual debt service, Section 30.00 relative to the authorization of the issuance of bond anticipation notes and Section 50.00 and Sections 56.00 to 60.00 and 168.00 of the Law, the powers and duties of the City Council relative to authorizing bond anticipation notes and prescribing the terms, form and contents and as to the sale and issuance of the bonds herein authorized and of any bond anticipation notes issued in anticipation of said bonds, and the renewals of said bond anticipation notes, and relative to executing agreements for credit enhancement, are hereby delegated to the Comptroller/Director of Finance, the chief fiscal officer of the City.

Section 7. Pursuant to the provisions of section 16 of Chapter 223 of the New York Laws of 2010, the City is authorized to include in this resolution the following pledge and agreement of the State of New York (herein called the "State") contained in said Section 16:

“The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the city during the effective period of this act and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the city to fulfill the terms of any agreements made with such holders pursuant to this act, or in any way impair the rights and remedies of such holders or the security for such bonds, notes or other obligations

until such bonds, notes or other obligations together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged.”

Section 8. The validity of the bonds authorized by this resolution, and of any notes issued in anticipation of the sale of said bonds, may be contested only if:

- (a) such obligations are authorized for an object or purpose for which the City is not authorized to expend money, or
- (b) the provisions of law which should be complied with at the date of the publication of such resolution are not substantially complied with,

and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

- (c) such obligations are authorized in violation of the provisions of the constitution.

Section 9. This Bond Resolution shall take effect immediately, and the City Clerk is hereby authorized and directed to publish the foregoing resolution, in full, together with a Notice attached in substantially the form prescribed by §81.00 of the Law in “*The Sentinel*,” “*The Mid Hudson Times*,” and “*The Hudson Valley Press*,” three newspapers each having a general circulation in the City and hereby designated the official newspapers of said City for such publication.

The adoption of the foregoing resolution was seconded by

_____ and duly put to a vote on roll call, which resulted as follows:

AYES:

NOES:

The resolution was declared adopted.

Schedule I

2011 Capital Improvement Plan

<u>A</u> <u>Project Description (object or purpose)</u>	<u>B</u> <u>Estimated Maximum Cost</u>	<u>C</u> <u>Amount of Bonds Authorized</u>	<u>D</u> <u>Period of Probable Usefulness</u>	<u>E</u> <u>PPU Section 11.00 a. Reference</u>
Fire Truck	\$ 400,000	\$ 400,000	20	27
Scott Packs	30,000	30,000	5	32
Fire Gear	35,000	35,000	5	32
Communication Radios	35,000	35,000	10	25
DPW Communication Radios	25,000	25,000	5	32
Plows (2 @ approx. \$150,000 each)	300,000	300,000	15	28
Pickup Trucks w/ Plows (3 @ approx. \$30,000 each)	90,000	90,000	15	28
Parking Meters	100,000	100,000	5	50
Hardware Security Backup System	180,000	180,000	5	32
Patrol Cars (3 @ approx. \$30,000 each)	90,000	90,000	3	77
Computers	30,000	30,000	5	32
Finger Print Scanner	25,000	25,000	5	32
Totals:	<u>\$1,340,000.00</u>	<u>\$1,340,000.00</u>		

CERTIFICATE

I, LORENE VITEK, City Clerk of the City of Newburgh, in the County of Orange, State of New York, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the City Council of said City of Newburgh duly called and held on September 26, 2011, has been compared by me with the original minutes as officially recorded in my office in the Minute Book of said City Council and is a true, complete and correct copy thereof and of the whole of said original minutes so far as the same relate to the subject matters referred to in said extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said City of Newburgh this _____ day of September, 2011.

(SEAL)

City Clerk

(THE FOLLOWING NOTICE IS TO BE ATTACHED TO AND
TO BE PUBLISHED
WITH RESOLUTION AFTER ADOPTION)

NOTICE

The resolution published herewith, has been adopted on September 26, 2011, and the validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the CITY OF NEWBURGH, in the County of Orange, New York, is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this Notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the publication of this Notice, or such obligations were authorized in violation of the provisions of the constitution.

LORENE VITEK
City Clerk

EXTRACT OF MINUTES

Meeting of the City Council of the

City of Newburgh, in the

County of Orange, New York

September 26, 2011

* * *

A regular meeting of the City Council of the City of Newburgh, in the County of Orange, New York, was held at the City Hall, Newburgh, New York, on September 26, 2011, at _____ o'clock P.M. (Prevailing Time).

There were present: Hon. Nicholas Valentine, Mayor; and

Councilpersons:

There were absent:

Also present: Lorene Vitek, City Clerk

* * *

_____ offered the following resolution and moved its adoption:



3a

City of Newburgh
DEPARTMENT OF PLANNING & DEVELOPMENT
City Hall – 83 Broadway
Newburgh, New York 12550

TEL: (845) 569-9400

FAX: (845) 569-9700

September 16, 2011

To: Richard Herbek, Acting City Manager

From: Courtney Kain, Director of Planning & Development

cc: Ian MacDougall, Acting Director Planning & Development

Re: Section 3 Amendment

I participated in the Section 3 webinar *Complying with Section 3 Requirement*, and have included the slides for your own edification, and the following was indicated related to Section 3 Business Concerns.

A Section 3 Business Concern is defined as one that:

--is 51% or more owned by Section 3 Residents

OR

--whose permanent, full-time staff is comprised of at least 30% Section 3 Residents

OR

--has committed 25% of the dollar amount of its subcontracts to Section 3 Businesses

The City of Newburgh's plan is inconsistent with this language. The adopted language in the Newburgh plan indicates that all of these requirements must be met (basically, substituting the ors with ands). I subsequently contacted Mr. Feely the HUDs Section 3 Compliance Officer and he confirmed this definition. Because this language is contained within the approved legislation I would ask that the City Council review and approve this amendment. Though a small change, this will allow more City of Newburgh Businesses to qualify as a section 3 business.

Attached is the plan with the tract changes.

City of Newburgh New York



2011 - 2015

Section 3 Plan

Table of Contents

- I. SECTION 3 OVERVIEW
- II. KEY TERMS
- III. SECTION 3 CLAUSE
- IV. CITY OF NEWBURGH ROLE & RESPONSIBILITIES
- V. CONTRACTOR REQUIREMENTS & RESPONSIBILITIES
- VI. CONTRACTOR SECTION 3 REPORTS

Exhibits

24 CFR Part 135

Form A, Section 3 Resident Preference Claim Form

Form B, Certification for Business Concerns Seeking Section 3 Preference

Form B (a) Business Employee List

Form C, Section 3 Business Contractor Economic Opportunities Plan

Form D, Section 3 Report

Form D (a) Section 3 Business Contractor or Subcontractor Payroll Report

I. SECTION 3 OVERVIEW

The City of Newburgh ("City") is committed to helping the residents of the City achieve their goals of self-sufficiency by providing opportunities for employment. The City provides opportunities on its construction, demolition, and rehabilitation projects by requiring its contractors, in accordance with this City of Newburgh Section 3 Plan including Forms attached hereto ("Section 3 Plan") to hire qualified City residents to facilitate economic opportunity for such residents.

The purpose of Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) (section 3) and 24 CFR 135.1 et seq. is to ensure that employment and other economic opportunities generated by certain HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, be directed to City residents with not more than eighty (80%) percent of individual or family median income in the City, being the Service Area for applicable HUD funding, under 24 CFR 135.34(a)(2)(i) ("Section 3 Residents"), and to business concerns which provide economic opportunities for Section 3 Residents.

All contractors approved by the City for wholly or partially HUD-funded projects exceeding \$200,000 in cost must adhere to the Economic Opportunities guidelines of this Section 3 Plan. The Section 3 regulations require that recipients of certain HUD financial assistance, to the greatest extent possible, provide employment and contract opportunities for Section 3 Residents in connection with projects and activities in the City.

The Section 3 regulations recognize that HUD funding typically results in projects/activities that generate new employment and contracting opportunities. The economic opportunities requirements of Section 3 apply to recipients of HUD Community Development and Block Grant Funding for projects exceeding \$200,000. The requirements of Section 3 only apply to those projects involving housing construction, rehabilitation, demolition, or other public construction.

CONTRACT SIZE:

If the estimated value of the project is \$0-200,000, including both HUD and non-HUD funding, Section 3 requirements do not apply.

Projects exceeding \$200,000, including both HUD and non-HUD funding, and all contracts therein must complete all requirements of this Section 3 Plan.

The general guidelines are as follows:

- 1) 30% of the aggregate number of New Hires for the Section 3 Covered Project shall be Section 3 Residents; and
- 2) 10% of the aggregate dollar amount of all covered contracts and subcontracts for the Section 3 Covered Project shall be awarded to businesses which are owned by at least 51% Section 3 Residents and whose permanent, full-time employees include persons at

least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents ("Section 3 Businesses")

II. KEY TERMS

New Hire: A new hire is a full-time employee for a new permanent, temporary, or seasonal position that is created during the expenditure of Section 3 covered financial assistance.

Section 3 Business: A contractor or a subcontractor for a Section 3 Covered Project which is owned by at least 51% Section 3 Residents, or whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents, or has committed 25% of the dollar amount of its subcontracts to Section 3 Businesses.

Deleted: and

Deleted: .

Section 3 Resident:

1. Resident of Public Housing in the City; or
2. Individual that resides in the City and whose family income for the previous calendar year did not exceed eighty (80%) percent of the median income for individuals and families in the City, as set forth in the most recent decennial Census, with adjustments for smaller and larger families, as may be updated annually by the U.S. Census Bureau, American Community Survey.

See Form A for most recent median income calculations for Newburgh.

Section 3 Covered Projects: A Section 3 Covered Project means a project exceeding \$200,000 in aggregate cost involving the construction or rehabilitation of housing, other public construction, or demolition using all or some HUD funding.

Deleted: .

Deleted: ¶

III. SECTION 3 CLAUSE

The Section 3 Clause specifies the requirements for contractors hired for Section 3 Covered Projects. It must be included in all Section 3 Covered Contracts. All Section 3 Covered Contracts shall include the following language (referred to collectively as the "Section 3 Clause"):

A. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.1701u (Section 3), 24 CFR 135.1 et seq., and the 2011 - 2015 Section 3 Plan ("Section 3 Plan). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons residing in the City of Newburgh known as Section 3 Residents, with preference given to Category 1 under 24 CFR 135.34(a)(2)(i);

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3, together with the Section 3 Plan. As evidenced by their execution of this Contract, the Contractor certifies that it is under no contractual or other impediment that would prevent it from complying with the Part 135 regulations and the attached Section 3 Plan;

C. The Contractor agrees to post copies of the Section 3 Plan together with a notice of new hiring under this Contract in conspicuous places at the work site where both current employees and applicants for employment positions can see the notice as well as in locations within the City of Newburgh that provide employment and training opportunities, and other locations, which list of locations shall be identified by the Department of Planning and Development. The Department of Planning and Development may require that certain notices be posted in both English and Spanish. The notice shall describe the Section 3 preference, shall set forth minimum number of job titles subject to hire including apprenticeship and training positions, the qualifications for each, the name and location of the person(s) taking applications for each of the positions, and the anticipated date the work shall begin;

D. The Contractor agrees to include this Section 3 Clause and the Section 3 Plan in every subcontract to this Contract, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 Clause, upon a finding that the subcontractor is in violation of the attached Section 3 Plan. The Contractor shall not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of and/or does not intend to comply with the regulations in 24 CFR Part 135 and the attached Section 3 Plan;

E. The Contractor shall certify that any vacant employment positions including apprenticeship and training positions, that are filled (1) after the Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 and the attached Section 3 Plan require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under such regulations and the Section 3 Plan; and

F. Noncompliance with HUD's regulations in 24 CFR part 135 and/or the Section 3 Plan may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

Deleted: ¶

IV. CITY OF NEWBURGH ROLE & RESPONSIBILITIES

The City of Newburgh Planning & Development Department ("Department") has a role and responsibility in ensuring these courses of action are successfully pursued. The Department will coordinate the Section 3 efforts of the City, monitor all activity under this Section 3 Plan and make compliance determinations.

The Director of the Department or such Director's designee shall undertake the following tasks in coordination with other City departments, including but not limited to the City Engineer:

1. Include Section 3 compliant notification language together with copies of this Section 3 Plan in Invitations for Bids or RFPs for Section 3 Covered Projects.
2. Notify Section 3 Businesses that they must be certified prior to the participation in a bid or contract for a Section 3 Covered Project and confirm such certification prior to any bid being accepted.
3. Provide a pre-certification and pre-bid conference, helping potential bidders understand the Section 3 requirements of this Plan.
4. Identify and coordinate with local agencies, businesses, and institutions that currently provide employment training and hiring opportunities with the goal to have those agencies, businesses and institutions identify and regularly update the pool of qualified Section 3 Residents who would be available to fill new positions.
5. Provide to contractors who are required pursuant to this Plan to recruit qualified Section 3 Residents relevant information about local agencies, businesses and institutions that currently provide employment training and hiring opportunities.
6. Pursuant to this Plan, provide contractors with lists of locations for required recruitment outreach to Section 3 certified businesses and Section 3 residents.
7. Evaluate bids and proposals to determine if the contractors made best efforts to include responsible Section 3 Businesses for at least 10% of the dollar amount of the contract, and that such Section 3 Businesses demonstrated a plan to hire at least 30% of the New Hires for the project from Section 3 Residents.
8. Monitor compliance with the Section 3 Plan for Section 3 Covered Projects, including but not limited to Form D submittals.
9. Assist contractors during the project to maintain compliance with the Section 3 Plan.
10. Maintain relevant records of contractors who have been awarded a contract under this Plan that involve HUD financial assistance to demonstrate compliance with these requirements
11. Make compliance determinations.

Contractors which fail to meet the minimum numerical goals above bear the burden of substantiating why it was not possible to do so. Such justifications should describe the efforts made, barriers encountered, and other relevant information that will enable the Department to make a compliance determination. The Department reserves the right to request additional relevant information.

Recipients that submit Section 3 reports containing zeros without a sufficient explanation to justify their submissions shall be deemed in provisional noncompliance with the requirements of the Section 3 Plan for incomplete Form D submittal .

Failure to comply with the requirements of the Section 3 Plan shall result in liquidated damages under the Contract and possible sanctions including debarment, suspension, or denial of participation in HUD programs.

V. CONTRACTOR REQUIREMENTS & RESPONSIBILITIES

The Contractor agrees to utilize, and to implement the following specific steps directed at increasing the utilization of Section 3 Residents and Section 3 Businesses for Section 3 Covered Projects.

A. To include, as part of Contractor's bid, the following information shall be included pertaining to subcontracts anticipated to be awarded by the Contractor:

1. To provide the approximate number and dollar value of subcontracts to be awarded over the duration of the Section 3 Covered Project (this estimate should be broken down by type of business or profession by North American Industry Classification System (NAICS) code); and
2. To provide, based on an analysis of the estimated subcontract needs, a target number and itemized value of subcontracts to be awarded to Section 3 Businesses.

B. To implement a program or strategy for achieving the targets established for awards to Section 3 Businesses which would include the following steps:

1. To insert the Section 3 Plan in all requests for subcontractor proposals, and to require all bidders on subcontracts to submit a proposal to the general contractor including utilization goals and the specific steps planned to accomplish the requirements of the Section 3 Plan;
2. To formally contact unions, subcontractors, and trade associations which operate in the City to secure their cooperation for this program; and
3. To insure that project area business concerns which have been certified by the Department of Planning and Development are notified of pending sub-contractual opportunities in their NAICS code.

C. To provide a listing of all projected trainee and employee workforce needs for all phases of the project by occupation, trade, skill level and number of positions. An estimated number of Section 3 Residents to be utilized must be included to display steps directed to meeting the goals as follows:

1. To attempt to recruit from within the City the necessary number of Section 3 Residents through signage placed at the site for the project together with comprehensive media and institutional and organizational outreach as directed by the Department of Planning and Development; and
2. To maintain a list of names and addresses of all Section 3 Residents who have applied whether on their own or on referral from any source, and to employ such person, if otherwise eligible and qualified and if a vacancy exists.

D. To maintain records, including copies of correspondence, memoranda, payroll records, etc., to document that all of the above steps have been taken.

VI. CONTRACTOR SECTION 3 REPORTS

Each contractor under a Section 3 Covered Project shall be required to submit a Form D report as a performance measurement tool together with each request for payment under the Contract ("Section 3 Report"). All Section 3 Reports should contain the following information:

1. The total dollar amount of the Contract;
2. The total dollar amount of the Contract that has been received to date (prior to this progress payment) for the Contract;
3. The dollar amount of the Contract that has been awarded to date to Section 3 Businesses;
4. The total number of employees that have been hired to date as a result of performing the Contract;
5. The number of New Hires that have been hired to date as a result of the Contract and the number of Section 3 Residents in such New Hires;
6. The number of Section 3 Residents in such New Hires who are still working on the project; and
7. A narrative description of the specific actions that have been taken to date by the contractor, subcontractors, and others to ensure compliance with the Section 3 Plan.

FORM A
SECTION 3 RESIDENT PREFERENCE CLAIM FORM

THE CITY OF NEWBURGH
ELIGIBILITY FOR PREFERENCE

Eligibility for Preference

A section 3 resident seeking the preference in training and employment provided by this part shall certify, or submit evidence to the recipient contractor or subcontractor, if requested, that the person is a Section 3 resident, as defined in Section 135.5. (An example of evidence of eligibility for the preference is evidence of receipt of public assistance, or evidence of participation in a public assistance program.)

Certification for Resident Seeking Section 3 Preference in Training and Employment

I, _____, am a resident of the **City of Newburgh** and meet the income eligibility guidelines for a Section 3 Resident.

I reside at this address : _____

I have attached the following documentation as evidence of my status:

- | | |
|---|---|
| <input type="checkbox"/> Copy of lease/ deed | <input type="checkbox"/> Copy of receipt of public assistance |
| <input type="checkbox"/> Copy of Drivers license | <input type="checkbox"/> Previous Years Tax Return |
| <input type="checkbox"/> Copy of Evidence of participation in a public assistance program | <input type="checkbox"/> Other evidence |

Signature

Print Name

Date

FORM A, cont.

SECTION 3 INCOME LIMITS

All residents of public housing developments of the Newburgh Housing Authority qualify as Section 3 residents. Additionally, individuals residing in the City of Newburgh who meet the income limits set forth below, can also qualify for Section 3 status.

A picture identification card and proof of current residency is required. In addition, income tax returns from the previous tax year is required to document income.

Income Eligibility Guideline

Number in Household	Income less than 80% of Newburgh median	Household Income
1 individual	\$23,164.80	
2 individuals	\$29,938.40	
3 individuals	\$28,823.20	
4 individuals	\$32,935.20	
5 individuals	\$41,346.40	

FORM B
CERTIFICATION FOR BUSINESS CONCERNS SEEKING SECTION 3
PREFERENCE IN CONTRACTING AND DEMONSTRATION OF CAPABILITY

Name of Business _____

Address of Business _____

Type of Business: Corporation Partnership
 Sole Proprietorship Joint Venture

NAICS Code (see attached): _____

Attached is the following documentation as evidence of status:

For Business claiming status as a Section 3 resident-owned enterprise:

- Copy of resident lease Copy of receipt of public assistance
- Copy of evidence of participation Other evidence
 in a public assistance program

For business entity as applicable:

- Copy of Articles of Incorporation Certificate of Good Standing
- Assumed Business Name Certificate Partnership Agreement
- List of owners/stockholders and Corporation Annual Report
 % ownership of each Latest Board minutes appointing officers
- Organization chart with names and titles Additional documentation
 and brief function statement

For business claiming Section 3 status by subcontracting 25 percent of the dollar awarded to qualified Section 3 business:

- List of subcontracted Section 3 business(es) and subcontract amount

For business claiming Section 3 status, claiming at least 30 percent of their workforce are currently Section 3 residents or were Section 3 eligible residents within 3 years of date of first employment with the business:

- List of all current full-time employees List of employees claiming Section 3 status
- PHA/IHA Residential lease less than 3 Other evidence of Section 3 status less than 3
 years from day of employment years from date of employment

Evidence of ability to perform successfully under the terms and conditions of the proposed contract:

- Current financial statement
- Statement of ability to comply with public policy
- List of owned equipment
- List of all contracts for the past two years

Authorizing Name and Signature

(Corporate Seal)

Attested by: _____

FORM B, cont.
North American Industry Classification System

NAICS Codes	
236 Construction of Buildings	23813 Framing Contractors
2361 Residential Building Construction	23814 Masonry Contractors
238140 Masonry Contractors	23815 Glass and Glazing Contractors
236115 New Single-Family Housing Construction (except Operative Builders)	
236116 New Multifamily Housing Construction (except Operative Builders)	23816 Roofing Contractors
236117 New Housing Operative Builders	23817 Siding Contractors
236118 Residential Remodelers	23819 Other Foundation, Structure, and Building Exterior Contractors
2362 Nonresidential Building Construction	2382 Building Equipment Contractors
23621 Industrial Building Construction	23821 Electrical Contractors and Other Wiring Installation Contractors
23622 Commercial and Institutional Building Construction	23822 Plumbing, Heating, and Air-Conditioning Contractors
237 Heavy and Civil Engineering Construction	23829 Other Building Equipment Contractors
2371 Utility System Construction	2383 Building Finishing Contractors
23711 Water and Sewer Line and Related Structures Construction	23831 Drywall and Insulation Contractors
23712 Oil and Gas Pipeline and Related Structures Construction	23832 Painting and Wall Covering Contractors
23713 Power and Communication Line and Related Structures Construction	23833 Flooring Contractors
2372 Land Subdivision	23834 Tile and Terrazzo Contractors
2373 Highway, Street, and Bridge Construction	23835 Finish Carpentry Contractors
2379 Other Heavy and Civil Engineering Construction	23839 Other Building Finishing Contractors
238 Specialty Trade Contractors	23891 Site Preparation Contractors
2381 Foundation, Structure, and Building Exterior Contractors	23812 Structural Steel and Precast Concrete Contractors
23811 Poured Concrete Foundation and Structure Contractors	OTHER SEE – NAICS codes

*** A complete list of NAICS can be found at <http://www.census.gov/eos/www/naics/>. Please indicate if you would like to receive information regarding work conducted by the City of Newburgh within those industries*

FORM B(a)

BUSINESS EMPLOYEE LIST

COMPANY NAME _____
ADDRESS _____
TELEPHONE # () _____
FAX # () _____

- * List all full-time employees of the company.
- * Proof of program participation is required for all participants of Public Housing (PH) Section 8 or other federal assistance (FA) Programs

Employee Name	Address	Date of Hire	Fulltime or Part-time	Trade	Section 3 Resident (yes/no)	Public Housing resident (yes/no)

Legend: FT=Full Time PT= Part Time

TOTAL NUMBER OF EMPLOYEES: _____

By signing below you hereby certify to the City of Newburgh, New York and the Department of Housing and Urban Development (HUD) that the above information is true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional Misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

SIGNATURE: _____ DATE: _____

TITLE: _____

***Attach additional sheets where needed**

FORM C
SECTION 3 BUSINESS CONTRACTOR ECONOMIC OPPORTUNITIES PLAN

_____ (Contractor) agrees to utilize, and to implement the following specific steps directed at increasing the utilization of lower income residents and businesses within the City of Newburgh for a Section 3 Covered Project, as will be specified in the bid documents.

A. The following information related to subcontracts to be awarded.

1. An approximate number and dollar value of contracts to be awarded over the duration of the Section 3 Covered Project (this estimate should be broken down by type of business or profession); and
2. Based on an analysis of the estimated contract needs, a target number and value of contracts to be awarded to Section 3 Businesses (these targets should consider the availability of qualified Section 3 Residents);
3. Section 3 Businesses within the categories identified in the initial estimate of contract needs).

B. To implement a program or strategy for achieving the targets established for awards to Section 3 Businesses which would include the following steps:

1. To insert the Section 3 Clause in all requests for subcontractor proposals, and to require all bidders on subcontracts to submit a Section 3 Plan to the general contractor including utilization goals and the specific steps planned to accomplish these goals;
2. To formally contact unions, subcontractors, and trade associations in the City to secure their cooperation for this program; and
3. To insure that all appropriate project area business concerns, which are certified by the Department of Planning and Development are notified of pending sub-contractual opportunities.

C. A listing of all projected trainee and employee workforce needs for all phases of the project by occupation, trade, skill level and number of positions. An estimated number of Section 3 Residents to be utilized in these areas must be included to display steps directed to meeting the goals as follows:

1. To attempt to recruit from within the City the necessary number of Section 3 Residents through: Local advertising media, signs placed at the proposed site for the project together with comprehensive media and institutional and organizational outreach, as directed by the Department of Planning and Development, operating within or serving the project area.

2. To maintain a list of all Section 3 Residents who have applied whether on their own or on referral from any source, and to employ such person, if otherwise eligible and if a vacancy exists.

D. Maintain detailed records, including copies of correspondence, memoranda, etc., to document that all of the above steps have been taken.

By signing below you hereby Certify to the City of Newburgh, New York and the Department of Housing and Urban Development (HUD) that all information provided by you for this bid and under this contract (if awarded) be true to the best of your knowledge. You further certify that any vacant employment positions including apprenticeship and training positions, that are filled (1) after you are selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 and the attached Section 3 Plan require employment opportunities to be directed, shall not be filled to circumvent your obligations under such regulations and the Section 3 Plan. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

COMPANY NAME

PROJECT NAME

PROJECT NUMBER

SIGNATURE OF PERSON
COMPLETING FORM

PRINT NAME

DATE

FORM D
Section 3 Report

(to be filed at time of each request for payment or, at a minimum,
every two months from the date of signing a contract, whichever comes first)

1. Date:
2. Contract Name:
3. Project Description:
4. Contract Amount (\$):
5. Amount Received to Date (\$):
6. Amount Awarded to Date to Section 3 Businesses (\$):
7. Total # of Employees Hired as a Result of Performing Contract to Date:
8. Number of New Hires who have been hired to date as a result of the Contract:
9. Of such number of new hires in Question 8, the number of Section 3 Residents to date who have been hired:
10. Of such Section 3 Residents who have been hired, the number of whom are still working on the project:
11. Describe specific actions taken to date by contractor, subcontractors and others to ensure compliance with the Section 3 Plan

If the Section 3 goals below were not feasible to meet, provide written explanation / justification:

1) 30% of the aggregate number of New Hires for the Section 3 Covered Project shall be Section 3 Residents; and

2) 10% of the aggregate dollar amount of all covered contracts and subcontracts for the Section 3 Covered Project shall be awarded to businesses which are owned by at least 51% Section 3 Residents and whose permanent, full-time employees include persons at least 30 percent of whom are currently Section 3 Residents or within three years of the first employment with the firm were Section 3 Residents ("Section 3 Businesses")

Signature _____

Date of Person Completing the Form: _____

Request Approved Denied (circle one)

Department of Planning & Development

Date

If Denied, Corrective Action Required:

FORM D(a)

SECTION 3 BUSINESS CONTRACTOR OR SUBCONTRACTOR PAYROLL REPORT
SECTION 3 PERMANENT, FULL-TIME EMPLOYEES ONLY

Submit documentation for each current public housing or other Section 3 Resident

EMPLOYEE NAME	EMPLOYMENT START DATE	HOURS PER WEEK

By signing below you hereby certify to the City of Newburgh New York and the Department of Housing and Urban Development (HUD) that the above information is true to the best of your knowledge. Federal statutes provide severe penalties for any fraud, intentional misrepresentation, or criminal connivance or conspiracy purposed to influence the issuance of any federal assistance.

COMPANY NAME:

PRINT NAME:

AUTHORIZED COMPANY TITLE:

SIGNATURE:

DATE:

***Attach additional sheets when necessary**



Complying with Section 3 Requirements

For State and Entitlement CDBG Grantees



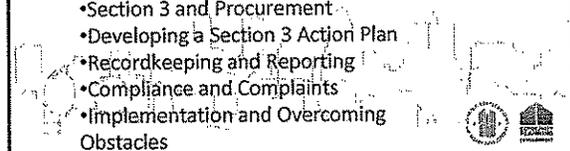
Introductions

- Training is sponsored by HUD Office of Block Grant Assistance through a contract with Abt Associates
- Presented by David Shaffer
Executive Director
All Mission Indian Housing Authority
Temecula, California



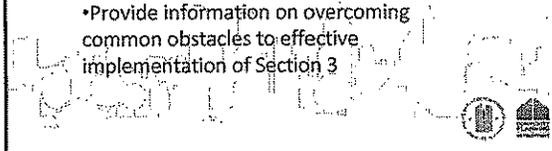
Agenda

- Background and Purpose of Section 3
- Section 3 Covered Programs and Activities
- Section 3 Residents and Businesses
- Grantee Goals and Responsibilities
- Employment Opportunities and Contract Awards
- Section 3 and Procurement
- Developing a Section 3 Action Plan
- Recordkeeping and Reporting
- Compliance and Complaints
- Implementation and Overcoming Obstacles

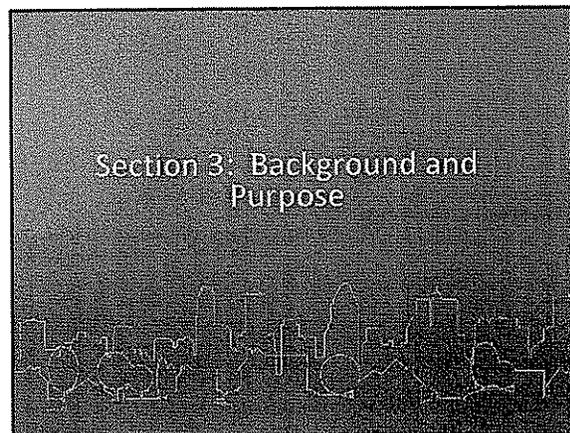


Training Objectives

- Help participants develop a clear understanding of the requirements of Section 3 as they apply to CDBG grantees
- Determine how best to develop strategies and plans for effectively complying with Section 3 requirements
- Provide information on overcoming common obstacles to effective implementation of Section 3

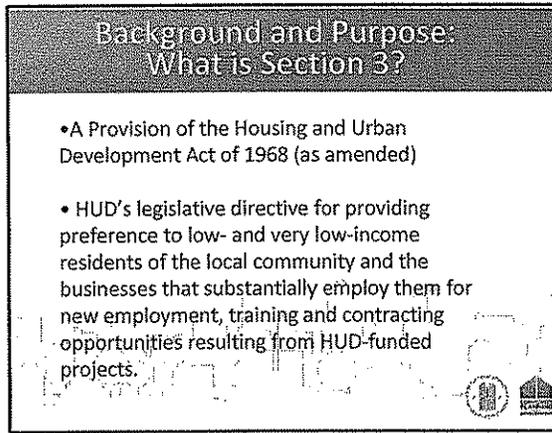


Section 3: Background and Purpose



Background and Purpose: What is Section 3?

- A Provision of the Housing and Urban Development Act of 1968 (as amended)
- HUD's legislative directive for providing preference to low- and very low-income residents of the local community and the businesses that substantially employ them for new employment, training and contracting opportunities resulting from HUD-funded projects.



Background and Purpose continued

- Section 3 directs recipients of certain HUD program funding to give preference for training and employment opportunities arising from those programs to local low-income residents *"to the greatest extent feasible"*



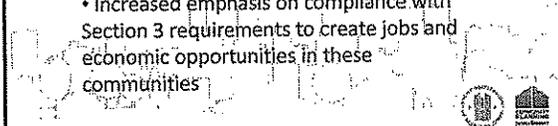
Background and Purpose continued

- Section 3 also directs recipients to give preference in awarding contracts to businesses owned by or employing local, low-income residents *"to the greatest extent feasible"*
- Recipients of Section 3 covered assistance must make every effort to recruit, target and direct economic opportunities to Section 3 residents and businesses



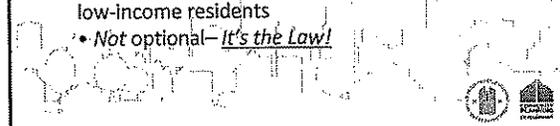
Section 3 Context

- HUD funds are often one of the largest sources of federal investment in distressed communities
- Section 3 is designed to foster local economic development and improvement and individual self-sufficiency in these communities
- Increased emphasis on compliance with Section 3 requirements to create jobs and economic opportunities in these communities



What Section 3 is ***NOT***...

- *Not* race or gender specific
- *Not* an entitlement for eligible individuals and businesses
- *Not* MBE/WBE (though an MBE or WBE may also qualify as a Section 3 business)
- *Not* a guaranty of jobs for low- and very low-income residents
- *Not* optional— *It's the Law!*

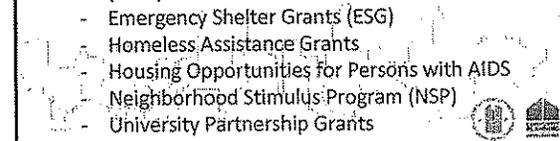


Section 3 Covered Programs and Activities



What HUD Programs are Covered by Section 3?

- Public and Indian Housing
- Housing and Community Development Programs:
 - CDBG
 - Home Investment Partnership
 - Economic Development Initiative (EDI)
 - Brownfields Economic Development Initiative (BEDI)
 - Emergency Shelter Grants (ESG)
 - Homeless Assistance Grants
 - Housing Opportunities for Persons with AIDS
 - Neighborhood Stimulus Program (NSP)
 - University Partnership Grants



Section 3 Covered Activities

- Housing Rehabilitation
 - including lead-based paint abatement
- Housing Construction
- Infrastructure development
- Demolition
- Construction of other public facilities
- Non-construction projects including
 - Maintenance contracts
 - HVAC
 - Other professional service contracts



Section 3 Thresholds for CDBG

- Section 3 requirements apply to recipients of CDBG funding exceeding \$200,000 (in any fiscal cycle)
- Section 3 applies to all projects involving "covered activities," regardless of whether they are fully or partially funded with CDBG
- Section 3 requirements do not apply on a "per project" basis
- The threshold applies to the total amount of HUD assistance received, not just the amount spent on covered activities



Section 3 Thresholds for CDBG continued

- Section 3 requirements apply to contractors or subcontractors with contracts exceeding \$100,000 (for covered activities)
- The requirements apply to each individual contract that meets the threshold
- If no individual contract exceeds \$100,000, Section 3 responsibilities apply only to the recipient agency (if funding exceeds \$200,000)



Triggering Section 3 Requirements

- Section 3 requirements are triggered when a covered project creates the need for new employment, contracting or training opportunities.
- Recipients are not required to hire Section 3 residents or award contracts to Section 3 businesses other than what is needed to complete covered projects/activities



Triggering Section 3 Requirements

- If the expenditure of covered funding does not result in new employment, training or contracting, Section 3 requirements *are not triggered*, but the recipient must still submit reports indicating that the requirements were not triggered.
- Section 3 requirements *do not apply* to material only contracts



Section 3 Residents

Definitions – Section 3 Resident

A "Section 3 Resident" is defined as:

- A resident of Public Housing or Indian Housing

OR

- A resident of the metro area or non-metropolitan county in which the Section 3 covered assistance is expended

AND

- a low-income (80% of median) or very low-income (50% of median) person



Order of Preference for Section 3 Residents

Section 3 residents receive preference for training and employment opportunities generated by CDBG-funded projects and activities based on the following order:

- Residents of the service area or neighborhood in which the covered project is located (category 1 residents)*
- Participants in HUD Youthbuild programs (category 2 residents)
- Other Section 3 residents

*Note that where projects also receive Homeless Assistance grants, highest priority should be given to homeless persons residing in the project service area or neighborhood.



Sample Resident Self-Certification Form

A sample form titled "SAMPLE SECTION 3 RESIDENT PREFERENCE CERTIFICATION". The form contains several sections for a resident to fill out, including "Public Housing", "Section 3 Resident", "Service Area/Neighborhood", "HUD Youthbuild Program", and "Other Section 3 Resident". It also includes a section for "Signature of Resident" and "Date". The form is numbered "23" in the bottom left corner.

Section 3 Businesses

Definitions: Section 3 Business Concern

A Section 3 Business Concern is defined as one that:

- is 51% or more owned by Section 3 Residents

OR

- whose permanent, full-time staff is comprised of at least 30% Section 3 Residents

OR

- has committed 25% of the dollar amount of its subcontracts to Section 3 Businesses



Order of Preference for Section 3 Business Concern

For CDBG-funded activities, priority should be given to Section 3 Business Concerns as follows:

- Section 3 businesses providing economic opportunities for Section 3 residents in the service area or neighborhood in which project is located
- Applicants selected to carry out HUD Youthbuild programs
- Other Section 3 businesses



Numerical Goals

- **Employment:**
30 Percent of new full-time hires or three out of ten new hires annually, should be qualified Section 3 Residents
- **Contracts:**
10 percent of the total dollar amount of all Section 3 covered contracts for building trades work
Three percent of the total dollar amount of all other contracts, such as professional services



Numerical Goals continued

- Numerical goals are minimum targets to be reached for compliance
- Recipient agencies are required to make best efforts to achieve these goals for employment and contracting
- If recipient fails to meet goals, they must adequately document all efforts made to meet those goals



Grantee Responsibilities

- Grantees must ensure their own compliance and the compliance of their contractors and subcontractors with the Section 3 regulations at 24CFR Part 135.32 including:
- Implement procedures to ensure that all parties comply with Section 3
 - Facilitate training and employment of Section 3 residents
 - Facilitate award of contracts to Section 3 businesses
 - Incorporate the Section 3 clause into all covered solicitations and contracts



Grantee Responsibilities continued

- Ensure contractor and subcontractor awareness of Section 3 goals and responsibilities
- Ensure compliance and meet numerical goals
 - Assess hiring and subcontracting needs
 - Monitor contractor compliance
 - Assist and actively cooperate with HUD to obtain compliance



Grantee Responsibilities continued

- Penalize non-compliance
 - Provide incentives for good performance
 - Refrain from contracts with contractors who previously failed to comply
- Document all actions taken to comply with Section 3 requirements
- Submit Section 3 annual summary report (HUD form 60002)



Grantee Responsibilities continued

- States and counties that distribute funds to other units of local government, nonprofit organizations or other subrecipients must also do the following:
 - Inform subrecipients about Section 3 requirements
 - Assist subrecipients and their contractors in achieving compliance
 - Monitor subrecipients' performance regarding Section 3 requirements
 - Report to HUD on cumulative Section 3 activities annually



Employment Opportunities and Contract Awards

Efforts to Offer Training and Employment Opportunities

- Entering into "First Source" hiring agreements
- Sponsoring or establishing training and employment programs for Section 3 residents
- Expanded advertising of employment and training positions in the project service area or neighborhood
- Contacting resident councils and/or community organizations to assist in notifying residents
- Sponsoring a job fair or informational meeting for residents

Efforts to Offer Training and Employment Opportunities

- Provide assistance in job-seeking skills to Section 3 residents
- Provide for on-site applications and interviews
- Consult with local employment service providers
- Employ a job coordinator
- Coordinate activities with local educational institutions
- Maintain file of eligible, interested applicants

Efforts to Award Contracts to Section 3 Businesses

- Contact business assistance agencies, minority contracting associations and community organizations to inform them of opportunities and seek assistance in identifying eligible businesses
- Provide bid notices to all known Section 3 businesses
- Develop a Section 3 business communication network

Efforts to Award Contracts to Section 3 Businesses

- Emphasize Section 3 at pre-bid conferences
- Conduct contractor workshops
- Provide small business technical assistance or link Section 3 business to organizations that provide TA services
- Expand advertising
- Facilitate participation by Section 3 businesses through scheduling and by breaking out contract work items, where appropriate
- Notify Youthbuild agencies of contracting opportunities

Efforts to Award Contracts to Section 3 Businesses

- Establish numerical goals for award of contracts to Section 3 businesses
- Encourage financial institutions to comply with their CRA requirements by making loans to Section 3 businesses
- Actively support joint ventures with Section 3 businesses
- Support business incubators which assist Section 3 businesses

Section 3 and Procurement

Impact of Section 3 on Procurement

- Section 3 requirements do not recommend a specific method of procurement or supercede the requirements of 24CFR part 85
- States and local governments must comply with the requirements of Part 85 in determining procurement methods
- The regulations provide procedures that may be followed for each of the procurement methods
- Section 3 encourages geographic preference in the evaluation of bids and proposals to the greatest extent feasible.

Small Purchase Procurement Procedures

- For contracts of \$25,000 or less
- Solicit minimum of three quotes (or document circumstances when three are not available)
- When award is based on lowest price:
 - Award to qualified Section 3 business within 10 % of lowest bid
 - If no Section 3 bid within 10%, award to lowest bidder

Small Purchase Procurement Procedures - continued

- When award is based on other factors:
 - Issue request for quotations including rating system
 - 15-25% of rating points can be set aside for Section 3 preference
 - Identify all factors to be considered
 - Make award based on best quote, considering price and all other factors in rating system

Sealed Bid Procurement Procedures

- Solicit bids from Section 3 and non-Section 3 businesses
- Award to qualified Section 3 business with highest priority ranking and lowest responsive bid if:
 - Bid is within maximum total contract price established in solicitation
 - Bid is not more than "X" higher than the total bid price of the lowest responsible bidder
- If no Section 3 responsive bid, award to the lowest responsive bidder

Competitive Proposal Procurement Procedures

- Issue RFP identifying all evaluation factors and relative importance
 - Evaluation factor shall address Section 3 business preference and strategy for meeting "greatest extent feasible" requirement
 - Section 3 preference component must be consistent with order of priority described in 24CFR 135.36

Competitive Proposal Procurement Procedures

- RFP should require disclosure of strategy for meeting training and employment preference or contracting preference or both, if applicable
 - Provide range of 15-25% of the total available points to be set aside for these two components
- Make award to responsible firm with most advantageous proposal, considering price and all other factors in RFP

Suggested Bid Package Documents

- The Section 3 Clause
- Section 3 Business concern certification
- Training plan worksheet
- Section 3 resident certification
- Existing Employee Certification.

Section 3 Clause

All covered contracts must include the Section 3 Clause, including the following:

- The work to be performed is subject to Section 3 requirements
- The parties must agree to comply with Section 3 regulations
- The contractor must agree to inform all labor organizations (collective bargaining entities) of Section 3 obligations

Section 3 Clause continued

- Section 3 clause must be included in all subcontracts
- Contractors and subcontractors must fill positions in compliance with Section 3 without circumventing obligations
- All parties must acknowledge consequences for non-compliance

Developing a Section 3 Action Plan

Developing a Section 3 Action Plan

- Action plan is critical to successful implementation of Section 3 requirements
- Should address purpose, goals, policy, procedures and requirements
- Plan is not required by regulations

Developing a Section 3 Action Plan - continued

- Goals of Section 3 action plan may include:
 - Resident outreach
 - Business/contractor outreach
 - Resident and business certification
 - Commitment(s) from outside service providers
 - Identification of barriers
 - Program promotion
 - Timelines, milestones, deliverables



Developing a Section 3 Action Plan - continued

- Step 1 – Develop a mission statement
- Step 2 – Determine information needs
- Step 3 – Establish goals
- Step 4 – Develop an administrative plan
- Step 5 – Develop a record keeping and reporting system
- Step 6 – Develop a system for measuring effectiveness of the plan
- Report is due at same time as CAPER



Section 3 Reporting and Recordkeeping

Annual Summary Report

- Intended to measure each recipient's efforts to comply
- Also measures efforts of covered contractors, subcontractors and subrecipients
- Follows same program, fiscal, or calendar year as the annual performance report
- Should correspond to the covered projects and activities administered during the reporting period



Annual Summary Report continued

- Report submission includes the following:
 - Total amount of HUD funding for covered projects/activities
 - Total number of new employees hired
 - Total number of new hires that qualify as Section 3 residents
 - Total number of Section 3 residents that participated in training opportunities



Annual Summary Report continued

- Total amount of construction and/or non-construction contracts awarded with covered funding
- Total amount of construction or non-construction contracts awarded to Section 3 businesses
- Detailed narrative description of specific actions taken to comply with Section 3 requirements and/or meet numerical goals
- Recipients that fail to meet goals bear burden of demonstrating why it was not possible to do so



Annual Summary Report Submission

- All recipients of Section 3 covered funds are required to submit HUD form 60002 annually to the HUD Office of Fair Housing and Equal Opportunity (FHEO).
- Report must be submitted by all grantees that receive CDBG funding in excess of \$200,000, **whether or not Section 3 requirements were triggered**
- Recipients must submit a separate form for each type of covered funding, e.g. CDBG, HOME, ESG



Annual Summary Report Submission continued

- For CDBG grantees, the report is due at the same time as CAPER or PER (for state grantees)
- If no CAPER/PER is required, report is due by January 10 of each year or within 10 days of project completion
- FHEO **strongly recommends** online submission at www.hud.gov/section3



Annual Summary Report Submission continued

- Hard copies can be submitted via mail or fax to HUD Economic Opportunity Division
- Recipients that do not submit the Annual Summary Report in a timely manner may be in noncompliance with Section 3



Section 3 Compliance

Section 3 Compliance

- Grantees are required to comply with HUD's regulations at 24CFR Sec. 135.32.
- To demonstrate compliance, grantees must:
 - Collect reports on all new hires/trainees
 - Document the number and types of contracts awarded to Section 3 businesses



Section 3 Compliance continued

- Grantees must enforce Section 3 requirements for all covered projects and contracts.
- Require the Section 3 Clause in all covered contracts
 - Collect information on all planned hiring, training and contracting



Section 3 Compliance continued

- Require timely completion of all forms/reports on new hires, trainees and award of contracts and subcontracts
- Subgrantees and subrecipients are also required to comply with the applicable regulations (24CFR Sec. 135.32).
- Contractors and subcontractors must also comply by producing reports on new hires/trainees and reports on subcontracts



Section 3 Compliance: Reports on New Hires

- Covered contractors must:
 - Prepare a new hire report each time a new employee is hired
 - Indicate whether or not the new employee is a Section 3 resident
 - Submit the report to the grantee/recipient of the covered funding



Section 3 Compliance: Reports on Trainees

- Covered contractors must:
 - Prepare a new trainee report each time a new trainee is enrolled
 - Indicate whether or not the new trainee is a Section 3 resident
 - Submit the report to the grantee/recipient of the covered funding



Section 3 Compliance: Reports on Subcontracts

- Covered contractors must:
 - Prepare a Section 3 contract/subcontract report each time a contract is awarded
 - Indicate whether or not the awardee is a Section 3 business
 - Submit the report to the grantee/recipient of the covered funding



Section 3 Compliance: Reports on Subcontracts

- Contractors, developers, sponsors or any other subrecipient should submit a list of all existing subcontracts to the grantee/recipient at the time of contract award
- Indicate whether or not existing subcontractors are Section 3 businesses



Compliance Review

- HUD receives annual reports from recipients, monitors performance of contractors and investigates complaints
- HUD examines employment and contract records for evidence of actions taken to train and employ Section 3 residents and to award contracts to Section 3 businesses
- Recipients must keep records of all efforts made to comply with Section 3



Safe Harbor and Compliance Determinations

- Document the agency's achievements in meeting numerical goals, or
- Demonstrate why it was not feasible to meet the numerical goals and provide justification to include impediments encountered, despite actions taken.



Indications of NonCompliance With Section 3

- Failure to
 - Meet numerical goals
 - Ensure that contractors and subcontractors comply with Section 3
 - Notify Section 3 businesses about opportunities
 - Incorporate the Section 3 clause in solicitations and contracts
 - Provide preference to Section 3 residents and businesses as evidenced by employment, training and contract awards



Consequences of Non-Compliance

- Noncompliance with Section 3 requirements may result in:
 - Sanctions
 - Termination of contract for default
 - Debarment, and
 - Suspension from future HUD contracts.



Section 3 Complaints

Complaint Process

- Section 3 residents, businesses or their representatives may file a complaint, in writing, with the HUD Office of Economic Opportunity
- Complaints must be received no later than 180 days from the date of action or omission
- If more information is needed, HUD shall request it
- If requested information is not provided within 60 days, complaint may be closed



Complaint Process

- Within 10 days, a determination is made of legitimacy of complaint
- If legitimate, recipient/grantee has 60 days to resolve
- If unresolved after 60 days, complaint may be referred to office of Assistant Secretary for Fair Housing and Equal Opportunity.



Required Contents of Complaint

- Written complaints should contain:
 - Name and address of complainant
 - Name and address of subject of complaint
 - Description of acts or omissions in alleged violation of Section 3 requirements
 - Statement of corrective action sought

Applicability of Section 3 to Community Development Programs

Applicability to Community Development Programs

Example:

- The State of Alaska received \$3.1 million in FY 2010 state CDBG program funding.
- Section 3 applies to all construction related projects generated from that funding.
- The Township of XYZ received \$210,000 in CDBG funding from the state.
- All construction related activity generated from that funding source is covered, regardless of project size. This includes a \$30,000 single family housing rehab project.

Applicability of Section 3 continued

A contractor is awarded five separate contracts of \$60,000 each to rehab five houses.

- Section 3 applies to the Grantee since the total grant is more than \$200,000. If the contracts are awarded separately, the contractor does not share the responsibility since each contract is under \$100,000.
- However, the Grantee is still responsible for meeting its Section 3 goals, so it should award 10% of its contracts to Section 3 qualified businesses

Applicability of Section 3 continued

A subrecipient is awarded \$175,000 to develop a house and hires a general contractor for \$130,000.

- The subrecipient is exempt from Section 3 since the grant is less than \$200,000.
- The contractor is also exempt from Section 3 since the subrecipient is exempt.

Section 3 Implementation

Strategies for Implementation

- Adopt and execute a Section 3 Plan that fully describes all policies, procedures and requirements
- Network and collaborate with local housing authority and training providers in target areas.
- Designate responsibility to "Section 3 Coordinator"



Overcoming Obstacles to Implementation

- **Our contractors say that Section 3 requirements are too complicated.**
- Review the Section 3 requirements for each contract during the pre-bid conference
- Set clear numeric goals based on the actual contract amount and number of new hires anticipated
- Put the requirements and goals in writing.



Overcoming Obstacles Continued

- **Our contractors do not take Section 3 seriously.**
- Require a Section 3 progress report with each draw request
- Require a final report in order to release a final draw retainage payment
- Restrict participation from future contracting for non-compliance
- Refer deliberate acts of noncompliance to HUD



Overcoming Obstacles continued

- **Our contractors are small businesses and use the same crew for all their work. They say they do not have new hires.**
- New hires, including rehires, are any employees who are added to the payroll full-time to work on a contract
- To "the greatest extent feasible" one out of three of these new hires must be Section 3 residents



Overcoming Obstacles continued

- **Our Section 3 program has not resulted in any Section 3 contracts or new hires.**
- Partner with a workforce program, housing authority, minority business program, small business incubator, contractor training program, community college, etc. that serves residents of the area
- Conduct training for contractors who want to work in target areas. Have the partner make a presentation about training opportunities.



Overcoming Obstacles Continued

- **In our rural county, we are working with Section 3 residents and businesses from other areas.**
- First preference must go to residents and businesses in your area, then to those from other areas.



Case Studies and Best Practices

- City of Valdosta, Georgia
- Commonwealth of Pennsylvania



Section 3 – 2011 Initiatives

- Increase Section 3 reporting rates, overall compliance and enforcement for noncompliance
- Provide more training and technical assistance.
- Updates to reporting forms and online reporting
- Section 3 Coordination and Implementation NOFA
- Pilot program – Section 3 Business Concern Registry – demonstration in 5 cities:

New Orleans

Detroit

Los Angeles

Miami

Washington, D.C.



Resource Information

- U.S. Department of Housing and Urban Development (HUD) links to Section 3 help:

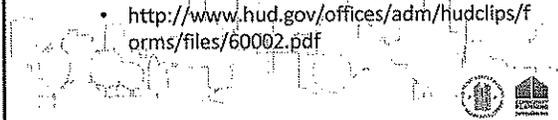
– www.hud.gov/section3

- **Section 3 Regulations:**

- http://www.access.gpo.gov/nara/cfr/waisidx_98/24cfr135_98.html

- **HUD Form 60002:**

- <http://www.hud.gov/offices/adm/hudclips/forms/files/60002.pdf>



RESOLUTION NO.: 193-2011

OF

SEPTEMBER 26, 2011

A RESOLUTION AUTHORIZING THE EXECUTION
OF A RELEASE OF RESTRICTIVE COVENANTS AND RIGHT OF RE-ENTRY
FROM A DEED ISSUED TO STEVE I. SMITH
TO THE PREMISES KNOWN AS 98 CARTER STREET
(SECTION 22, BLOCK 1, LOT 38)

WHEREAS, on February 4, 2010, the City of Newburgh conveyed property located at 98 Carter Street, being more accurately described on the official Tax Map of the City of Newburgh as Section 22, Block 1, Lot 38, to Steve I. Smith; and

WHEREAS, Mr. Smith 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.

RESOLUTION NO.: 194 - 2011

OF

SEPTEMBER 26, 2011

RESOLUTION AMENDING RESOLUTION NO: 264-2010,
THE AMENDED 2011 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK
TO TRANSFER \$10,000.00 FROM PONDS AND RESERVOIRS, OTHER SERVICES
TO ENGINEERING DEPARTMENT, CONSULTANT
FOR THE BROWN'S POND RAW WATER TRANSMISSION SYSTEM PROJECT

BE IT RESOLVED, by the Council of the City of Newburgh, New York, that Resolution No: 264-2010, the 2011 Amended Budget of the City of Newburgh, is hereby amended as follows:

		<u>Decrease</u>	<u>Increase</u>
Ponds and Reservoirs			
Other Services	F.8320.0448	\$10,000.00	
Engineering			
Consultant	A.1440.0455		\$10,000.00

RESOLUTION NO.: 195 - 2011

OF

SEPTEMBER 26, 2011

**A RESOLUTION AUTHORIZING THE CITY MANAGER
TO EXECUTE A LETTER AGREEMENT WITH BARTON & LOGUIDICE, P.C.
FOR PROFESSIONAL ENGINEERING SERVICES IN CONNECTION WITH THE
STARTUP OF THE BROWNS POND RAW WATER TRANSMISSION SYSTEM
AND THE CLOSE-OUT OF THE CONSTRUCTION CONTRACTS FOR THE PROJECT
AT A COST NOT TO EXCEED \$9,900.00**

WHEREAS, this Council, by Resolution No. 189-2010 of August 9, 2010 authorized the City Manager to execute a letter agreement with Barton & Loguidice, P.C. for professional engineering services in connection with the Brown's Pond Raw Water Transmission System evaluation; and

WHEREAS, it has become necessary to implement the next phase of the project by entering into a letter agreement with Barton & Loguidice, P.C. to assist with the startup of the Brown's Pond Raw Water Transmission System and close-out the City's construction contracts for the project; and

WHEREAS, the appropriate City departments have reviewed the proposal from Barton & Loguidice, P.C. to perform such engineering services at a cost not to exceed \$9,900.00; and

WHEREAS, funding for such project shall be derived from the Engineering Department's Consultant line, A.1440.0455; and

WHEREAS, this Council has reviewed the same and has determined that entering into the letter agreement is in the best interests of the City of Newburgh and its further development;

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to execute a letter agreement with Barton & Loguidice, P.C. for professional engineering services in connection with the startup of the Browns Pond Raw Water Transmission System and the close-out of the construction contracts for the project at a cost not to exceed \$9,900.00.

April 8, 2011

Craig Marti, P.E., City Engineer
City of Newburgh
123 Grand Street
Newburgh, New York 12550

Re: Browns Pond Raw Water Transmission System – Startup Assistance and Construction
Contract Close-out
Proposal for Engineering Services

File: 1352.001.001

Dear Mr. Marti:

Barton & Loguidice (B&L) is pleased to provide this proposal to assist the City of Newburgh with startup of the Browns Pond Raw Water Transmission System and close-out of the City's construction contracts for the project. The services proposed are the next step in implementation of the recommendations provided in the March, 2011 report prepared by B&L entitled Browns Pond Raw Water Transmission System Evaluation.

Generally, the conclusions of our analysis of the raw water transmission system were that the basic components were in place to serve the purpose of pumping water from Browns Pond to the treatment plant, but the controls system needed to be completed and programmed; and the system startup / shakedown needed to be completed. Contractually, the electrical contract needed to be completed and closed out.

Barton & Loguidice proposes to provide the City with the following scope of services:

- 1. B&L will review construction contract documents as made available by the City to understand contractual requirements of the electrical and system integration contractors and the general contractor.**
- 2. Meet with the electrical and systems integration contractor, and the general contractor:** B&L will coordinate a meeting with the contractors to review the project work completed to date, and to define the work remaining. Control hardware and programming requirements will be reviewed to verify that components are in place to implement the required outcomes. Programming requirements will be discussed and documented. Startup obligations of each contractor will be reviewed.
- 3. Prepare remaining work summary:** B&L will prepare a summary of remaining work to be performed by each contractor. The summary will be circulated to all involved parties for acceptance. We will coordinate scheduling for the work with the contractors and the City.
- 4. Prepare a draft startup and shakedown plan:** B&L will prepare a plan for startup of the raw water transmission system. The plan will define the sequence of operations for

The experience to **listen.**
The power to **solve.**

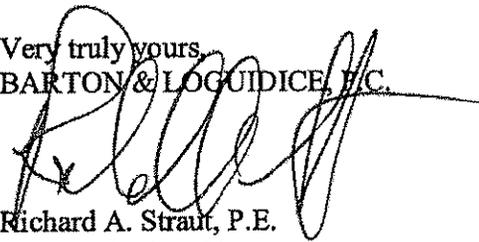


- startup, test and evaluation parameters, roles and responsibilities of each participant. The DRAFT plan will be circulated to the contractors and the City for review and acceptance. B&L will coordinate scheduling for the startup plan.
5. **B&L will meet with the contractors and the City to review and verify the startup plan requirements.**
 6. **Provide on-site consultation and documentation during startup:** B&L will provide on-site consultation during startup of the facilities. One engineer from B&L will be on-site during the startup to consult with the contractors and City personnel, and to document performance during startup operations.
 7. **Prepare a startup report:** B&L will prepare a letter report summarizing the results and observations during startup.
 8. **Provide an opinion regarding contractor's completion of contract work:** Upon completion of the startup regimen, B&L will provide an opinion to the City regarding the contractor's completion of work under their contracts. This will be based on observations of completed work that B&L makes in the field. A comprehensive inspection of completed work is not included in this task (e.g. buried pipe will not be dug up for inspection, and pressure testing will not be undertaken.) Acceptability of work completed prior to B&L's involvement will be based on inspection reports made available by the City from the original construction.

Given the nature of this project – specifically, that the City staff and B&L are closing out a project that was substantially completed by others – there is uncertainty in defining the full effort that will be required to bring the project to successful completion. We estimate that it will likely require approximately 100 hours of B&L staff time to fulfill the scope of services defined above. Therefore, Barton & Loguidice proposes to assist the City with startup and contract close-out of the project on an hourly rate basis plus expenses. We propose an initial authorization of \$9,900, which we would not exceed without further authorization by the City.

Thank you for this opportunity to be of continued service to the City of Newburgh. We look forward to working with the City to strengthen its water system.

Very truly yours,
BARTON & LOGUIDICE, P.C.



Richard A. Straut, P.E.
Senior Vice President

RAS/

RESOLUTION NO.: 187 - 2011

OF

SEPTEMBER 26, 2011

RESOLUTION SCHEDULING A PUBLIC HEARING
FOR OCTOBER 11, 2011 TO HEAR PUBLIC COMMENT
CONCERNING A LOCAL LAW ADDING CHAPTER 137 ENTITLED
"COLLATERAL LOAN BROKERS" TO THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York, that there is hereby scheduled a public hearing to receive comments concerning "A Local Law Adding Chapter 137 entitled 'Collateral Loan Brokers' to the Code of Ordinances of the City of Newburgh"; and that such public hearing be and hereby is duly set for the next regular meeting of the Council to be held at 7:00 p.m. on the 11th day of October, 2011, in the 3rd Floor Council Chambers, 83 Broadway, City Hall, Newburgh, New York.

LOCAL LAW NO.: _____ - 2011

OF

A LOCAL LAW ADDING CHAPTER 137 ENTITLED
"COLLATERAL LOAN BROKERS"
TO THE CODE OF ORDINANCES
OF THE CITY OF NEWBURGH

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

SECTION 1 - TITLE

This Local Law shall be referred to as "A Local Law Adding Chapter 137 entitled 'Collateral Loan Brokers' to the Code of Ordinances of the City of Newburgh".

SECTION 2 - PURPOSE AND INTENT

The purpose of this local law is to promote the public health, safety and welfare of the City of Newburgh by regulating and collateral loan brokers to protect the property rights of its residents and to assist law enforcement in the recovery of stolen property and the identification of suspects.

SECTION 3 - AMENDMENT

The Code of Ordinances of the City of Newburgh is hereby amended to add new Chapter 137 entitled "Collateral Loan Brokers" to read as follows:

"CHAPTER 137, COLLATERAL LOAN BROKERS

§137-1 Definitions.

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

COLLATERAL LOAN BROKER - Any person loaning money on deposit or pledge of personal property, other than securities or printed evidences of indebtedness; dealing in the purchase of personal property on condition of selling back at a stipulated price; or designated or doing business as furniture storage warehousemen, and loaning and advancing money upon goods, wares or merchandise pledged or deposited as collateral security; a pawnbroker.

§173-4 Bond Required.

The license application shall be accompanied by a bond to the City of Newburgh, approved as to form by Corporation Counsel, in the penal sum of \$10,000.00, with two responsible sureties or sufficient collateral security, conditioned on the faithful performance of the duties and obligations pertaining to the business so licensed, the due observance during the term of the license of any and all ordinances and laws which are now in force or may be hereafter be adopted or enacted respecting the business of collateral loan broker as defined in Section 173-1 of this Chapter, and the accounting for and paying over of all moneys which the licensee shall be liable to pay as such collateral loan broker to the City of Newburgh.

§ 173-5 Issuance or Denial of License; contents; reapplication after rejection.

A. Upon the filing of the application, bond and information as provided in this Chapter, the City Manager may, upon his/her approval of such application and bond as to the sufficiency of the sureties or collateral securities, and upon the payment to the city of the license fee hereinafter provided, direct the City Clerk to issue to the applicant a license to engage in the business as provided in Section 173-2 of this Chapter. No license shall be denied except for specific reason and for the protection of the public safety or welfare.

B. All licenses shall be numbered in the order in which they are issued and shall state clearly the location of the place of business in which the person receiving such license shall be authorized to establish, engage in and carry on the business, the kind of business, the dates of issuance and expiration of the license, the fees paid and the name and address of the licensee.

C. No applicant to whom a license has been denied shall make further or additional application until a period of at least six months shall have elapsed since the last previous denial, unless he/she can demonstrate that the reason for such denial no longer exists.

§ 173-6 License fee; renewal new licenses; non-transferability; duplicate licenses.

A. Every collateral loan broker shall pay an annual license fee as set forth in Chapter 163, "Fees" of the Code of Ordinances of the City of Newburgh.

B. All renewal licenses shall be issued as of January 1 and shall continue in force until the following December 31, unless otherwise revoked by the City Manager in accordance with this Chapter.

C. New licenses shall be issued as of the date of the approval by the City Manager, to be effective until the next succeeding December 31, and the annual fee shall be paid to cover the period of the new license.

General Business Law of the State of New York. No entry in such book shall be erased, obliterated, altered or defaced.

§ 173-10 Report to City of Newburgh Police Department.

Every collateral loan broker shall, at such times as the Police Chief may prescribe in a written notice, to be served upon such collateral loan broker by a sworn member of the Police Department, report to the Police Department, on blank forms to be furnished by the Police Department, a description of all goods, articles or things, or the identity or proof of ownership of pledgers, such as is required to be kept under Section 173-9 of this Chapter, which have been pawned or pledged in the course of business of the collateral loan broker during the days specified in such notice and, if such notice from the Chief of Police so prescribes, such collateral loan broker shall, at that time and until he/she is so notified to discontinue so doing, keep and furnish on such blank forms such information, as well as a general description of every person depositing such pledge.

§ 173-11 Note Required for Redemption.

Every licensed collateral loan broker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things a memorandum or note signed by him/her containing his/her address and the substance of the entry required to be made or received by any collateral loan broker for any such entry, memorandum or note. The holder of such memorandum or note shall be presumed to be the person entitled to redeem the pledge, and the collateral loan broker shall deliver such article to the person so presenting such memorandum or note upon payment of principal and interest; should such memorandum or note be lost or mislaid, the pawner shall at once apply to the collateral loan broker, in which case it shall be the duty of the collateral loan broker to permit such person to examine his/her books, and upon finding the entry for such memorandum or note so lost and upon giving to the collateral loan broker an exact description of the article pawned, the collateral loan broker shall issue a second or stop ticket for the same. In case such pawner neglects to so apply and examine such books and receive such memorandum or note in the manner above stated, the collateral loan broker shall be bound to deliver the pledge to any person producing such memorandum or note for redemption thereof. This section is not to be construed as in any manner limiting or affecting such collateral loan broker's common-law liability in cases where goods are stolen or other legal defects of title exist in the pledge.

§ 173-12. Rate of Interest.

A. No collateral loan broker shall ask, demand or receive any greater rate of interest than four per centum per month, or any fraction of a month, and a notice containing a list of such rates of interest as herein provided and in accordance with the Act of Congress entitled, "Truth in Lending Act" (15 U.S.C. 1601 et seq.) and the regulations thereunder, as such Act and regulations may from time to time be amended, shall be conspicuously displayed within the premises of such collateral loan broker. A minimum interest charge of \$0.25 per month may be made on any loan.

collateral loan broker, in writing, of a change of address, to such new address, within 30 days after such sale, a notice which shall state the name and address of the collateral loan broker, the number of the pledge, the date of sale and the amount of any surplus.

§ 173-16 Posting of Rates.

Every licensee shall cause to be posted in a conspicuous part of his/her office or place where the collateral loan broker business is carried on, so as to be visible to all persons pledging goods, a printed card or table of the rates of interest authorized by this chapter, printed in large type and in both the English and Spanish languages.

§ 173-17 Prohibited Acts.

A. No collateral loan broker shall:

1. Permit the redemption of any article received by him/her in pawn until 48 hours after the same has been received by him/her in pawn.
2. Fail to deliver to the borrower a plain and complete receipt for all payments on account at the time such payments are made.
3. Carry on business at any other place than the one designated in his/her license.
4. Continue to carry on business after his/her license is revoked or shall have expired.
5. Display signage containing the words "pawn," "pawnbroker" or "pawnshop."
6. Operate his/her/its collateral loan business except in conjunction with a retail sales component that comprises at least 75% of the combined retail/collateral loan business.

B. No collateral loan broker or person in the employ of a collateral loan broker shall receive or purchase any goods, chattels, wares or merchandise from, or make any loan or advance or permit to be loaned or advanced to, any child, actually or apparently under the age of 18 years, any money, or in any manner directly or indirectly receive any goods, chattels, wares or merchandise from any such child in pledge for loans made or to be made to it or to any other person or otherwise howsoever. It shall be no defense to a prosecution for a violation of this section that in the transaction upon which the prosecution is based the child acted as the agent or representative of another or that the defendant dealt with such child as the agent or representative of another.

§ 173-18. Transfer of License.

No license issued under this chapter may be assigned, sold or transferred.

ORDINANCE NO.: _____ - 2011

OF

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:

§ 137-3 Collateral Loan Broker License Application Fee \$200.00 Non-refundable

§ 137-6 Collateral Loan Broker License Annual Fee \$200.00

Collateral Loan Broker Replacement License Fee \$100.00

Section 2. This ordinance shall take effect upon the filing of Local Law No. -2011 of _____, 2011 in the Office of the New York State Secretary of State in accordance with the provisions of New York State Municipal Home Rule Law.

Underlining ___ denotes additions.
Brackets [] denote deletions.