

RESOLUTION NO.: 81 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A  
CONTRACT WITH WORKFORCE DEVELOPMENT INSTITUTE  
TO DEVELOP A BUSINESS ADVISORY COUNCIL OF LOCAL EMPLOYERS TO  
PROVIDE EMPLOYMENT OPPORTUNITIES FOR QUALIFIED CITY OF NEWBURGH  
RESIDENTS AT A COST TO THE CITY OF \$50,000.00**

WHEREAS, by Resolution No. 185-2011 of September 12, 2011, the City Council of the City of Newburgh authorized the City Manager to execute a contract with the Workforce Development Institute (hereinafter "WDI") to recruit and hire a Program Coordinator, establish a specific selection and assessment criteria within the Newburgh population, review caseloads and establish enrollment, engagement and reporting requirements and protocols with community organizations; and

WHEREAS, the term of the initial contract for the first phase of such services was effective through December of 2011 and by Resolution No. 18-2012 of February 14, 2012, the City Council extended the term of this contract to April 30, 2012; and

WHEREAS, WDI completed the initial phase of the project and by Resolution No. 52-2012 of April 23, 2012, the City Council authorized the City Manager to execute a contract with WDI to provide the next phase of services; and

WHEREAS, WDI has completed the second phase of its services and now proposes to assist the City of Newburgh in developing a Business Advisory Council of local employers to provide employment opportunities for qualified City of Newburgh Residents as set forth in the "Scope of Services" of the contract annexed hereto and made part hereof; and

WHEREAS, this Council has determined that entering into a new contract with WDI for the purpose of developing a Business Advisory Council is in the best interests of the City of Newburgh and its residents and citizens 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 a contract with Workforce Development Institute to provide assistance in the development of a Business Advisory Council at a cost to the City of \$50,000.00.

## **CONTRACTUAL AGREEMENT**

### **PARTIES**

This **CONTRACT** is between the City of Newburgh as the **FUNDER** and the Workforce Development Institute (WDI) as the **CONTRACTOR**. The respective locations and contacts are as follows:

City of Newburgh  
83 Broadway  
Newburgh NY 12550

Workforce Development Institute  
96 South Swan St.  
Albany, NY 12210

### **PURPOSE OF CONTRACT**

The City of Newburgh has suffered from high unemployment for a number of years, and residents have expressed frustration at an inability to find employment. The purpose of this agreement is for WDI to provide assistance to the City of Newburgh to develop a program to help City of Newburgh residents find employment. WDI contracted services will focus on outreach to employers to find positions (the demand side). The City of Newburgh will compensate WDI for WDI's efforts as outlined below.

### **SCOPE OF SERVICES**

WDI will provide the following:

- Work with the City to develop a Business Advisory Council (BAC), the goal of which is to engage local employers in discussions about employment trends, skills required, and potential openings, and ultimately obtain commitments from BAC members and other private and non-profit employers to hire qualified City of Newburgh residents. The BAC will represent a cross-section of major economic sectors representative of City and regional employers. It is intended that the BAC may be a collaborative BAC developed in conjunction with the Workforce Investment Board (WIB) and other entities.
- Engage a minimum of 20 employers and obtain commitments from 10 employers to participate on the BAC.
- Hold regular BAC meetings every other month, beginning in July of 2013.
- Facilitate the BAC meetings – help develop agendas, keep employers engaged.
- Perform outreach to regional employers (over and above those on the BAC) with a goal of understanding employment trends, growth opportunities, skills requirements for various jobs. Obtain commitments from these businesses to hire qualified City of Newburgh residents.
- Develop business profiles on employers. Profiles will include background information about the company, types of jobs for which it hires, skills required of the jobs, turnover rates, barriers to finding employees, growth potential, and jobs for which it plans to hire in the future. Develop 20 profiles which will be shared in an aggregate manner.

- The information generated from the BAC and through outreach to employers will be shared with local vocational service providers, the NYS Department of Labor, and others in an effort to find qualified individuals to fill the positions.

**TIMEFRAME**

This agreement is valid from May 1, 2013 through April 30, 2014 and may be extended through mutual agreement.

**COMPENSATION AND REPORTS REQUIRED FOR PAYMENT**

The City of Newburgh has indicated it has limited funding, and that \$50,000 is available for this initiative. The cost of developing a BAC and performing outreach to employers as described above is significantly more than \$50,000. WDI acknowledges this discrepancy and is willing to commit other resources to support the differential.

The \$50,000 that is available for the initiative will be paid in monthly installments from the City of Newburgh to WDI, upon submission of an invoice. The invoice will also include a declarative statement that 1/12 of the \$50,000 in costs has been incurred during the month in question.

Note that implementation of the items as outlined under Scope of Services may be accomplished by a few WDI staff members, including a Project Manager, the Hudson Valley Regional Director, the Director of Operations, and an Economic Development Specialist. All of these staff members will assist in the development of the BAC and in outreach to employers.

The WDI will submit a quarterly report to the City of Newburgh regarding the progress to date on July 15, October 15, January 15, and then a final report including a compilation of all business profiles and a recommendation for moving forward by April 15. Reports will include details on numbers of employers profiled, numbers of employers serving on the BAC, and numbers of positions that have been committed to the City of Newburgh residents (and filled).

**TERMINATION**

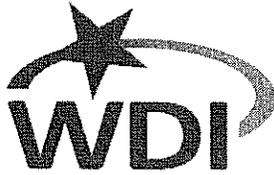
If either party fails to perform any material obligation under this Agreement or violates material terms or condition of this Agreement, and such failure or violation is not cured within ten (10) days following receipt of a notice from the non-breaching party describing the default or failure, then the non-breaching party shall have the right to terminate this Agreement upon written notice to the other.

\_\_\_\_\_  
Edward Murphy  
Executive Director  
Workforce Development Institute

\_\_\_\_\_  
Rick Herbek  
City Manager  
City of Newburgh, NY

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**Workforce Development Institute**

96 South Swan Street  
Albany, NY 12210

Tel: 518.463.2141  
Fax: 518.432.5609  
[www.wdiny.org](http://www.wdiny.org)

April 10, 2013

Mr. Rick Herbek  
City Manager  
City of Newburgh  
83 Broadway  
Newburgh, NY, 12550

Dear Mr. Harbek:

I am following up on our meeting with the City Council on April 4, where I stated that the Workforce Development Institute (WDI) is willing to devote resources, over and above that which is available from the City of Newburgh's CDBG grant, to development of a supply-demand employment model in Newburgh.

WDI knows the City of Newburgh has suffered from high unemployment for a number of years, and residents have expressed frustration at an inability to find employment. As discussed in the Council meeting, provided that the City of Newburgh contracts with WDI for a demand side project, WDI will provide additional assistance to the City of Newburgh to develop a program to help City of Newburgh residents find employment. The supplemental program will focus on outreach to employers to find positions (demand side) and then working with vocational service providers to find/screen appropriate candidates (supply side).

Supplemental tasks provided by WDI for residents of the City of Newburgh will not be reimbursed by the City. Rather, WDI will assume the costs associated with these tasks from WDI's own resources in order to complement work performed under a CDBG related contract for which the City is compensating WDI. These uncompensated costs are estimated at more than \$50,000.

WDI is willing to perform these additional tasks related to development of an employment program for the City of Newburgh because the project is within WDI's mission to create and retain good jobs in New York State. In addition, it is anticipated that creation of a successful employment model in Newburgh may be used by WDI in other parts of the state.

Mr. Rick Herbek  
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To that end, WDI will provide the following tasks, *uncompensated*:

- Take information gathered from outreach to local employers/work of the Business Advisory Council (BAC) to local vocational service providers in order to find City of Newburgh residents qualified for the positions.
- Work with vocational service providers to ensure City of Newburgh residents/job candidates are adequately screened before candidates are put forward to local employers.
- Work with the City, vocational service providers, the NYSDOL, and others to develop an employment screening program (such as work readiness programs) that would direct applicants to programs and services that will help make them more employment-ready.
- Assist vocational service providers in the development of new training initiatives to meet the specific needs of employers.
- Assist potential job candidates in making the connection with employers.
- Track outcomes/progress of individuals placed into employment opportunities.
- Once a track record of placing City of Newburgh residents into employment has been established, seek outside funding for renewal of the project and additional staffing.

The time period in which WDI will perform these tasks is the same as that included under the compensated contract, or from May 1, 2013 through April 30, 2014.

Reporting associated with these tasks will be performed on a quarterly basis on the same schedule as that developed for the compensated contract.

Rick, I look forward to working with you, and hope that together we can make a real difference in the City of Newburgh.

Sincerely,

Edward Murphy  
Executive Director



RESOLUTION NO.: 82 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO NATURAL GAS AND ELECTRIC CONTRACTS WITH HESS CORP.  
THROUGH THE MUNICIPAL ELECTRIC AND GAS ALLIANCE ("MEGA")  
FOR A TWO (2) YEAR TERM AT A FIXED RATE**

**WHEREAS**, by Resolution No. 276-2010 of December 13, 2010, the City Council of the City of Newburgh authorized the City Manager to execute contracts for the provision of natural gas and electric for a two (2) year term at a fixed rate with Hess Corporation as the Municipal Electric and Gas Alliance's ("MEGA") endorsed supplier for the Central Hudson Utility Service; and

**WHEREAS**, , Municipal Electric and Gas Alliance ("MEGA") has been promoting utility savings to Municipalities across New York State and the purpose of entering into the contracts with Hess Corporation for the supply of natural gas and electric was to lower the City's utility costs; and

**WHEREAS**, pursuant to the last twelve (12) months of the initial two-year contract with Hess Corporation, the City of Newburgh has realized a savings of \$28,735.00; and

**WHEREAS**, this Council finds that continuing to maintain the City's utility cost savings through the renewal of such contracts is in the best interests of the City of Newburgh;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York, that the City Manager be and he is hereby authorized to execute contracts for the provision of Natural Gas and Electric for a two (2) year term at a fixed rate to the City of Newburgh in the general form attached hereto with Hess Corporation, with all such terms and conditions as may be required by the Corporation Counsel.

*The Power of Partnership*



**MUNICIPAL ELECTRIC & GAS ALLIANCE**

A Local Development Corporation

P.O. Box 88 • Ithaca, New York 14851

Phone: 1-518-465-1473

<http://www.megaenergy.org>

**ELECTRIC AND NATURAL GAS SUPPLY ENDORSEMENT**

**Winter-Spring 2013**

Dear MEGA Participant,

MEGA is pleased to provide this endorsement of Hess Corp.'s electricity and natural gas pricing program for Central Hudson utility customers, through January 31, 2016. Hess Corp.'s pricing, whether you opt for variable or fixed pricing will provide you with the best pricing, based on their competitive public bid received by MEGA in January. As you know, MEGA, the Municipal Electric and Gas Alliance, operates in partnership with the New York State Association of Counties, and serves more than 250 municipalities across New York State.

Electricity Program

Hess's approach offers two approaches for variable pricing, plus fixed pricing. A fixed price, including energy, capacity, ancillary services and losses, will stabilize your costs going forward up to nearly 3 years if you choose. Recent volatility in electric markets have prompted many MEGA participants to select fixed pricing so that "budget certainty" can be attained for public agencies.

Hess's variable pricing will allow you to save compared to utility rates, but without the stability provided by fixed pricing. Option 1 is to have the costs of capacity, ancillary and losses bundled together within the fixed "adder." Option 2 would have the cost of these elements passed through by Hess based on current market conditions, in addition to the variable price for energy. Savings might be increased, but variability will be increased too.

If you are considering whether to select fixed or variable pricing for any of Hess's supply options, please feel free to discuss with MEGA's consultants, EnergyNext, at 518-580-9244.

Natural Gas Program

We are delighted that Hess's basis price bid was significantly lower for this procurement, reflecting market conditions at the time of the bid. In addition to offering the lowest basis price bid, Hess also offers excellent approaches to help you manage your natural gas costs and reduce uncertainty in this sometimes volatile market. Two Hess programs, its PRiME and its Price Protection programs are available to all MEGA participants. The PRiME program will allow you to manage your natural gas pricing based on whether you want to take a Conservative, Moderate or Aggressive approach. Once you have made that choice, in consultation with Hess's representative and/or MEGA's consultants, Hess will procure your natural gas requirements based on your chosen risk profile.

The Price Protection program allows you to have variable pricing that is capped by an upper limit, not to be exceeded. In this case, your Hess representative will help you determine the pricing parameters that are best for your fiscal plans.

MEGA is delighted to offer these programs from Hess because we believe it will allow our participants to use the most advanced tools to manage natural gas costs .

Thank you for your continued participation in MEGA. We are delighted to bring you continued savings, and increased choices for managing your electric and natural gas requirements.

Sincerely,



Ron Feldstein  
Executive Director



<b>Contract Quantity (Dth)</b>	<p>Buyer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed below, provided, that for purposes of determining whether a Material Usage Deviation has occurred and for purposes of calculating Contract Quantities remaining to be delivered under Section 12 of the Agreement, Contract Quantity shall be determined by reference to the applicable estimated quantity(ies) listed below.</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left; border-bottom: 1px solid black; width: 20%;"></th> <th style="text-align: center; border-bottom: 1px solid black; width: 20%;">Daily</th> <th style="text-align: center; border-bottom: 1px solid black; width: 10%;">x</th> <th style="text-align: left; border-bottom: 1px solid black; width: 20%;">Monthly</th> <th style="text-align: right; border-bottom: 1px solid black; width: 20%;"></th> </tr> </thead> <tbody> <tr> <td>May</td> <td style="text-align: center;">562</td> <td></td> <td>November</td> <td style="text-align: right;">1,530</td> </tr> <tr> <td>June</td> <td style="text-align: center;">174</td> <td></td> <td>December</td> <td style="text-align: right;">2,472</td> </tr> <tr> <td>July</td> <td style="text-align: center;">72</td> <td></td> <td>January</td> <td style="text-align: right;">2,778</td> </tr> <tr> <td>August</td> <td style="text-align: center;">72</td> <td></td> <td>February</td> <td style="text-align: right;">2,320</td> </tr> <tr> <td>September</td> <td style="text-align: center;">269</td> <td></td> <td>March</td> <td style="text-align: right;">2,005</td> </tr> <tr> <td>October</td> <td style="text-align: center;">974</td> <td></td> <td>April</td> <td style="text-align: right;">1,160</td> </tr> </tbody> </table>		Daily	x	Monthly		May	562		November	1,530	June	174		December	2,472	July	72		January	2,778	August	72		February	2,320	September	269		March	2,005	October	974		April	1,160
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<b>Tax Exemption</b>	<input type="checkbox"/> Non-exempt <input type="checkbox"/> Exempt    If exempt, must attach certificate.																																			
<b>Purchase Price</b>	See special provisions below.																																			
<b>Special Provisions</b>	<p>For inquiries related to your purchase, or for any other questions or complaints against Hess, please contact Hess at the address above.</p> <p>For general inquiries related to the sale and delivery of gas you may contact the New York Public Service Commission ("PSC"), Department of Public Service ESCO hotline at 1-888-697-7728; write the PSC at the Office of Consumer Education &amp; Advocacy, Three Empire State Plaza, Albany, NY 12223, or visit the PSC's website at <a href="http://www.dps.state.ny.us">http://www.dps.state.ny.us</a>. For consumer complaints, contact the New York Department of Public Service at 1-800-342-3377.</p> <p>Customer represents and acknowledges that: (a) any rights to a rescission period, longer grace periods or notice periods afforded to residential customers do not apply; and (b) upon any discontinuance of service by Hess, Hess will return the Customer to full Utility service by the next effective drop date permitted by the Utility and upon at least fifteen (15) days prior notice.</p> <p>Furthermore, the Parties agree that the following representations will be added to Section 13(B)(f) of the Agreement, as a new subsections (v) and (vi), respectively: "(v) it may rescind the authorization for release of such information at any time, upon prior written notice; provided however, that such rescission will be considered a Default under Section 11(iv); and (vi) neither it, nor any Transaction, has been solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the New York Public Service Commission and the State of New York General Business Law § 349-d), and Buyer acknowledges that this representation is a material inducement to Seller entering into any Transaction."</p> <p>Customer Disclosures:</p> <p>A. Length of the agreement and end date: The Agreement may only terminate upon notice (i) as a result of a Default (provided that notice is not required in a Bankruptcy situation); (ii) for any reason so long as the Agreement remains in effect with respect to Transactions entered into prior to the effective date of the termination; and (iii) at the end of the above Delivery Period or any successive Renewal Term. For the exact length of the Transaction and end date, please see the "Delivery Period" Section above and/or this "Special Provisions" Section. For the specific text relating to the termination of the Agreement, please see Sections 12 and 14 of the Agreement.</p> <p>B. Process Customer may use to rescind the agreement without penalty: There are no contractual rights to rescind without penalty or without calculation of a settlement amount and Net Settlement Amount.*</p> <p>C. Amount of Early Termination Fee and method of Calculation: In "Section 12. Remedies" of the Agreement the non-defaulting Party has the right to terminate all Transactions, calculate a settlement amount and Net Settlement Amount for each Transaction and aggregate all amounts owing between the Parties under this Agreement or any other agreements between the Parties and their affiliates. For the specific text contained in this provision, please see Section 12 of the Agreement. Notwithstanding the foregoing, for any Transaction solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the PSC and the State of New York General Business Law § 349-d), the termination or early cancellation fee applicable to such Transaction is subject to limitation.**</p> <p>D. Amount of Late Payment Fee and method of calculation: "Section 4. Billing and Payment" of the Agreement sets forth the amount of days in which payment is due from the date of the invoice, the Interest Rate used to calculate late payments, and the calculation of any costs and expenses incurred in collecting</p>																																			

payment, including reasonable attorney's fees. For the specific text contained in this provision, please see Section 4 of the Agreement.

\* According to the State of New York Public Service Commission's Uniform Business Practices residential customers have the right to cancel a sales agreement, without penalty, within three business days after its receipt.

\*\* According to the State of New York Public Service Commission's Uniform Business Practices and the State of New York General Business Law § 349-d for transactions solicited through "door-to-door sales" customers may not be charged a termination or early cancellation fee in excess of the greater of: (i) \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months, or (ii) twice the estimated commodity supply bill for an average month, provided that an estimate of an average monthly bill was provided to the customer when the offer was made by the Seller along with the amount of any early termination fee based on such estimate.

**Change in Utility Account Numbers:**

The account number for a Service Location shall be the Utility Account Number set forth in the Service Locations section above or as attached, as applicable, or any replacement account number issued by the Utility from time to time.

**Price Protection:** The Purchase Price for the Contract Quantity, unless otherwise specified in this Transaction Confirmation, during each month of the Delivery Period (excluding the Renewal Term) will equal the fixed Basis charge of \$2.616 per Dth, plus the applicable Commodity charge for that month. Buyer acknowledges that the Basis charge includes costs associated with setting the Commodity charge. Unless the Commodity charge has been set by agreement of the Parties per the restrictions below, for each month the "Commodity charge" shall be the per Dth price equal to the lesser of (1) \$4.500 or (2) the New York Mercantile Exchange ("NYMEX") settlement price on the expiration date for that month's NYMEX Henry Hub natural gas futures contract.

**Commodity charge restrictions:**

The Commodity charge may be set by agreement of the Parties at any time prior to 1:00 PM on the expiration date of the applicable month's NYMEX futures contract.

Buyer acknowledges that the Commodity charge may not be set (fixed) for more than 36 months but in no event beyond the "Max Commodity Date". The Max Commodity Date is defined as the latest date up to which the Parties may fix the Commodity charge, and is posted on the secure section of HessEnergy.com. The Max Commodity Date is currently 4/30/2015. The Seller reserves the right to amend these date restrictions at its sole discretion.

Buyer's "Responsible Trigger Contact(s)" have been identified as Richard Herbeck [citymanager@cityofnewburgh-ny.gov]. Seller will generate a confirmation to be sent to your Responsible Trigger Contact when the Commodity charge is fixed ("Trigger Confirmation"). Such Trigger Confirmations are to be regarded as a part of this Transaction Confirmation. All Trigger Confirmations are binding upon receipt by Buyer. Any notices regarding those Trigger Confirmations must be sent to trigger@hess.com. Changes to the Responsible Trigger Contact must be communicated in writing through your Hess Account Manager.

Buyer acknowledges that it is acting for its own account, and that it has made its own independent decisions with respect to this Transaction Confirmation and that Seller is not acting as a fiduciary, financial, investment or commodity trading advisor for it in connection with the negotiation and execution of this Transaction Confirmation, nor will any communication (written or oral) received from Seller be deemed to be an assurance or guarantee as to any results expected from executing this Transaction Confirmation.

**Delivery Point:**

Consistent with FERC requirements, Seller shall have the right (but not the obligation), to select or change a Delivery Point to a point where Buyer may receive Gas that is outside the jurisdictional limits of the municipality or other jurisdiction where a Service Location under this Transaction Confirmation is located, which shall constitute a Delivery Point at which title, control, possession and risk of loss will pass to Buyer

as further provided in the Agreement.

PLEASE SIGN AND RETURN THIS TRANSACTION CONFIRMATION LETTER BY FACSIMILE TO 2013564928 .

BUYER: City of Newburgh

SELLER: Hess Corporation

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

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

Print Name: Richard F. Herbek

Print Name: \_\_\_\_\_

Title: City Manager

Title: \_\_\_\_\_

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

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



**HESS CORPORATION**

48450 - 0

1 Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

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

Marketer Name: Todd Loucks      Date: 04-08-2013      Time: 11:16:33 AM

**CUSTOMER INFORMATION**

New       Renewal       Mixed

Customer: City of Newburgh

Contact Name:

Address: City Hall 83 Broadway NEWBURGH NY 12550

Telephone:      Fax:

**ELECTRICITY TRANSACTION CONFIRMATION AND CUSTOMER DISCLOSURES**

This Transaction Confirmation confirms the terms of the Transaction entered into between Hess Corporation ("Seller"), and the customer above ("Buyer" or "Customer") pursuant to the terms of the Commodity Master Agreement ("CMA") between Buyer and Seller dated 12/23/2010, as may be amended. The Purchase Price excludes Utility distribution charges and Taxes that are or may be the responsibility of Buyer. The prices listed below are based on market conditions as of the time, stated above, that this Transaction Confirmation was issued and may be adjusted by Seller to reflect market conditions as of the date it is executed and returned by Buyer. THIS TRANSACTION CONFIRMATION WILL NOT BE EFFECTIVE UNTIL SIGNED BY BOTH PARTIES.

Service Locations: See attached Exhibit A for details.

Delivery Period: Term (# of months): 24 Months      Start: For each Service Location, the first meter read date on or after 05/01/2013  
The service start date hereunder will be the date that the Utility enrolls Customer for Seller's service. Seller will request the Utility to enroll Customer on the first meter read date within the Delivery Period.  
Upon the expiration of the Delivery Period, this Transaction shall continue for successive one month terms (collectively the "Renewal Term") until either Party notifies the other Party in writing of its intention to terminate, at least 15 days prior to the end of the Delivery Period or 15 days prior to the end of each successive month Renewal Term. The termination date shall be the next effective drop date permitted by the Utility. All terms of the Agreement will remain in effect through the termination date as set by the applicable Utility. During the Renewal Term, the Purchase Price for each successive month Renewal Term will be the then Market Price for delivery to the Delivery Point, unless otherwise agreed to in writing by the Parties.

Delivery Point: See attached Exhibit A for details.

Contract Quantity: Buyer and Seller agree that the Contract Quantity purchased and received means a positive volume up to or greater than the estimated quantities listed below, provided, that for purposes of determining whether a Material Usage Deviation has occurred and for purposes of calculating Contract Quantities remaining to be delivered under Section 12 of the Agreement, Contract Quantity shall be determined by reference to the applicable estimated quantity(ies) listed on the attached Exhibit A.

Tax Exemption Status:  Non-Exempt       Exempt      If exempt, must attach certificate.

Purchase Price: Fixed Adder @ 1.70 ¢/kWh  
Fixed Adder includes Losses, Unforced Capacity, Ancillaries, Transmission (if applicable), Renewable Portfolio Standards (RPS) (if applicable). Energy is grossed up by losses and indexed to Day Ahead market.

Bill Type:  Consolidated       Dual

Definitions: "On-Peak" hours are 7:00am to 11:00pm Monday through Friday, excluding the North American Electric Reliability Council (NERC) holidays. All other hours are "Off-Peak" hours.

<p><b>Special Provisions</b></p>	<p><b>Service Locations:</b></p> <p>The account number for a Service Location shall be the Utility Account Number set forth on the Exhibit A attached to this Transaction Confirmation, or any replacement account number issued by the Utility from time to time.</p> <p>If, as determined by Seller (in its sole reasonable discretion), at any time during the Delivery Period of this Transaction Confirmation, Buyer receives or loses an allocation for a portion of the supply of Electricity from the New York Power Authority ("NYPA") under the Recharge NY program, or other similar program, and such receipt or loss results in a deviation from the Contract Quantity (or, as applicable, estimated Contract Quantities) as set forth herein, Buyer will be responsible for the losses and costs incurred by Seller as a result thereof, including the costs of obtaining and/or liquidating the allocation quantity.</p> <p>For inquiries and information regarding ESCOs and the competitive energy market, please contact the New York State Department of Public Service Commission's ("PSC") toll-free retail access number - 1(888) 697-7728, write the PSC at the Office of Consumer Education &amp; Advocacy, Three Empire State Plaza, Albany, NY 12223, or e-mail the PSC at <a href="http://www.dps.state.ny.us">http://www.dps.state.ny.us</a>. For consumer complaints, contact the New York Department of Public Service at 1-800-342-3377.</p> <p>For inquiries related to your purchase, or for any other questions or complaints, please contact Hess at the address above. In case of emergencies or outages please contact your local Utility directly.</p> <p>Customer represents and acknowledges that: (a) any rights to a rescission period, longer grace periods or notice periods afforded to residential customers do not apply; and (b) upon any discontinuance of service by Hess, Hess will return the Customer to full Utility service by the next effective drop date permitted by the utility and upon at least fifteen (15) days prior notice.</p> <p>Furthermore, the Parties agree that the following representation will be added to Section 13(B)(f) of the Agreement, as a new subsections (v) and (vi), respectively: "and (v) it may rescind the authorization for release of such information at any time, upon prior written notice; provided however, that such rescission will be considered a Default under Section 11(iv) and (vi) neither it, nor any Transaction, has been solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the New York Public Service Commission and the State of New York General Business Law § 349-d), and Buyer acknowledges that this representation is a material inducement to Seller entering into any Transaction."</p> <p><b>Customer Disclosures:</b></p> <p>A. Length of the agreement and end date: The Agreement may only terminate upon notice (i) as a result of a Default (provided that notice is not required in a Bankruptcy situation); (ii) for any reason so long as the Agreement remains in effect with respect to Transactions entered into prior to the effective date of the termination; and (iii) at the end of the above Delivery Period or any successive Renewal Term. For the exact length of the Transaction and end date, please see the "Delivery Period" Section above and/or this "Special Provisions" Section. For the specific text relating to the termination of the Agreement, please see Sections 12 and 14 of the Agreement.</p> <p>B. Process customer may use to rescind the agreement without penalty: There are no contractual rights to rescind without penalty or without calculation of a settlement amount and Net Settlement Amount.<sup>1</sup></p> <p>C. Amount of Early Termination Fee and method of Calculation: In "Section 12. Remedies" of the Agreement the non-defaulting Party has the right to terminate all Transactions, calculate a settlement amount and Net Settlement Amount for each Transaction and aggregate all amounts owing between the Parties under this Agreement or any other agreements between the Parties and their affiliates. For the specific text contained in this provision, please see Section 12 of the Agreement. Notwithstanding the foregoing, for any Transaction solicited through "door-to-door sales" (as such term is defined under the Uniform Business Practices of the PSC and the State of New York General Business Law § 349-d), the termination or early cancellation fee applicable to such Transaction is subject to limitation.<sup>2</sup></p> <p>D. Amount of Late Payment Fee and method of calculation: "Section 4. Billing and Payment" of the Agreement sets forth the amount of days in which payment is due from the date of the invoice, the Interest Rate used to calculate late payments, and the calculation of any costs and expenses incurred in collecting payment, including reasonable attorney's fees. For the specific text contained in this provision, please see Section 4 of the Agreement.</p> <p><sup>1</sup> According to the State of New York Public Service Commission's Uniform Business Practices residential customers have the right to cancel a sales agreement, without penalty, within three business days after its receipt.</p> <p><sup>2</sup> According to the State of New York Public Service Commission's Uniform Business Practices and the State of New York General Business Law § 349-d for transactions solicited through "door-to-door sales" customers may not be charged a termination or early cancellation fee in excess of the greater of: (i) \$100 if the remaining term is 12 months or less and \$200 if the remaining term exceeds 12 months, or (ii) twice the estimated commodity supply bill for an average month, provided that an estimate of an average monthly bill was provided to the customer when the offer was made by the Seller along with the amount of any early termination fee based on such estimate.</p>
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**Settlement Sheet**

Total Charge = Energy + Fixed Adder

Energy Formula is as follows:

$$\sum_{n=1}^n (Q_n (1+LF)) * LBMP_{DZ}$$

Fixed Adder Formula is as follows:

$$\sum_{n=1}^n Q_n * Fixed Adder$$

**Legend:**

- n=hours in the month
- Q=Actual energy used in hour n (kWh)
- Bn = Volume of block purchased each hour (kWh)
- BP = Block Price (\$/kWh)
- LF= Line Loss Factor
- LBMP<sub>DZ</sub> = Hourly NYISO Zonal LBMP Delivery Zone (\$/kWh)
- LBMP<sub>HUB</sub> = Hourly NYISO Zonal LBMP Hub (ISO reference point) (\$/kWh)
- UCAP = Unforced Capacity (kW)

**Units:**

- Energy - \$/kWh
- Block - \$/kWh
- Basis - \$/kWh
- Capacity - \$/kW - month
- Ancillaries - \$/kWh
- Fixed Adder - \$/kWh

PLEASE SIGN AND RETURN THIS TRANSACTION CONFIRMATION BY FACSIMILE TO (201) 356-4923

**Buyer** City of Newburgh  
**By:** \_\_\_\_\_  
**Print Name:** Richard F. Herbek  
**Title:** City Manager  
**Date:** \_\_\_\_\_

**Seller** Hess Corporation  
**By:** \_\_\_\_\_  
**Print Name:** \_\_\_\_\_  
**Title:** \_\_\_\_\_  
**Date:** \_\_\_\_\_

Pricing Date Stamp: 4/8/2013 11:16:33 AM using 4/8/2013 11:00:45 AM forwards Proposal Id : 48450 - 0 Printed By: Rebecca Auresto On 4/8/2013 11:16:33 AM

**HESS CORPORATION**

One Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

[www.hessenergy.com](http://www.hessenergy.com)**Exhibit A Service location : Details****Estimated Monthly Contract Quantities (kWh)**

	1	2	3	4	5
<b>ACCOUNT NUMBER</b>	8666037000	8666042000	8666076000	8672082003	8673049000
<b>ADDRESS</b>	83 Broadway NEWBURGH NY 12550				
<b>UTILITY</b>	CHUD	CHUD	CHUD	CHUD	CHUD
<b>Delivery Zone</b>	G	G	G	G	G
<b>Capacity Oblg (kW)</b>	67	163	203	126	93
<b>Transmission Oblg (kW)</b>	0	0	0	0	0
<b>Meter Read Date</b>	05/06/2013	05/06/2013	05/03/2013	05/08/2013	05/30/2013
May 2013	11,286	52,454	115,731	29,500	2,535
June 2013	16,720	71,143	141,689	45,105	43,071
July 2013	20,554	81,488	140,190	50,249	51,567
August 2013	19,640	80,405	144,988	47,288	45,675
September 2013	15,393	111,842	107,009	38,030	31,501
October 2013	10,480	11,280	107,034	34,421	29,278
November 2013	9,695	52,213	106,055	33,080	24,223
December 2013	10,953	52,164	111,742	35,021	30,550
January 2014	11,614	55,106	113,881	35,476	39,917
February 2014	10,161	50,331	103,538	31,869	44,620
March 2014	11,614	53,119	99,948	35,782	39,591
April 2014	10,140	48,956	104,923	35,394	27,958
May 2014	13,303	61,992	123,616	37,757	36,096
June 2014	16,867	71,662	143,119	45,481	43,399
July 2014	20,569	81,506	140,179	50,239	51,632
August 2014	19,499	79,902	144,089	46,958	45,407
September 2014	15,512	112,920	107,837	38,337	31,733
October 2014	10,480	11,280	107,079	34,421	29,264
November 2014	9,598	51,848	105,055	32,750	23,972
December 2014	11,042	52,405	112,083	35,294	30,813
January 2015	11,523	54,760	113,306	35,179	39,504
February 2015	10,161	50,331	103,538	31,869	44,620
March 2015	11,718	53,432	100,573	36,074	40,039
April 2015	10,137	48,954	105,127	35,436	27,950
May 2015	2,136	9,972	7,885	8,593	33,871
<b>Total</b>	<b>320,795</b>	<b>1,461,465</b>	<b>2,810,214</b>	<b>919,603</b>	<b>888,786</b>

**HESS CORPORATION**

One Hess Plaza Woodbridge, NJ 07095

Phone: 1-800-Hess-USA

[www.hessenergy.com](http://www.hessenergy.com)**Exhibit A Service location : Details****Estimated Monthly Contract Quantities (kWh)**

	6	7	
ACCOUNT NUMBER	8681095700	8683144000	TOTAL
ADDRESS	83 Broadway NEWBURGH NY 12550	83 Broadway NEWBURGH NY 12550	
UTILITY	CHUD	CHUD	
Delivery Zone	G	G	
Capacity Oblg (kW)	25	206	
Transmission Oblg (kW)	0	0	
Meter Read Date	05/13/2013	05/21/2013	
May 2013	2,004	26,908	240,418
June 2013	5,951	78,399	402,078
July 2013	13,496	87,437	444,981
August 2013	7,828	92,974	438,798
September 2013	2,396	96,317	402,488
October 2013	3,017	81,682	277,192
November 2013	8,825	78,022	312,113
December 2013	16,621	83,987	341,038
January 2014	17,775	84,167	357,936
February 2014	14,130	73,218	327,867
March 2014	11,175	79,533	330,762
April 2014	8,191	76,264	311,826
May 2014	3,220	75,298	351,282
June 2014	6,027	78,958	405,513
July 2014	13,530	87,453	445,108
August 2014	7,789	92,355	435,999
September 2014	2,401	96,835	405,575
October 2014	3,031	81,707	277,262
November 2014	8,727	77,493	309,443
December 2014	16,707	84,435	342,779
January 2015	17,627	83,664	355,563
February 2015	14,130	73,218	327,867
March 2015	11,278	79,999	333,113
April 2015	8,177	76,261	312,042
May 2015	1,293	48,880	112,630
<b>Total</b>	<b>225,346</b>	<b>1,975,464</b>	<b>8,601,673</b>

RESOLUTION NO.: 83 - 2013

OF

APRIL 22, 2013

RESOLUTION AMENDING RESOLUTION NO: 223 - 2012,  
THE 2013 BUDGET FOR THE CITY OF NEWBURGH, NEW YORK  
TO TRANSFER \$1,004,000.00 FROM  
GENERAL "FUND BALANCE" TO CAPITAL FUND  
FOR THE PURPOSE OF PURCHASING VEHICLES

WHEREAS, by Resolution No. 24-2013 of January 28, 2013, the City Council of the City of Newburgh authorized the issuance of bond anticipation notes to finance the purchase of replacement vehicles for the Fire Department and the Department of Public Works; and

WHEREAS, the City of Newburgh has the opportunity to purchase the replacement vehicles through a New York State contract; and

WHEREAS, the purchase orders for the replacement vehicles must be submitted prior to the closing of the bond financing; and

WHEREAS, the funds for the purchase of the vehicles is available from the General Fund and will be replaced when the bond anticipation notes have been issued; and

WHEREAS, this Council finds that it is in the best interests of the City of Newburgh to make the funds available to purchase the replacement vehicles from the New York State contract.

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

	<u>Decrease</u>	<u>Increase</u>
A.0000.0911 Fund Balance	\$1,004,000.00	
H1.3412 Fire Department		
.0202.8101.2013 Motor Equipment		\$ 465,000.00
H1.5132 DPW-Garage		
.0202.8101.2013 Motor Equipment		\$ 144,000.00

H1.5133	DPW-Police Garage	
	.0202.8101.2013 Motor Equipment	\$ 175,000.00
HS.8160	Sanitation	
	.0202.8101.2013 Motor Equipment	\$ 220,000.00

RESOLUTION NO.: 84 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE AN AGREEMENT WITH  
INTERNATIONAL DATA BASE CORP D/B/A  
INTERACTIVE PROCUREMENT TECHNOLOGIES BY BIDNET  
TO PROVIDE FOR WEB-BASED SOLICITATION AND BIDDING SERVICES**

**WHEREAS**, the City of Newburgh wishes to enter into the attached Agreement with International Data Base Corp., d/b/a Interactive Procurement Technologies by BidNet ("iPT"); and

**WHEREAS**, this agreement will authorize iPT to provide web-based solicitation and bidding services, including maintenance and support services; and

**WHEREAS**, these services will expand the City's vendor base for competitive bidding and streamlining some of the documents for the solicitations; and

**WHEREAS**, there is no subscription fee for the services with the exception of reimbursement for postage fees incurred to produce the mailing to suppliers and a programming fee if customized work is requested at a rate of One Hundred and Twenty-Five (\$125.00) Dollars per hour; and

**WHEREAS**, this Council has reviewed such agreement and has determined it to be in the best interest of the City;

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into and execute the attached agreement to provide for web-based solicitation system, providing on-line bidding services, including maintenance and support services in the general form attached hereto, with such other terms and conditions as may be required by Corporation Counsel and the City Manager, same as being in the best interest of the City of Newburgh.

## AGREEMENT FOR SERVICES

**Parties to this Agreement:** The parties to this Services Agreement (hereinafter referred to as “the Agreement”) are City of Newburgh (hereinafter referred as the “Participating Organization”) and International Data Base Corp., doing business under the trade name Interactive Procurement Technologies by BidNet, a legally incorporated body having its principal place of business at 20A Railroad Avenue, Albany, New York 12205 (hereinafter referred to as “IPT”).

### RECITALS:

WHEREAS the Participating Organization is in need of web-based solicitation and bidding services, including maintenance and support services;

WHEREAS under the Agreement, IPT has developed a web-based solicitation system, providing on-line bidding services, including maintenance and support services (hereinafter referred to as “The Network”)

WHEREAS the Participating Organization wishes to join The Network and benefit from the services provided by IPT;

### THE PARTIES AGREE:

1. **Description of Services:** System Membership: The Participating Organization has agreed to join The Network. It is understood that IPT will provide the Participating Organization with access to The Network.
2. **Term of Agreement:** This Agreement shall become effective on the date of the execution for an initial term of twelve (12) months (the “Initial term”). The Initial Term of this Agreement may be extended in one-year increments, without notice unless terminated by either party.
3. **Payment for Services:**

#### 3.1 Participating Organization Fees:

- 3.1.1. **Subscription Fees:** There will be no subscription fees incurred by the Participating Organization under this Agreement.
- 3.1.2. **Mailing Fees:** IPT will send an invoice to the Participating Organization for reimbursement of postage fees incurred to produce the mailing to suppliers.
- 3.1.3. ~~Press Release Fees: IPT will send an invoice to the Participating Organization for reimbursement of Press Release distribution fees incurred to distribute Press-Release.~~
- 3.1.4. **Programming Fees:** The Participating Organization agrees to use The Network on an “as is” basis. Any customized work requested by the Participating Organization shall be made available at One Hundred and Twenty-five dollars (\$125) per hour.

**3.1.5. Surplus Auction Fees:** Should the Participating Organization choose to use the Surplus Auctions program to sell unwanted goods and equipment, a 5% commission will be paid to IPT for items sold.

**3.1.6. Future Enhancements:** IPT reserves the right to offer future services to the Participating Organization which may or may not include service fees.

### **3.2 Supplier Registration Fees:**

**3.2.1. Basic Service:** This option gives suppliers access to search for documents of interest for all Participating Organizations actively using The Network at no charge, but requires them to remember to login frequently to ensure they are able to view opportunities before they close. This includes bids, addendums and awards.

**3.2.2. Optional Value Added Service:** Suppliers that choose to register for the value added service option will be charged a nominal annual subscription fee. This includes notification from all Participating Organizations when bids, addendums and awards are posted on The Network that matches their profile.

**3.2.3. Future Enhancements:** IPT reserves the right to offer future services to all registered suppliers which may or may not include separate service fees.

**4. Termination:** This Agreement may be terminated by either party upon sixty (60) days notice. Notice shall be in writing, sent by certified mail, return receipt requested.

**5. Entire Agreement:** This Agreement constitutes the entire understanding of the parties and the parties agree that there are no other understandings, representations or warranties, either expressed or implied, whether written or oral, made by either party, except as stated within this Agreement.

**6. Amendments:** No alteration of this Agreement shall be valid unless made in writing and signed by the parties and no oral understanding or agreements not incorporated herein shall be binding on the parties.

**7. Governing Law:** This Agreement shall be governed by the laws of the State of New York.

**8. Severability:** If any provision of this Agreement will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable.

**9. Work Product Ownership:** Any copyrightable works, ideas, discoveries, inventions, patents, products, or other proprietary information developed in whole or in part by IPT in connection of this Agreement, will be the exclusive property of IPT.

**10. Unauthorized Use:** The Participating Organization agrees to require each user obtain a username and password to gain access The Network. Sharing of usernames and passwords is strictly prohibited. The Participating Organization also agrees to obtain written consent from IPT prior to showing demonstrations of The Network to any third party.

11. **Warranty:** IPT shall provide its services and meet its obligations under this Agreement in a timely manner, using knowledge for performing the services which meet a standard of care equal to service providers similar to IPT on similar projects.
12. **Signatures:** The individuals executing this Agreement represent and warrant that they have the legal capacity and authority to do so on behalf of their respective legal entities.

The parties hereto, by their duly authorized representatives, have executed this Agreement effective the day and year written under the Participating Organization below.

City of Newburgh  
83 Broadway  
Newburgh, NY 12550

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

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

**Signature:** \_\_\_\_\_

**Interactive Procurement Technologies by BidNet ®, a division of  
International Data Base Corp.**

**Name:** Dan Ansell

**Title:** Vice President

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

**Signature:** \_\_\_\_\_

APPROVED AS TO FINANCES

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Kathryn Nivins  
Acting Comptroller

APPROVED AS TO FORM

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Michelle Kelson  
Corporation Counsel

RESOLUTION NO.: 85 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A LICENSE AGREEMENT WITH PRECISION PIPELINE  
SOLUTIONS TO ALLOW ACCESS TO CITY-OWNED PROPERTY AS A STAGING  
AREA FOR PIPE, EQUIPMENT AND RELATED MATERIALS FOR VARIOUS  
PROJECTS DURING THE 2013 CONSTRUCTION SEASON**

WHEREAS, the Precision Pipeline Solutions has requested access to City-owned property located at 207 Carpenter Avenue and identified as Section 17, Block 5, Lot 6, on the tax map of the City of Newburgh for the purpose of temporary storage of pipe, equipment and related material for various projects during the 2013 construction season; and

WHEREAS, such access to the subject property requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of hereof; and

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with Precision Pipeline Solutions to allow access to City-owned property for the purpose of temporary storage of equipment and materials as a staging area for work to be performed during the 2013 construction season.

## LICENSE AGREEMENT

This Agreement, made this \_\_\_\_ day of \_\_\_\_\_, two thousand and thirteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and PRECISION PIPELINE SOLUTIONS, a private business organization having an address at 617 Little Britain Road, New Windsor, New York 12553 and its consultants and sub-contractors, as "LICENSEE";

### WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following address:

Property identified as lands of the City of Newburgh, 207 Carpenter Avenue, Section 17, Block 5, Lot 6 on the tax map of the City of Newburgh;

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

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's property identified as 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary and for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed during the 2013 construction season.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and/or consultants, Licensee and such agents, contractors and/or consultants shall name and/or treat and hold Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

Sixth: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said staging work shall be performed in substantially the location of 207 Carpenter Avenue, Section 17, Block 5, Lot 6, and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

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

PRECISION PIPELINE SOLUTIONS

LICENSEE

By:

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

RESOLUTION NO.: 86 - 2013

OF

APRIL 22, 2013

**A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO EXECUTE A LICENSE AGREEMENT WITH KISKA CONSTRUCTION TO  
ALLOW ACCESS TO CITY-OWNED PROPERTY AS A STAGING AREA AND FOR  
PURPOSES RELATING TO MAINTENANCE AND REPAIR OF THE ROUTE 9W  
BRIDGE BY THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION**

WHEREAS, the New York State Department of Transportation has commenced a maintenance and repair project for the Route 9W Bridge; and

WHEREAS, KISKA Construction has requested access to City-owned property in between the north side of Quassaick Creek and south side of the CSX Rail Road line that runs east to west below the above subject bridge identified as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, Block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh for the purpose of temporary storage and management of equipment and materials as a temporary staging area for work to be performed on the Route 9W Bridge and adjacent property; and

WHEREAS, such access to the subject property requires the parties to execute a license agreement, a copy of which is attached hereto and made a part of hereof; and

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

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Newburgh, New York that the City Manager be and he is hereby authorized to enter into the attached license agreement with KISKA Construction to allow access to City-owned property for the purpose of storage and management of equipment and materials as a staging area for work to be performed on the Route 9W Bridge and adjacent property.

## LICENSE AGREEMENT

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_, two thousand and thirteen by and between the CITY OF NEWBURGH, a municipal corporation organized and existing under the laws of the State of New York with offices at 83 Broadway, City Hall, Newburgh, New York 12550 as "LICENSOR," and KISKA CONSTRUCTION, a private business organization having an address at 110 W. Crooked Hill Road, Pearl River, New York 10965 and its consultants and sub-contractors, as "LICENSEE";

WITNESSETH THAT:

WHEREAS, Licensee desires the license or privilege of gaining access to and performing work upon the premises of Licensor on behalf of itself and its employees, agents and contractors in substantially the location and position shown as set forth on the map or plan hereto attached and made a part hereof and bearing the following title:

### SCHEDULE "A":

Properties identified as lands of the City of Newburgh as Section 43, Block 1, Lot 31, Section 43, Block 1, Lot 28, Section 43, block 1, Lot 29.2 and Section 47, Block 2, Lot 12 on the tax map of the City of Newburgh;

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

NOW, THEREFORE, in consideration of the premises and of the mutual covenants and conditions hereinafter contained, it is hereby agreed as follows:

First: Licensor hereby gives to Licensee and Licensee's employees, agents and contractors, upon the conditions hereinafter stated, the license or privilege of entering upon Licensor's properties as indicated in Schedule "A", and taking thereupon such vehicles, equipment, tools, machinery and other materials as may be necessary; for the purposes of and to perform certain tasks on property owned by Licensor, for the use of said property for the storage, parking, operation and management of vehicles, equipment and materials as a staging area for work to be performed on adjacent and nearby properties for the purposes of and to perform maintenance, repairs and improvements to the Route 9W bridge in accordance with NYSDOT D261778.

Second: Licensee agrees to do such work and perform such tasks in such manner as will comply fully with the provisions of any laws, ordinances or other lawful authority, obtaining any and all permits required thereby.

Third: Licensee hereby agrees to defend, indemnify and hold Licensor harmless against any claims, actions and proceedings brought against Licensor arising out of, in connection with

and/or relating to Licensee's use of the premises. Licensee has posted evidence of and shall maintain throughout the term of this License public liability insurance naming the Licensor as additional insured in a minimum coverage amount of One Million (\$1,000,000.00) Dollars.

Fourth: Licensee may retain certain employees, agents, contractors and consultants to perform the subject work. In the contract by which Licensee retains such agents, contractors and/or consultants, Licensee and such agents, contractors and/or consultants shall name and/or treat and hold Licensor as additional insured under insurance coverage concerning Licensee's performance of the tasks referenced herein.

Fifth: This Agreement and the license or privilege hereby given shall expire and terminate upon the completion of the work by Licensee and its agents, employees and contractors, and the restoration of the property to a clean and orderly state and in the same condition as existed prior to the granting of this license, normal wear and tear excepted.

Sixth: It is understood and agreed that no vested right in said premises is hereby granted or conveyed from either party to the other, and that the privileges hereby given are subject to any and all encumbrances, conditions, restrictions and reservations upon or under which the parties held said premises prior to the granting of this license.

Seventh: Without limitation to the general provisions of this Agreement, it is understood and agreed that said work shall be performed in substantially the location and position shown in Schedule "A", and in accordance with details and specifications as set forth on map or plan hereto attached and hereby made a part hereof.

Eighth: Licensee agrees to give Licensor no less than twenty-four (24) hours advance notice of its intention to enter upon the subject property and to perform the subject work.

WITNESSETH:

THE CITY OF NEWBURGH

LICENSOR

By:

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

KISKA CONSTRUCTION

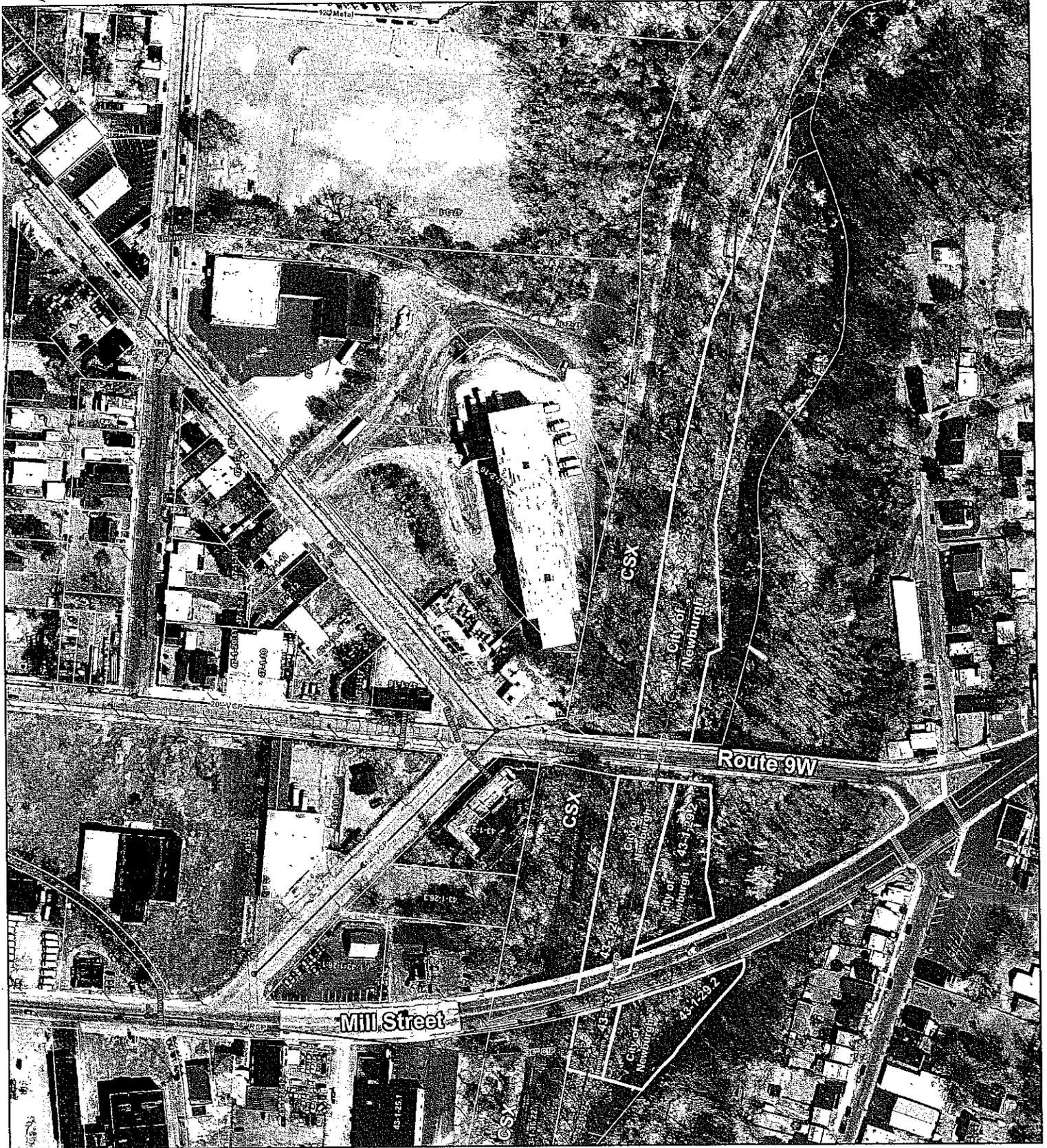
LICENSEE

By:

\_\_\_\_\_  
Name:

Title:

# Kiska Construction Access Agreement - Schedule A



GIS Department  
LFF

1 Inch = 200 Feet  
4/9/13

## FOR VISUAL REFERENCE ONLY

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RESOLUTION NO.: 87 - 2013

OF

APRIL 22, 2013

A RESOLUTION AUTHORIZING THE CITY MANAGER  
TO ENTER INTO AGREEMENTS WITH VARIOUS PARTIES  
TO PROVIDE PERFORMING ARTISTS AND RELATED SERVICES  
IN CONNECTION WITH THE NEWBURGH ILLUMINATED FESTIVAL

WHEREAS, the Newburgh Illuminated Festival will be held in June 2013; and

WHEREAS, it is appropriate and necessary to authorize the City Manager to enter into agreements by which performing artists, production services and necessary equipment and facilities shall be provided; and

WHEREAS, there is funding from donations available in a Trust and Agency Account; and

WHEREAS, such agreements shall not exceed the funds in the Trust and Agency Account;

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Newburgh, New York hereby authorizes the City Manager to enter into the referenced agreements in a form subject to approval of the Corporation Counsel with such other terms and conditions as Corporation Counsel may require, with the performing artists and providers of related necessary services in connection with the Newburgh Illuminated Festival, with the net cost to the City of such agreements not to exceed the available funds in the Trust and Agency Account.

RESOLUTION NO. 88 - 2013

OF

APRIL 22, 2013

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWBURGH OPPOSING  
THE PROPOSED MERGER OF CH ENERGY GROUP, INC. WITH FORTIS, INC.

WHEREAS, Fortis, Inc. ("Fortis"), a multinational corporation with headquarters in Canada made an offer to purchase CH Energy Group, Inc. ("Central Hudson"), a publicly traded utility located in the Hudson Valley; and

WHEREAS, there are approximately 375,000 Central Hudson customers, representing approximately 680,000 persons, many of whom live in the City of Newburgh; and

WHEREAS, the Public Service Commission (PSC) must approve of this merger and in order to be approved the applicant must prove a net public benefit; and

WHEREAS, the PSC held only two hearings, on the same day, one of which was held at 3:30 in the afternoon, when much of the population was still at work; and

WHEREAS, the PSC staff recommended \$85 million in community benefit funds for areas covered by Central Hudson, to which Fortis initially offered only \$20 million before ultimately settling for less than \$50 million in aid to our area; and

WHEREAS, Fortis has only guaranteed a rate freeze for 12 months; and

WHEREAS, Fortis is not committed to expanding its Alternative Energy portfolio and has publicly said they will continue to rely on natural gas; and

WHEREAS, Fortis has not committed to increase the resilience of the region's electricity system to major storms like Irene, Lee and Sandy, including through investment in a distributed generation network; and

WHEREAS, the public benefits offered by Fortis are not only one-time and short-term, and are outweighed by the future risks to Hudson Valley residents of achieving an affordable, sustainable and reliable supply of power; and

WHEREAS, the possible use of the North American Free Trade Agreement ("NAFTA") to override the PSC and New York State requirements to modernize energy should be of major concern to our State; and

**WHEREAS**, Assemblyman Kevin Cahill, former chair of the Assembly Energy Committee, has highlighted the possible use of NAFTA as a way to severely restrict the ability of the PSC to fully regulate merged Fortis/Central Hudson; and

**WHEREAS**, Fortis partner, Abitibi, initiated a NAFTA claim against Canada when Newfoundland expropriated property there, including some belonging to Exploits Hydro Partnership, in which Fortis owns 51% and Abitibi 49%; and

**WHEREAS**, Central Hudson workers would only be guaranteed jobs for a two year period, after which Fortis can begin to outsource work; and

**WHEREAS**, IBEW Local 320 is strongly opposed to this merger due to the loss of long term local jobs, which would devastate the Hudson Valley;

**NOW, THEREFORE, BE IT RESOLVED**, that the City Council of the City of Newburgh, at this time, cannot support the proposed merger of Central Hudson and the multinational corporation Fortis, Inc. as it has been proposed; and

**BE IT FURTHER RESOLVED**, that the City Council of the City of Newburgh urges the Public Service Commission to extend the period for public comment so that the City Council and other interested parties can have time to assess the full implications and potential impacts of the Central Hudson/Fortis merger; and

**BE IT FURTHER RESOLVED**, that the City Council urges the PSC to have a Public Recommended Decision, which will provide for a more transparent decision; and

**BE IT FURTHER RESOLVED**, that the City Clerk of the City of Newburgh be and hereby is directed to forward copies of this resolution to Governor Andrew Cuomo, members of the Public Service Commission c/o Jeffrey C. Cohen, Acting Secretary, Public Service Commission, New York State Senator William Larkin, Jr. and New York State Assemblyman Frank Skartados.

## **Building Maintenance and Occupancy Ordinance**

### ***Proposed Plan and Timeline for Revision***

#### **SHORT TERM PLAN (March 2013-April 2013)**

- Outcomes:** Amend Vacant Property Registry (Chapter 121 Buildings, Vacant)  
Amend Rental License (Chapter 240 Rental Properties)
- Steps:** Propose amendments to Chapter 121 and 240 that address immediate concerns  
Present Drafts to City Council for Discussion (April 18, 2013)

#### **LONG TERM PLAN (March 2013-March 2014)**

- Outcome:** Relying on national best practices, adopt consolidated building maintenance and occupancy ordinance.
- Steps:** Propose comprehensive changes to Vacant Property Registry (Chapter 121 Buildings, Vacant) and Rental License (Chapter 240 Rental Properties) that target criminal activity and owner and occupant responsibilities (March 2013-June 2013)  
Host stakeholder scoping session(s) (July 2013)  
Amend proposed changes consistent with stakeholder feedback (August 2013-September 2013)  
Post final version for comment (October 2013)  
Amend proposed changes consistent with comments (November 2013 – December 2013)  
Present to City Council for Approval (December 2013)

**DRAFT FOR DISCUSSION PURPOSES ONLY**

ORDINANCE NO.: \_\_\_\_\_ - 2013

OF

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**AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED IN  
CHAPTER 121 ENTITLED "BUILDINGS, VACANT"  
OF THE CODE OF ORDINANCES OF THE CITY OF NEWBURGH AND  
AMENDING CHAPTER 121 ENTITLED "BUILDINGS, VACANT" TO REQUIRE  
THE MAINTENANCE OF VACANT PROPERTIES IN THE CITY OF  
NEWBURGH, ESTABLISHING REGISTRATION REQUIREMENTS, AND  
LEVYING A REGISTRATION FEE ON OWNERS OF VACANT PROPERTIES**

**BE IT ORDAINED**, by the Council of the City of Newburgh, New York that the language contained in Section 121, Buildings, Vacant, be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

§ 121-1      Findings and purpose.

The City of Newburgh contains many structures that are vacant in whole or large part; and in many cases the owners or other responsible parties of these structures are neglectful of them and are failing to maintain them or secure them to adequate standard or restore them to productive use. Many of these structures are in violation of state and local housing and property maintenance codes. It has been established that vacant and abandoned structures cause severe harm to the health, safety, and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulations of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk, and the City of Newburgh incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to police calls, fire calls, and property inspections. It is in the public interest for the City of Newburgh to establish minimum standards of accountability for the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety, and general welfare of the residents of the City of Newburgh, and it is in the public interest for the City of Newburgh to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the City by the presence of these structures.

§ 121-2 Definitions.

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

**EVIDENCE OF VACANCY** - Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown or dead vegetation; accumulation of debris or abandoned personal property; and statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

**MUNICIPAL OFFICER** - The Fire Chief, Director of the Code Compliance Bureau, and the Building Inspector or such official within that department as may be designated by the Director in writing.

**OWNER** - The title holder, any agent of the title holder having authority to act with respect to a vacant property, and any foreclosing entity that has obtained a judgment of foreclosure and sale (RPAPL S. 1307).

**VACANT PROPERTY** - Any building or structure that is not at present legally occupied or at which all lawful business or construction operations or residential inhabitation, or other occupancy have substantially ceased and that is in such condition that it cannot legally be re-occupied without repair or rehabilitation, including but not limited to any property meeting the definition of abandoned property; however, any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and [or] which is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

§ 121-3 Registration.

- (1) a. Effective on [DATE], the owner of any vacant property as defined herein shall, within 30 days after the building becomes vacant property or within 30 days after assuming ownership of the vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, file a registration statement for such vacant property with the municipal officer on forms provided for that purpose by the municipal officer along with any fee required by Chapter 163. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.
- b. Each property having a separate section block and lot number shall be registered separately.
- c. The registration shall include the information required under section (2) of this section, the insurance certificate required under section (5) of this section unless a

bond is provided, as well as any additional information that the municipal officer may reasonably require.

d. The registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in Chapter 163 for each vacant property registered.

e. The municipal officer may establish for purposes of efficient administration that all registrations shall be renewed by a single date in each year. The municipal officer shall establish this date in which case the initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date.

f. (i) Any owner of vacant property who plans to restore the property to productive use and occupancy during the twelve month period following the date of the initial registration of the property shall file a detailed statement of the owner's plans for restoration of the property with the registration statement and shall be exempt from payment of the registration fee but shall comply with all other provisions of this ordinance. In the event that the property has not been restored to productive use and occupancy at the end of the twelve month period, the owner shall be liable for any fee waived. The municipal officer may extend the waiver of the registration fee for not more than one additional year in response to a written request by the property owner where the municipal officer finds that compelling conditions outside the owner's control made it impossible for the owner to restore the property within the initial twelve month period.

1. In addition, the statement of the owner's plans, at a minimum, must contain one of the following for the property:
  - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition; or
  - (b) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. Implementation of the rehabilitation plan shall not exceed twelve months. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and must be secured during the rehabilitation.
2. The Building Inspector shall provide the owner with a written referral to the Planning Department for information outlining programs available that may be useful in developing the owner's rehabilitation plan.

(ii.) Where the owner is an entity experienced in rehabilitation or redevelopment of vacant properties, and where the property subject to this ordinance is being held for a project of rehabilitation or redevelopment consistent with municipal plans

and ordinances, and where by virtue of financing, market, or other conditions that project may require more than one year for realization, the municipal officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the owner, as long as the municipal officer finds that the owner is making reasonable progress toward completion of the project. The owner shall provide the municipal officer with documentation of such progress, which may include plans, financing applications, applications for land use approval, or other evidence of progress.

g. The owner shall notify the municipal officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the municipal officer for such purpose.

h. The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the City against the owner or owners of the building.

(2) a. The registration statement shall include:

(i) The name(s), residences and business addresses, e-mail address, telephone numbers, and birth date(s) of the principal officers if the applicant is an individual, partnership, or firm, or the names, residences and business address, e-mail address, telephone numbers, and birth dates of the principal officers if the applicant is an association or corporation.

(ii) The name, street address, e-mail address, and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code. The agent for service of process must maintain offices or reside in the State of New York.

(iii) The name, street address, e-mail address, and telephone numbers of the firm or individual responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property must maintain offices within 45 miles of the City and shall be available by telephone or in person on a 24-hour-per-day, seven-day-per-week basis.

(iv) A description of the premises, including street address, section block and lot, and type of building;

(v) The date the building became vacant and the period of time the building is expected to remain vacant;

(vi) A description of what will be done to secure the structure so that it will not become open to the general public; and

(vii) The status of water, sewer, natural gas, and electric utilities.

b. By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding

brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the municipal officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

c. Any owner who fails to register a vacant property under the provisions of this ordinance shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

(3) a. The registration and renewal fee for each building is set forth in Chapter 163.

b. All funds collected from registration and renewal fees under this section shall be deposited in a dedicated trust fund to be used exclusively for municipal activities with respect to vacant and problem properties in the municipality, including but not limited to inspection, nuisance abatement, securing and boarding, maintaining property information systems, and reasonable administrative and legal costs associated with any of the above.

(4) The owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within 30 days of the structure becoming vacant or 30 days of the owner taking title to the property:

(i.) Enclose and secure the structure as provided in the applicable codes of the City of Newburgh and the State of New York or as set forth in rules and regulations adopted by the municipal officer to supplement those codes.

(ii.) Ensure that the grounds of the structure, including yards, fences, sidewalks, walks, and driveways, are well-maintained and kept free from trash or debris.

(iii.) Post a sign affixed to the structure with the name, address, and telephone number of the owner and the owner's authorized agent for the purpose of service of process and the name, address, and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. If the structure is set back from the street, the sign may be posted on a well-secured post or stake in the front yard of the property. The sign shall be at least 18" x 24" in dimension, shall include the words "to report problems with this building, call...", and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer; and

(iv.) Maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

(5) The owner of any vacant property shall acquire or otherwise maintain liability insurance in an amount of not less than \$300,000.00 for buildings designed primarily for one- and two-unit residential use and not less than \$1,000,000.00 for any other building, including but not limited to, buildings designed for multifamily, manufacturing, storage, or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the municipal officer within 30 days of any lapse, cancellation, or change in coverage and the owner shall provide such written notice of any lapse, cancellation or change in coverage to the municipal officer. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration. Alternatively, an owner can choose to provide a cash bond acceptable to the municipal officer, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and remunerate the City for any expenses incurred in inspecting, securing, marking, or making such building safe.

(6) a. The City of Newburgh shall establish an on-line registry of all properties registered with the City under this ordinance, which shall include a procedure by which citizens can provide the municipal officer through electronic means with information on unregistered properties that may be subject to this ordinance.

b. The City of Newburgh may enter into agreements with qualified non-profit entities and neighborhood associations to assist the City to enforce this ordinance, including but not limited to identification of unregistered properties that may be subject to this ordinance.

#### § 121-4 Rules and Regulations.

The municipal officer may issue rules and regulations for the administration of the provisions of this ordinance.

#### § 121-5 Enforcement.

Any person who violates any provision of this ordinance or of the rules and regulations issued hereunder shall be fined not less than \$500.00 and not more than \$1,000.00 for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

For purposes of this section, failure to file a registration statement within 30 days after a building becomes vacant property or within 30 days after assuming ownership of a vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of § 121-3 (4) or (5) of this ordinance, or such other matters as may be established by the rules and regulations of the municipal officer shall be deemed to be violations of this ordinance.

§ 121-6      Effective Date.

This ordinance shall become effective upon publication as provided by law.

§ 121-7      Severability.

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

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ORDINANCE NO.: \_\_\_\_\_ - 2013

OF

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AN ORDINANCE RESCINDING THE LANGUAGE CONTAINED  
IN CHAPTER 240, ENTITLED "RENTAL PROPERTIES" OF THE CODE OF  
ORDINANCES OF THE CITY OF NEWBURGH AND AMENDING CHAPTER 240  
ENTITLED "RENTAL PROPERTIES" TO REQUIRE THE REGISTRATION OF RENTAL  
PROPERTIES IN THE CITY OF NEWBURGH, ESTABLISHING REGISTRATION  
REQUIREMENTS, AND LEVYING A REGISTRATION FEE ON OWNERS OF RENTAL  
PROPERTIES

BE IT ORDAINED, by the Council of the City of Newburgh, New York that the language contained in Section 240, Rental Properties be and is hereby repealed in its entirety and that the same is hereby amended to read as follows:

§ 240-1. Title.

This chapter shall be known as "Rental Properties."

§ 240-2. Legislative intent and findings.

- A. Legislative intent. It is the purpose of this chapter to protect the health, safety and welfare of the residents of the City of Newburgh, as well as to protect the City's housing stock from deterioration, by establishing a program for registering and identifying residential rental properties and determining the responsibilities of owners of residential rental properties.
- B. Findings. The City Council has determined that there exists in the City of Newburgh a significant number of non-owner-occupied rental units. Non-owner occupants are less able to maintain daily oversight of their properties to ensure compliance with applicable laws, rules and regulations. The City Council finds that the registration of rental properties is intended to and will ensure the protection of persons and property in all existing rental structures and on all premises required to be registered under this chapter and to ensure that rental property owners adhere to applicable code provisions governing the use and maintenance of rental

## DRAFT FOR DISCUSSION PURPOSES ONLY

properties, including provisions limiting the maximum occupancy for which a rental dwelling can be certified.

### § 240-3. Definitions.

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

#### **AGENT**

Any person who has charge, care or control of a building, or part thereof, in which rental dwelling units or rooming units are let.

#### **BUILDING**

A combination of materials, whether portable or fixed, having a roof to form a structure affording shelter for persons, animals or property.

#### **DWELLING**

A building used in whole or part for residential uses.

#### **DWELLING UNIT**

Any room or contiguous group of rooms within a building and forming a single, habitable living space for one family.

#### **MUNICIPAL OFFICER**

The Fire Chief, Director of the Code Compliance Bureau, and the Building Inspector or such official within that department as may be designated by the Director in writing.

#### **OWNER**

Any individual or individuals, partnership or corporation or any similar type of business organization, whether for profit or otherwise, in whose name title to a building stands, including a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the property. Each, any and all such persons shall have a joint and severable obligation for compliance with the provisions of this chapter.

#### **OWNER-OCCUPIED DWELLING**

A dwelling occupied by an individual owner or by members of his or her family on a nonrental basis. For the purposes of this chapter, "owner-occupied" shall not include any building owned by a partnership, corporation or any similar type of business organization, including but not limited to a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee or agent.

#### **RENTAL PROPERTY**

All buildings which contain a dwelling unit or a rooming unit that is rented, leased, let or hired out to be occupied for residential or mixed use (commercial-residential) and are not owner-occupied.

#### **ROOMING UNIT**

Any furnished room for rent within a building and forming a single sleeping space.

### § 240-4. Registration required.

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All rental properties shall be registered with the City of Newburgh by the owner as required herein.

### § 240-5. License Process and Renewal.

- A. The owner of a rental property shall submit a license application with the City of Newburgh Office of Code Compliance within 60 days of the effective date of this chapter
- B. It shall be unlawful for any owner to offer any unit for rent or to rent any dwelling unit or to allow any dwelling unit to be occupied without having first received a rental license pursuant to this chapter as required herein within the time prescribed for such registration. Failure to receive notice of the license deadline will not excuse failure to receive a license for a building with rental dwelling units therein. It is the responsibility of the owner to fulfill the requirements of this chapter.
- C. No application for an initial license or a license renewal shall be issued until the municipal officer has conducted an inspection and determined that all life, health safety violations, or discrepancies have been corrected.
- D. If the license application is incomplete, or the applicant does not meet the requirements of the licensing process within 120 days of the submittal date, the application will be canceled.
- E. The license shall remain valid for one year from the date of issue. The owner shall be required to renew the license annually and shall pay a fee in the amount prescribed in Chapter 163.
- F. The municipal officer may establish for purposes of efficient administration that all licenses shall be renewed by a single date in each year, which date shall be established by the municipal officer in which case the initial license fee shall be pro-rated for applications received less than 10 months prior to that date.

### § 240-6. Inspection.

- A. During regular business hours or in an emergency, the Building Inspector or his representative or any duly authorized City representative, upon the showing of proper credentials and in the discharge of his duties, may enter any building or rental unit within a building.
- B. At the request of the Building Inspector, the Corporation Counsel is authorized to make application to the City Court of the City of Newburgh or any other court of competent jurisdiction for the issuance of a search warrant to be executed by a police officer in order to conduct an inspection of any premises believed to be subject to this chapter. The Building Inspector may seek a search warrant whenever the owner, managing agent or occupant fails to allow inspections of any dwelling unit contained in the rental property where there is a reasonable cause to believe that there is a violation of this chapter, or a violation of the New York Uniformed Fire Prevention Building Code Act or of any code of the City of Newburgh or any applicable fire code.

### § 240-7. License Fees; exemptions.

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License fees, as set forth in Chapter 163, Fees, of this Code shall be due 90 days prior to the license expiration date; in the cases of new unlicensed dwellings, change in the landlord renewal statement previously filed or where a new license is required due to a change in ownership as set forth in § 240-10 below, license fees shall be due at the time of application.

- A. Exemptions. Owner-occupied dwellings containing not more than two rental units are exempt from the filing fees set forth in Chapter 163, Fees, of this Code.
- B. License Fees, Delinquent Payments. A delinquency penalty of 5% of the license fee for each day of operation without a valid license shall be charged operators of rental dwellings. Once issued, a license is nontransferable and the licensee shall not be entitled to a refund of any license fee. Upon revocation or suspension or if the applicant withdraws an application, or in the case of an incomplete application or process, or if an application is canceled, the fee is nonrefundable.
- C. All reinspection fees are set in Chapter 163. If the reinspection is being performed as part of the licensing process, fees must be paid prior to the time of license issuance or renewal for the property.
- D. If any fee or any portion is not paid within 60 days after billing, the Comptroller may certify the unpaid cost against the property and shall be added to and collected with the subsequent City tax levy, and shall bear interest and be enforced as provided by law for City taxes.

### § 240-8. Owner or Agent to Apply.

License application shall be made by the owner of rental units or the owner's legally constituted agent on a form approved and supplied by the City of Newburgh Office of Code Compliance. This form shall be known as a "landlord renewal statement" and shall be signed by the owner under oath. The applicant shall supply:

- A. The name(s), residences and business addresses, e-mail address and telephone numbers, and birth date(s) of the principal officers if the applicant is an individual, partnership or firm, or the names, residences and business address, e-mail address and telephone numbers, and birth dates of the principal officers if the applicant is an association or corporation. Where more than one natural person has an ownership interest, the required information shall be included for each owner.
- B. If the owner is not a natural person, the employer identification number of the owner.
- C. The name, street address, e-mail address and telephone number of a natural person 21 years of age or older, designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code. The agent for service of process must maintain offices or reside in the State of New York.
- D. The name, street address, e-mail address and telephone numbers of the firm or individual responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property must maintain offices within 45 miles of the City and shall be available by telephone or in person on a 24 hour per day, seven day per week basis.
- E. Name, address, and telephone number of vendee, if the dwelling is being sold through a contract for deed.

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- F. A description of the premises, including street address, section block and lot and type of building;
- G. Number of dwelling units within the dwelling
- H. Description of procedure through which tenant inquiries and complaints are to be processed
- I. Status of utility fees, property taxes, and other assessments on the dwelling and other rental real property in the city owned by the applicant.
- J. The number of tenants.
- K. Any other information as requested by the City.

Every person holding an operating license shall give notice in writing to the Compliance Official within ten business days after any change of this information. Depending on the nature of changes, the City may require consent to a new property inspection. Notice of transfer of ownership shall be as described in Section 240-10.

### § 240-9. Conformance to Laws.

No operating license shall be issued or renewed unless the rental dwelling and its premises conform to the Code of Ordinances of Newburgh and the laws of the State of New York.

### § 240-10. License not Transferable.

No operating license shall be transferable to another person or to another rental dwelling. Every person holding an operating license shall give notice in writing to the municipal officer within ten (10) business days after having legally transferred or otherwise disposed of the legal control of any licensed rental dwelling. Such notice shall include the name and address of the person succeeding to the ownership or control of such rental dwelling or dwellings.

### § 240-11. Required Postings.

- A. Every licensee of a rental dwelling with more than four units shall conspicuously post the current license certificate in the main entryway or other conspicuous location. For rental dwellings of four or fewer units, the licensee must provide a copy of the license certificate to each tenant by attaching a copy to the tenant's copy of the executed lease agreement.
- B. The City's trash and refuse polices and procedures and alternate-side street parking regulations shall be conspicuously posted in the main entryway or other conspicuous location.

### § 240-12. Occupancy Register Required.

- 1. Every owner of a licensed rental dwelling shall keep, or cause to be kept, a current register of occupancy for each dwelling unit that provides the following information:
  - a. Dwelling unit address.
  - b. Number of bedrooms in dwelling unit and the maximum number of occupants.
  - c. Legal names and date of birth of adult occupants and number of adults and children (under 18 years of age) currently occupying the dwelling units.

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- d. Dates renters occupied and vacated dwelling units.
- e. A chronological list of complaints and requests for repair by dwelling unit occupants, which complaints and requests are related to the provisions of this Code of Ordinances.
- f. A similar chronological list of all corrections made in response to such requests and complaints.

Such register shall be made available for viewing or copying by the municipal officer at all reasonable times.

### § 240-13. Enforcement.

- A. The City of Newburgh shall have a choice of enforcing this chapter as provided in § 1-12 of the Code of Ordinances of the City of Newburgh by seeking civil penalties or by instituting a criminal proceeding, or may choose to do both.
- B. A designated managing agent of an owner may be served with a notice of violation, order to remedy, an appearance ticket or other service of process, whether criminal or civil, pursuant to and subject to the provisions of law as if actually served upon the owner.
- C. No owner who designates a managing agent pursuant to the provisions of this chapter may assert the defense of lack of notice or lack of in personam jurisdiction based solely upon the service of process on his designated agent.

### § 240-14. Penalties for offenses.

- A. If the City of Newburgh chooses to enforce this chapter through a criminal proceeding, any person who shall violate any of the provisions of this chapter or fail to comply therewith or who shall violate or fail to comply with any order made thereunder shall be subject to a fine of up to \$500 and/or 30 days in jail.
- B. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue, and all such persons shall be required to correct or remedy such violations or defects. Each day that prohibited conditions exist shall constitute a separate offense and so subject the owner to an additional fine of up to \$500 and/or additional jail sentences of up to 30 days in jail.
- C. The application of the above penalty shall not be held to prevent the enforced removal of prohibited conditions.

### § 240-15 Severability.

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

DRAFT FOR DISCUSSION PURPOSES ONLY

ORDINANCE NO.: \_\_\_\_\_ - 2013

OF

\_\_\_\_\_, 2013

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

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

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

Code Section	Type of Fee	Amount
Chapter 121, Buildings, Vacant		
§ 121-3B (1)	<del>Vacant building annual registration and renewal fee</del>	<del>\$900</del> <u>125.00 initial fee</u> <u>\$250.00 first renewal</u> <u>\$500.00 second renewal</u> <u>\$1,000.00 any subsequent renewal</u>
Chapter 240, Rental Properties		
<del>§ 240-9</del>	<del>Change in rental property registration statement</del>	<del>\$25</del>

Section 2. This ordinance shall take effect on

Underlining denotes additions  
~~Strikethrough~~ denotes deletions